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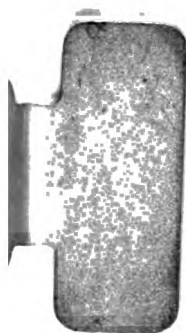
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Michigan Laws, Statutes, etc.

MICHIGAN COMPILED LAWS 1970

COMPILED AND ARRANGED UNDER AUTHORITY OF PUBLIC ACT 193 OF 1970

STATE OF MICHIGAN



VOLUME V

COMPILED AND PUBLISHED BY THE
MICHIGAN LEGISLATIVE COUNCIL

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v. 5

CERTIFICATE OF THE LEGISLATIVE COUNCIL

We, the undersigned members of the Legislative Council directed by law to provide for the compilation without alteration of all the general laws in force in this state, hereby certify that the Council caused to be compiled the general laws of the state of Michigan enacted through December 31, 1970 and upon having examined and compared the compilation, further certify that the following, consisting of 6 volumes including index, meets the requirements of Act 193 of the Public Acts of 1970.

Dated: December 15, 1971

Lansing, Michigan

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ABBREVIATIONS

Add.	— Added.
Am.	— Amended.
Art.	— Article.
C.L.	— Compiled Laws.
C.R.	— Concurrent Resolution.
Ch. or Chap.	— Chapter.
Const.	— Constitution of 1963.
Eff.	— Effective.
How.	— Howells Annotated Statutes (1882, 1890).
Imd. Eff.	— Immediate Effect.
J.R.	— Joint Resolution.
P.	— Page.
P.A.	— Public Act.
Pt.	— Part.
Renum.	— Renumbered.
Rep.	— Repealed.
R.S.	— Revised Statutes.
Sec.	— Act section number.
Stat.	— United States Statutes at large.
Subd.	— Subdivision.
Sup.	— Superseded.
§	— Compilers section symbol.

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Act 218 of 1956

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Act 218, 1956, p. 477; Eff. Jan. 1, 1957.

AN ACT to revise, consolidate and classify the laws of the state of Michigan relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers and immunities and to prescribe the conditions on which other persons, firms, corporations and associations engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations, and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on the business of surplus line agents; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide penalties for the violation of this act, and to repeal certain acts.

The People of the State of Michigan enact:

CHAPTER 1.

SCOPE OF CODE.

500.100 Insurance code of 1956; short title.

Sec. 100. This act shall be known and may be cited as "the insurance code of 1956".

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

CITED IN OTHER SECTIONS: Sections 500.100 to 500.8302 are cited in § 38.1128.

500.102 Commissioner, department; definitions.

Sec. 102. (1) "Commissioner" as used in this code means the commissioner of insurance of this state.

(2) "Department" as used in this code means the insurance department of this state.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.106 Insurer; definition.

Sec. 106. "Insurer" as used in this code means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds organization, fraternal benefit society, and any other legal entity, engaged or attempting to engage in the business of making insurance or surety contracts.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.108 Authorized, unauthorized insurer; definitions.

Sec. 108. As used in this code:

(1) "Authorized" insurer means an insurer duly authorized, by a subsisting certificate of authority issued by the commissioner, to transact insurance in this state.

(2) "Unauthorized" insurer means an insurer not so authorized to transact insurance in this state.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.110 Domestic, foreign, alien; definitions.

Sec. 110. As used in this code:

(1) "Domestic" insurer means an insurer formed under the laws of this state.

(2) "Foreign" insurer means an insurer formed under the laws of the District of Columbia, or some state, commonwealth, territory, or possession of the United States of America other than the state of Michigan.

(3) "Alien" insurer means an insurer formed under the laws of a country other than the United States of America or any state, District, commonwealth, territory, or possession of the United States of America.

(4) Unless the context otherwise requires or unless the same subject is treated in this code by a provision expressly applying to alien insurers, the term "foreign insurer" as used in a particular section of this code shall be deemed to include also alien insurers.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.114 Person; definition.

Sec. 114. "Person" as used in this code includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.120 Insurance and surety transactions; compliance with code.

Sec. 120. No person shall transact an insurance or surety business in Michigan, or relative to a subject resident, located, or to be performed in Michigan, without complying with the applicable provisions of this code.

HISTORY: New 1956, p. 478, Act 218, Eff. Jan. 1, 1957.

500.124 Partial exemptions as to application of code.

Sec. 124. No provision of this code shall apply with respect to:

(1) Domestic farmers' and other special risk mutual property insurers (as identified in chapter 68), except as stated in chapter 68.

(2) Fraternal benefit societies, except as stated in chapter 80.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.128 Inapplicability of act.

Sec. 128. This code shall not apply to:

(1) Non-profit organizations of a purely philanthropic or social character, which may issue protection for the benefit of their members in amounts not to exceed \$150.00 death benefit or \$6.00 per week sickness or accident benefit upon compliance with provisions of the corporation code, and the requirements imposed thereunder by the corporation and securities commission, and with the further and additional re-

requirements that no commissions or fees shall be charged in such transactions, nor shall such organizations be formed or operated principally or primarily for the purpose of issuing such policies or contracts of insurance.

(2) Organizations legally operating under exceptions to the application of the insurance code in force and effect heretofore, provided such organizations shall notify the commissioner of their intention to so continue, and shall furnish with such notice satisfactory proof of their eligibility under said exceptions. The commissioner shall not be required to accept any such notice filed later than December 31, 1945.

(3) Those fraternal and other societies, orders, associations, and organizations exempted pursuant to section 8094 (exempted fraternal societies and other organizations), but subject to the provisions of such section.

(4) Voluntary associations of employes which provide death, accident or sickness benefits to persons employed by the same employer.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.132 Saving clause; incumbent officers.

Sec. 132. Continuation by this act of any state department or any office existing under any act repealed herein preserves such department and preserves the tenure of the individual holding such office at the effective date of this act.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.134 Saving clause; certificate of authority.

Sec. 134. Every certificate of authority or license in force immediately prior to the effective date of this act and existing under any act herein repealed is valid until its original expiration date, unless earlier terminated in accordance with this act.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.140 Saving clause; existence of domestic insurer continued.

Sec. 140. Any insurer heretofore formed or incorporated under any insurance law of this state, whose act of incorporation or act under which formed was repealed by Act No. 256 of the Public Acts of 1917 or is repealed by this act, shall continue to have a corporate existence (if a corporation) or existence (if other than a corporation), and shall have all the rights, privileges, immunities and limitations, obtained under such acts of incorporation or formation, as evidenced by their articles of incorporation, by-laws, power of attorney or constituent agreements made pursuant to such acts, as existing at the time this act takes effect; except, that all amendments to such articles of incorporation or powers of attorney or agreements shall be made hereafter in compliance with the provisions of this act, and all such insurers shall be otherwise governed by the provisions of this act. All reincorporations of such incorporated insurers, for the purpose of extending their corporate existence or for any other purpose shall be made only in compliance with this act, and any incorporated insurer heretofore incorporated under any insurance law of this state may reincorporate under this act.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.142 Saving clause; applicability of insurance companies incorporation requirements.

Sec. 142. The requirements for incorporation and/or authorization before the commencement of business to be complied with by insurance companies, whether stock or mutual, associations, societies and reciprocal exchanges, which were increased by Act No. 154 of the Public Acts of 1929, effective on August 28, 1929, shall not apply to insurance companies, associations, societies and reciprocal exchanges incorporated and/or authorized in compliance with the provisions of law in force immediately prior to such August 28, 1929.

HISTORY: New 1956, p. 479, Act 218, Eff. Jan. 1, 1957.

500.150 Violation of code; misdemeanor, penalties.

Sec. 150. Any person who violates any provision of this code for which fine and/or imprisonment is not provided under any other provision of this code or of other laws applicable to such violation, shall, upon conviction thereof, be guilty of a misdemeanor, and in addition to any other penalty which may be applicable thereto under this code shall be subject to a fine of not exceeding \$1,000.00 or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

CHAPTER 2.

THE INSURANCE COMMISSIONER.

500.200 Insurance department; establishment.

Sec. 200. There is hereby established a separate and distinct state department which shall be especially charged with the execution of the laws in relation to insurance and surety business and to perform such other duties as may be required by law: Provided, however, That the said department so established shall be deemed and considered as in continuation of and the successor to the insurance bureau established by Act No. 108 of the Session Laws of 1871, and other acts amending and supplementing the same, and as in continuation of and the successor to the state department established by Act No. 256 of the Public Acts of 1917 and other acts amending or supplementing the same.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

CITED IN OTHER SECTIONS: The above section is cited in § 16.329.

500.202 Insurance commissioner; qualifications, office, term, appointment, approval, vacancy.

Sec. 202. (1) The chief officer of the department shall be known as the commissioner of insurance. He shall be a citizen of this state, shall have his office at the seat of government, shall personally superintend the duties of his office, and shall not be a stockholder or directly or indirectly connected with the management of affairs of any insurer. He shall be appointed by the governor for a term of 4 years by and with the consent of the senate.

(2) Whenever a vacancy occurs in the office of commissioner by reason of death, removal, or otherwise, the governor shall fill such vacancy by appointment, by and with the advice and consent of the senate, if in session.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

CITED IN OTHER SECTIONS: The above section is cited in § 16.329.

500.204 Insurance commissioner; salary, oath, bond.

Sec. 204. The commissioner shall receive such annual salary as the legislature shall appropriate, payable as other state officers are paid under the accounting laws of the state. Within 15 days from the time of notice of his appointment the commissioner shall take and subscribe the constitutional oath of office and file the same in the office of the secretary of state, and shall also within the same period give to the people of the state of Michigan a bond in the penal sum of \$50,000.00, with sureties to be approved by the auditor general, conditioned for the faithful discharge of the duties of his office.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

500.206 Insurance commissioner; seal, approval, renewal.

Sec. 206. The commissioner, with the approval of the governor, shall devise a seal, with suitable inscriptions, for his office, a description of which, with certificate of the approval of the governor, shall be filed in the office of the secretary of state, with an

impression thereof, which seal shall thereupon be and become the seal of office of the commissioner of insurance and the same may be renewed whenever necessary.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

500.208 Insurance department; offices, expense.

Sec. 208. The board of state auditors shall assign to the insurance department at Lansing suitable rooms for conducting the business of the department, the necessary expense of which shall be audited by the said board on the certificate of the commissioner and paid on the warrant of the auditor general.

HISTORY: New 1956, p. 480, Act 218, Eff. Jan. 1, 1957.

500.210 Insurance commissioner; regulatory powers.

Sec. 210. The commissioner shall promulgate rules and regulations in addition to those now specifically provided for by statute as he may deem necessary to effectuate the purposes and to execute and enforce the provisions of the insurance laws of this state in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 98, Act 73, Imd. Eff. Jun. 10.

500.212 Insurance commissioner; deputies, examiners and other employees; appointment, oaths, authority.

Sec. 212. The commissioner may appoint a "first deputy" and "second deputy" who shall subscribe and file the constitutional oath of office. Either of said deputies may perform any duty or act devolving upon the commissioner, during his absence from the department, and the commissioner may assign either of said deputies to take charge of the department during such absence. The commissioner may appoint and employ a chief clerk and accountant, examiners, clerks, actuaries, and other necessary assistants, and designate a chief examiner. The commissioner may designate special deputies from his staff to perform specified duties, including supervision of the department during the absence of the commissioner and his first and second deputies. The commissioner may select 1 or more members of his staff to serve as a special deputy commissioner or special deputy commissioners to conduct such hearings as are provided for under the insurance code and as the commissioner may delegate to such deputy or deputies. Before any such deputy shall conduct any such hearing, he shall take and subscribe the constitutional oath of office and file the same with the commissioner. Any such deputy shall have all the powers of the commissioner as regards such hearing or hearings, and any limitations imposed upon such authority by the commissioner shall during the term of such authority not be binding upon or in limitation of the rights of the parties heard. The commissioner may revoke such appointments and delegations of authority at pleasure. The assistants provided for in this section shall be paid in such manner as is provided by law.

HISTORY: New 1956, p. 481, Act 218, Eff. Jan. 1, 1957.

500.216 Insurance commissioner and employees; traveling and other expenses.

Sec. 216. The necessary traveling and other necessary and actual expenses of the commissioner, his deputies, examiners, actuaries or other employees, in discharging the duties imposed by this code, shall in all cases be allowed and audited by the accounting division of the department of administration, upon the approval of the commissioner, in accordance with the accounting laws of this state.

HISTORY: New 1956, p. 481, Act 218, Eff. Jan. 1, 1957.

500.220 Insurance commissioner and employees; service fees, prohibited gifts.

Sec. 220. The commissioner shall not retain as perquisites any fees or any moneys received by him directly or indirectly, for the performance of duties connected with his office. No insurance corporation or insurer or any officer, director, or agent thereof shall directly or indirectly, pay by way of gift, credit, loan or any other pretense whatsoever, any sum of money or other valuable thing to the commissioner, his deputies or any clerk or employe of the insurance department for extra service; and it shall be unlawful for the commissioner, his deputies or any clerk or employe of the insurance department to accept any such payment for extra service except such fees as may be specifically authorized by law to be paid to the commissioner to be covered into the state treasury.

HISTORY: New 1956, p. 481, Act 218, Eff. Jan. 1, 1957.

500.222 Insurance commissioner; examination of insurers, supervision, report, hearing, publication; alien insurers.

Sec. 222. (1) The commissioner in person or by any of his authorized deputies or examiners shall have authority to examine any or all of the books, records, documents and papers of any insurance corporation at any time after its articles of incorporation have been executed and filed, or after it has been authorized to do business in this state. The commissioner at his discretion shall examine into the affairs of any fire insurer incorporated under any law of this state, and whenever he deems it expedient so to do, to examine into the affairs of any such insurer incorporated under the laws of any other state of the United States doing business by its agents in this state.

The business affairs, assets and contingent liabilities of reciprocal insurers shall be subject to examination by the commissioner at any time. The commissioner shall have the same supervision and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets, books, accounts and general condition. Every such foreign or alien insurer and its agents and officers shall always be subject to and be required to make the same statements and answer the same inquiries and be subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurance corporations doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance department. The commissioner may, whenever he deems it necessary, either in person or by a proper person appointed by him, repair to the general office of such foreign or alien insurer, wherever the same may be, and make an investigation and examination of its affairs and condition.

(2) Upon such an examination the commissioner, his deputy or any examiner authorized by him, may examine under oath the officers or agents of such insurer or all persons deemed to have material information regarding such insurer's property or business. Such insurer, its officers and agents, shall produce its books and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any books or papers deemed to be relevant to the examination for the inspection of the commissioner, his deputy or examiners, whenever required, and the officers or agents of such insurer shall facilitate such examination and aid in making the same so far as it is in their power to do so.

(3) Such deputy or examiners shall make a full and true report, and furnish the insurer a copy thereof, of every examination which shall comprise only facts appearing on the books, records or documents of such insurer or ascertained from sworn testimony of its officers or agents or other persons examined under oath, concerning its affairs and such conclusions and recommendations as may be reasonably warranted from

such facts so disclosed. The commissioner shall grant a hearing to any insurer examined, upon its request, before filing such report and may withhold any such record from public inspection for such time as he may deem proper. He may, if he deems it for the interest of the public to do so, after such hearing, publish any such report or the result of any such examination as contained therein, in 1 or more newspapers of general circulation in the state.

4 The examination of an alien insurer shall be limited to its United States business, except as otherwise required by the commissioner.

HISTORY: New 1956, p. 481, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 42, Act 39, Eff. Mar. 19, 1960.

500.223 Insurers; application for certificate of authority, original or renewal, fee, deposit.

Sec. 223. Any insurer making application for an original certificate of authority to transact insurance, or applying for a reissuance of a certificate of authority after the certificate has been terminated for any reason, shall pay to the commissioner the fee of \$250.00 for examination, investigation and processing of the application. If the application is withdrawn for any reason, the examination fee shall not be refunded. Any re-application for an original certificate, after withdrawal, shall be subject to the same fee of \$250.00 as in the case of an original application. The fees shall be deposited in the state treasury to the credit of the general fund.

HISTORY: Add. 1962, p. 42, Act 50, Imd. Eff. Apr. 17.

500.224 Examinations and investigations of insurers; expenses, statement to insurers, employment of expert personnel.

Sec. 224. (1) All actual and necessary expenses incurred in connection with the examination or other investigation of any insurer made pursuant to this code shall be certified by the commissioner, together with a statement of the number of days spent by each of his deputies, assistants and employees or the commissioner himself, upon such examination or investigation, to the accounting division of the department of administration, who shall, if correct, approve the same, and such expenses shall be paid to the persons by whom they were incurred, upon the warrant of the state treasurer payable from appropriations made by the legislature for this purpose.

Statement to insurer; payment.

2) The commissioner shall prepare and present to the insurer so examined or investigated a statement of such expenses and a per diem for each person engaged upon such examination or investigation, not to exceed an amount necessary to cover the pay and allowances granted to each such person by the Michigan civil service commission, and the administration and supervisory expense including an amount necessary to cover fringe benefits in conjunction with such examination or investigation. The insurer, upon receiving such statement, shall pay to the commissioner the amount stated therein. The commissioner shall deposit such funds with the state treasurer.

Expert personnel.

(3) The commissioner may employ such expert personnel as may be necessary for other than routine examination of any insurer, organized, authorized, or incorporated under the provisions of this code, and the per diem compensation and expenses of such expert personnel shall be that charged by such expert personnel but shall not include the provisions previously set forth, and shall be paid out by and reimbursed to the state treasurer.

HISTORY: New 1956, p. 482, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 98, Act 91, Eff. Sep. 27;—Am. 1958, p. 238, Act 196, Imd. Eff. Apr. 1;—Am. 1969, p. 473, Act 275, Imd. Eff. Jul. 1.

500.228 Examinations and investigations of insurers; report of violations to attorney general.

Sec. 228. If it appears from any examination made by the commissioner or from any report made to him pursuant to this code, that any provisions of this code or of any laws of the state have been violated, the commissioner shall immediately report such violation to the attorney general in writing and the attorney general shall take such action thereon as the facts warrant.

HISTORY: New 1956, p. 483, Act 218, Eff. Jan. 1, 1957.

500.230 Recovery of penalty; disposition of funds.

Sec. 230. Every penalty provided for by this code, if not otherwise provided for, shall be sued for and recovered in the name of the people by the prosecuting attorney of the county in which the insurer or the agent or agents so violating shall be situated; and shall be paid into the treasury of said county; such penalties may also be sued for and recovered in the name of the people, by the attorney general, and, when sued for and collected by him, shall be paid into the state treasury.

HISTORY: New 1956, p. 483, Act 218, Eff. Jan. 1, 1957.

500.234 Insurance department; records of office; public inspection, exceptions, destruction, rules and regulations.

Sec. 234. (1) The office of the insurance department is a public office and the records, books, and papers thereof on file therein shall be public records, accessible to the inspection of the public, except as the commissioner, for good reason, may decide otherwise, or except as may be otherwise provided under this code.

(2) The commissioner is authorized to destroy or otherwise dispose of all records, books, papers, and other data on file with the department which in his opinion and on the advice of the attorney general, are of no further material value to the state of Michigan; but no destruction or other disposal thereof may be ordered or made by him of any records, books, papers, or other data required by law to be filed or kept on file with the department until the expiration of a period of 10 years, nor of any such records, books, papers, or other data filed during his administration or administrations. Such authorization shall be effected through official rules and regulations of the commissioner: Provided, however, That this authorization shall not extend to articles of incorporation, and amendments thereto, copies of bylaws and amendments thereto, copies of certificates or other written evidence of authorization to transact business or of approval of articles of incorporation and bylaws. A copy of the commissioner's rules and regulations herein provided for and any amendments thereto shall be mailed to each insurer authorized to do business in this state 60 days prior to the effective date thereof.

HISTORY: New 1956, p. 483, Act 218, Eff. Jan. 1, 1957.

500.238 Insurance commissioner; annual report to governor, contents, publication.

Sec. 238. (1) The commissioner shall compile a report of the conduct of his office annually at such time each year as the information to be contained therein is available, which report shall be printed for public information and use in such number as the commissioner may deem advisable, not to exceed 1,500 copies. Such report shall be addressed to the governor and be for his information primarily.

(2) The commissioner shall publish in such annual report information contained in the annual statements of insurers filed with him pursuant to this code.

HISTORY: New 1956, p. 483, Act 218, Eff. Jan. 1, 1957.

500.240 Insurance commissioner; fees.

Sec. 240. (1) The commissioner shall collect, and the person affected thereby shall pay to the commissioner, the following fees:

- a) Filing fee for original authorization to transact insurance in this state:
- i) Each domestic mutual insurer doing business on the assessment plan...\$ 10.00
- ii) Each other domestic insurer, and each foreign and alien insurer.....\$ 25.00
- b) For filing insurer's annual statement:
- i) Foreign and alien insurers, each year (but subject to the retaliatory provision, section 476)\$ 25.00
- ii) Foreign reciprocal insurers (annual license fee therefor)\$ 25.00
- c) Resident agent's license, foreign and alien insurers, payable by insurer so represented for each resident agent, and for each individual designated in agent's license issued to a corporation, partnership or firm pursuant to section 1425, each year\$ 2.00
- d) Nonresident agent's license:
- i) To represent 1 insurer, each year\$ 10.00
- ii) To represent 2 or more insurers, each year\$ 30.00
- e) Solicitor's license, each year\$ 10.00
- f) Insurance auditor, abstractor, counselor or analyst license, each year...\$ 10.00
- g) Adjuster's license, each year\$ 2.00
- h) License examination fee, payable by applicant for all subjects covered in any one examination for license as agent, or as solicitor, or as insurance auditor, abstractor, counselor or analyst, each examination\$ 5.00
- i) Surplus lines agent license each year\$100.00
- j) For making copies of any papers in his office the commissioner shall charge at the rate of 35 cents per folio, and for attaching his certificate thereto, 50 cents

Fees to attorney general for examination of articles.

2) Every incorporated domestic insurer shall pay to the attorney general, for the examination of its articles of incorporation or any amendments thereto, the sum of \$5.00.

Deposit of fees and charges in state treasury.

3) All fees and charges for official services performed by the commissioner, his deputies or employees, shall, when collected, be forthwith turned over to the state treasurer and his receipt taken therefor. All fees and charges provided for in this section shall be deposited in the state treasury to the credit of the general fund.

HISTORY: New 1956, p. 483, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 318, Act 221, Imd. Eff. Jul. 10.

500.244 Insurance commissioner; appeals from orders or decisions, review.

Sec. 244. (1) Any final order or decision made, issued, or executed by the commissioner under this insurance code shall be subject to review, after hearing had before the commissioner or a deputy commissioner without leave by the circuit court of Ingham county or the circuit court of the county in which the principal office in this state of the insurer aggrieved by such order or decision is located, or where the person resides against whom such order is directed.

Petition for review; finality of unreviewed order; transcript.

2) A petition as of right for the review of such order or decision shall be filed within 30 days from the date of service of a copy of said order or decision upon the insurer or other person against whom said order or decision shall run. Copy of such petition for

review as filed with and certified by the clerk of the court shall be served upon the commissioner, or in his absence upon someone in active charge of the department of insurance, within 5 days after the filing thereof. If no such petition for review is filed within the said 30 days, the party aggrieved shall be deemed to have waived the right to have the merits of the order or decision reviewed, and there shall be no trial of the merits thereof by any court to which application may be made by petition or otherwise. Within 10 days after the service of copy of the petition for review, unless the time be extended by order of court, the commissioner shall prepare and file with the clerk of the court in which the petition for review was filed, a complete transcript of the record of the hearing had before him, and a true and certified copy of his order or decision.

Same; chancery hearing on transcript, supplemental record; stay of proceedings; jurisdiction of court.

(3) The cause shall be heard before the said court as a civil case in chancery upon such transcript of the record and such additional evidence as may be offered by any of the parties at the hearing of said cause before the court. It shall be the duty of the court to hear and determine such petition with all convenient speed. If on the hearing before the court it shall appear that the record filed by the commissioner is incomplete, the court by appropriate order may direct the commissioner to certify any or all parts of the records so omitted. The commencement of proceedings under this section shall not operate as a stay of the commissioner's order or decision unless so ordered by the court, and under such conditions as the court may impose. The court shall have the jurisdiction to affirm, modify, or to set aside the order or decision of the commissioner and to restrain the enforcement thereof.

Appeal to supreme court.

(4) Appeals from all final orders and decrees entered by the circuit court in reviewing the orders and decisions of the commissioner may be taken to the supreme court of Michigan by any party to the action as in other civil cases.

HISTORY: New 1956, p. 484, Act 218, Eff. Jan. 1, 1957.

500.246 Actions for violations of act; immunity of witnesses.

Sec. 246. No person shall be excused from attending and testifying, or producing any books, papers, or other documents before any court or magistrate, arbitrator or board of arbitrators, upon any investigation, proceeding or trial, for a violation of any of the provisions of this code, upon the ground or for the reason that the testimony or evidence documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

HISTORY: New 1956, p. 485, Act 218, Eff. Jan. 1, 1957.

500.248 Violations of act; actions; perjury.

Sec. 248. Any persons required by the provisions of this code to take any oath, or affirmation, who shall make any false oath or affirmation, shall be deemed guilty of perjury.

HISTORY: New 1956, p. 485, Act 218, Eff. Jan. 1, 1957.

500.249 Insurance commissioner; investigations of agents, adjusters, counselors, managers, promoters, officers and directors.

Sec. 249. For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as often as he deems advisable, may ini-

tate proceedings to examine the accounts, records, documents and transactions pertaining to:

- (a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.
- (b) Any person having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.
- (c) Any person holding the shares of voting stock or policyholder proxies of an insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.
- (d) Any person engaged in or proposing to be engaged in or assisting in the promotion or formation of an insurer or insurance holding corporation, or corporation to finance an insurer or the production of its business.
- (e) A person or organization owning stock representing 10% or more of the voting shares of an insurer.
- (f) Any officer or director of an insurer.

HISTORY: Add. 1967, p. 469, Act 262, Eff. Nov. 2.

500.250 Insurers; officers or directors, appointment, notice to commissioner; removal, hearings, civil immunity; review.

Sec. 250. (1) All insurers licensed to do business in this state shall notify the commissioner within 30 days of the appointment or election of any new officers or directors, or any transfer of stock which results in any one person holding 10% or more of the voting shares of an insurer.

(2) If, after proceedings under section 249, the commissioner has reason to believe that an officer or director is untrustworthy or has abused his trust and that his continuation as an officer or director is hazardous or injurious to the insurer, the policyholders or the public, the commissioner shall hold a hearing thereon. After the hearing and after written findings that the officer or director is untrustworthy or has abused his trust and that his continuation as an officer or director is hazardous or injurious to the insurer, the policyholders or the public, the commissioner may order the removal of the officer or director.

(3) If the insurer does not comply with such removal order within 30 days, the commissioner may suspend or revoke the insurer's certificate of authority until such time as the insurer complies with the order.

(4) Any such action when taken by an insurer, its directors or officers pursuant to an order of the commissioner under this act shall be deemed to be in good faith and shall not be the basis for subjecting the insurer, its directors or officers to civil liabilities.

(5) Any order of the commissioner issued pursuant to this section shall be subject to review as provided in section 244.

HISTORY: Add. 1967, p. 500, Act 262, Eff. Nov. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 206.211.

CHAPTER 4.

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS.

500.402 Insurers; certificate of authority requirement.

Sec. 402. No person shall act as an insurer and no insurer shall issue any policy or otherwise transact insurance in this state except as authorized by a subsisting certificate of authority granted to it by the commissioner pursuant to this code.

HISTORY: New 1966, p. 485, Act 218, Eff. Jan. 1, 1967.

500.402a Transaction of insurance; acts constituting.

Sec. 402a. The following constitute transactions of insurance in this state, whether effected by mail or otherwise:

- (1) The issuance or delivery of contracts of insurance to persons resident in this state, or
- (2) The solicitation of applications for such contracts, or
- (3) The collection of premiums, membership fees, assessments or other consideration for such contracts, or
- (4) The doing or proposing to do any act in substance equivalent to any of the foregoing.

HISTORY: Add. 1967, p. 138, Act 111, Eff. Nov. 2.

500.402b Transaction of insurance; acts not constituting.

Sec. 402b. The following do not constitute transactions of insurance in this state within the meaning of sections 402 and 402a of this code:

- (1) Transaction of insurance pursuant to sections 1840 to 1864, or
- (2) Transaction of reinsurance, or
- (3) Transaction of insurance on risk not resident or located in this state at the time the insurance took effect, when such insurance was not written in this state within the meaning of section 440 of this code, or
- (4) Transaction of group or blanket insurance or group annuities in which a master policy was lawfully issued and delivered in states in which the insurer was authorized to transact insurance, or
- (5) Transaction of insurance, under the same policy, on a risk or risks resident or located both within and without the state, when, under all the circumstances of the transaction, any appropriate part of the premium thereon was apportioned to this state, or
- (6) Transaction of insurance as defined in sections 614 and 616 of this code, or
- (7) Transaction of insurance independently procured [sic] through negotiations occurring entirely outside of this state, or
- (8) Transaction of insurance by a nonprofit life insurance company, when the transactions involve life insurance, disability or annuity contracts issued direct from the home office of the company, without agents or representatives in this state, only to or for the benefit of employees of nonprofit educational, scientific or religious institutions. The transactions defined in this subsection shall not include those of fraternal benefit societies defined in section 8001 of this code.

HISTORY: Add. 1967, p. 138, Act 111, Eff. Nov. 2.

500.403 Foreign or alien insurers; certificate of authority, solvency.

Sec. 403. (1) No foreign or alien insurer shall be authorized to do business in this state nor given renewed certificates of authority, that is not and does not continue to be solvent.

Life insurer, assets.

- (2) No life insurer shall be permitted to transact business within this state, unless the amount of its assets shall equal the net value of all its outstanding obligations, or, in the case of an alien insurer, the net value of all its outstanding obligations to residents of these United States, as determined according to the assumptions in regard to rates of interest and mortality as hereinafter provided in sections 830 through 838.

HISTORY: New 1956, p. 485, Act 218, Eff. Jan. 1, 1957.

500.404 Foreign insurers; assets requirement.

Sec. 404. Every foreign insurer doing business in this state shall be possessed of such an amount of capital or surplus or assets as the case may be as are required of, and

computed by the same rules as are applied to, like domestic insurers, and the commissioner shall not authorize any foreign insurer to transact any kind of insurance in this state unless and until such insurer is possessed of such required amount of capital or surplus or assets.

HISTORY. New 1956, p. 486, Act 218, Eff. Jan. 1, 1957.

500.406 Foreign insurers; excessive corporate purposes, ineligibility.

Sec. 406. (1) No foreign insurer shall hereafter be admitted to this state whose corporate purposes (other than the investment purposes mentioned in section 960) are such as to exceed those permitted Michigan insurers. No foreign insurer which is owned or financially controlled by another state of the United States or by a foreign nation or any state or province thereof shall be admitted to this state, unless such company or entity was so owned, controlled or constituted prior to January 1, 1957, and was authorized to do business in this state on or before January 1, 1957.

Same; self-limitation.

2) For the purpose of obtaining admission to or renewal of authority to do business in this state, a foreign insurer may, by proper corporate action, limit its corporate purposes and powers, in so far as Michigan business is concerned, so that such corporate purposes shall not exceed those of Michigan insurers authorized under the same classification: Provided, however, That such foreign insurer shall, in its application for certificate of authority or corporate action referred to, elect the particular statute under which it desires admission or recertification.

Same; continuance of business not presently authorized.

3) The commissioner may deny admission or continuance of authority to any foreign insurer engaged outside of this state in any kind or combination of kinds of business not permitted by the statutes of Michigan to be carried on by similar domestic insurers, when in his judgment the carrying on of such kinds or combination of kinds of business is prejudicial to the best interest of the people of this state. Notwithstanding the foregoing provision, any foreign insurer which has been licensed to do the business of life insurance in this state continuously during a period of 20 years next preceding January 1, 1941, shall continue to be licensed to carry on the kind or kinds of insurance business which it was authorized to do in Michigan immediately prior to January 1, 1941, in the absence of a finding or findings of the commissioner as to specific insurers or a specific insurer, that such combination or combinations of kinds of business has become prejudicial to the best interests of the people of this state, in such particular case or cases.

HISTORY. New 1956, p. 486, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 17, Act 12, Eff. Sep. 27.

500.407 Authorized insurance transactions; exceptions.

Sec. 407. An insurer which otherwise qualifies therefor may be authorized to transact any one kind or combination of kinds of insurance as defined in chapter 6 of this code, except:

Life insurer.

(1) A life insurer shall not be authorized to transact any other kind of insurance except disability, unless it was engaged in transacting such other kind or kinds of insurance in this state prior to the first day of January in the year 1909.

Reciprocal insurer.

2) A reciprocal insurer shall not be authorized to transact life or health insurance.

HISTORY. New 1956, p. 486, Act 218, Eff. Jan. 1, 1957.

500.408 Insurers; capital, surplus or assets requirement, schedule; multiple lines, provisos; application of section.

Sec. 408. (1) To qualify for authority to transact insurance in this state a domestic, foreign, or alien stock or mutual insurer, or a domestic or foreign reciprocal insurer, shall possess and thereafter maintain paid-in capital or surplus or assets in amount of not less than as shown by the applicable portion of the following schedule:

Kind of insurance	Domestic, foreign stock insurers CAPITAL	Domestic, foreign mutual life insurers SURPLUS	Domestic, foreign mutual insurers other than life ASSETS	Alien insurers United States ASSETS
Life	\$200,000.00 300,000.00	\$200,000.00 300,000.00	not applicable not applicable	\$200,000.00 ^(viii) 300,000.00 ^(viii)
Life and disability				
Disability, except as provided in subsections (2), (3), or (4), below	200,000.00	not applicable	\$ 50,000.00	200,000.00
Property & marine ^(v)	200,000.00	not applicable	50,000.00 ^(vi)	200,000.00
Automobile	200,000.00	not applicable	50,000.00 ^(vi)	200,000.00
Casualty	200,000.00	not applicable	50,000.00 ^(vi) ^(vii)	200,000.00 ^(ix)
Surety & fidelity ^(x)	250,000.00	not applicable	250,000.00 ^(vi)	250,000.00
Surety, fidelity, casualty	450,000.00	not applicable	250,000.00 ^(vi)	450,000.00

Kind of insurance	Reciprocal insurers ASSETS	Special auto insurers (stock) ⁽ⁱ⁾ CAPITAL	Special auto insurers (mutual) ⁽ⁱⁱ⁾ ASSETS
Disability, except as provided in subsections (2), (3), or (4), below	\$50,000.00 ^(v)	\$200,000.00 ⁽ⁱⁱⁱ⁾	\$ 10,000.00 ^(iv)
Property & marine ^(v)	50,000.00	200,000.00 ⁽ⁱⁱⁱ⁾	10,000.00 ^(iv)
Automobile	50,000.00	200,000.00 ⁽ⁱⁱⁱ⁾	10,000.00 ^(iv)
Casualty	50,000.00	200,000.00 ⁽ⁱⁱⁱ⁾	10,000.00 ^(iv)
Surety & fidelity ^(x)	50,000.00	450,000.00 ⁽ⁱⁱⁱ⁾	250,000.00 ^(iv)
Surety, fidelity, casualty	50,000.00	450,000.00 ⁽ⁱⁱⁱ⁾	250,000.00 ^(iv)

Multiple lines: Any stock or mutual casualty insurer, or any stock property & marine insurer, or general mutual insurer authorized to transact the kinds of insurance permitted under section 5814, or reciprocal insurer, may reinsure risks of every kind or description and write any and all kinds of insurance other than life insurance, while it maintains paid-up capital of not less than \$500,000.00, or a minimum capital and surplus of \$500,000.00 (if a stock insurer) or surplus as regards policy holders (if a mutual or reciprocal insurer) of not less than \$500,000.00.

The following provisos are respectively applicable to the foregoing schedules and provisions as indicated by like Roman numerals appearing in such schedules and provisions:

- i. Special automobile insurers (stock) are as identified in section 6006.
- ii. Special automobile insurers (mutual) are as identified in section 6014.
- iii. Special automobile insurers (stock) insuring powers are subject to section 6006.
- iv. Special automobile insurers (mutual) insuring powers are subject to section 6014.
- v. Property & marine as here used includes property, inland navigation and transportation, automobile (limited), and marine insurances as defined in chapter 6.
- vi. General mutual insuring powers are subject to section 5814.
- vii. To include insurance of workmen's compensation, assets must be at least \$100,000.00.
- viii. Alien life insurer must also maintain deposit of reserves as provided by section 414.
- ix. Subject to section 413(2).
- x. The capital of a stock insurer to do a fidelity and surety business shall, in addition to the capital required in any other business in which it may be lawfully engaged, be not less than \$250,000.00.

2. An insurer authorized to transact casualty insurance shall have authority to transact also disability insurance without additional capital, surplus, or assets, as the case may be; but subject to the provisions of section 5814 in the case of domestic and foreign mutual insurers, section 6006 in the case of special automobile insurers (stock), and section 6014 in the case of special automobile insurers (mutual).

3. A domestic stock insurer heretofore organized to insure on the monthly or weekly premium payment plan any person or persons against bodily injury or death by accident, or against disability on account of sickness, or to provide a cash funeral benefit not exceeding \$500.00, shall have paid-in capital stock of not less than \$25,000.00.

4. As to a reciprocal insurer the authority to transact disability insurance, either alone or in combination with other insuring powers, shall not include authority to transact health insurance.

5. Financial requirements as to cooperative assessment life, disability, and loss of position insurers, as identified in chapter 64 of this code, shall be as provided in such chapter 64. Financial requirements as to domestic stock insurers formed to insure railway employees against loss of position, and to transact disability and life insurance, and to make annuities, as identified in section 6604, shall be as provided in section 6605.

6. This section applies to domestic insurers organized prior to the effective date of section 410 and to foreign and alien insurers not subject to the provisions of section 410.

HISTORY. New 1956, p. 487, Act 218, Eff. Jan. 1, 1957;—Am. 1958, p. 282, Act 211, Eff. Sep. 13;—Am. 1965, p. 415, Act 242, Imd. Eff.

1965-21

500.410 Insurers; minimum paid-in capital or unimpaired surplus; additional surplus.

Sec. 410. (1) To qualify for authority to transact insurance in this state after the effective date of this section, a domestic, foreign or alien insurer shall possess and thereafter maintain unimpaired paid-in capital (if a stock insurer) or unimpaired surplus (if a mutual or reciprocal insurer) in an amount not less than \$1,000,000.00.

(2) In addition to the minimum paid-in capital or minimum surplus specified above, an insurer hereafter applying for an initial certificate of authority in this state shall possess surplus or additional surplus in an amount deemed by the commissioner adequate for the kind or kinds of insurance it writes or proposes to write, but in no event less than \$500,000.00. After issuance of its initial certificate of authority the insurer may use the surplus required under this paragraph in the normal course of its business, provided that the minimum capital or surplus required by paragraph (1) above must never be impaired.

(3) Every insurer authorized to transact insurance in this state may transact life insurance or property insurance but not both, unless it was authorized to transact such other kind or kinds of insurance in this state immediately prior to January 1, 1965. For the purpose of this section, life insurance includes any one or more of the insurances described in sections 602 and 606; property insurance includes any one or more of the insurances described in chapter 6, excepting only section 602 and those provisions of section 632 which apply to insurances described in section 602. Nothing herein shall be construed to broaden the authority of reciprocal insurers.

(4) This section shall not apply to a domestic mutual insurer organized under chapter 58 of this act, all of whose contracts comply with subsection (1) of section 5828.

(5) An insurer authorized to transact insurance prior to the effective date of this section may continue to transact insurance so long as it maintains the minimum financial requirements of section 408.

HISTORY: Add. 1965, p. 416, Act 242, Imd. Eff. Jul. 21.

500.412 Life, life and disability insurers; deposit required to transact business.

Sec. 412. (1) The commissioner shall not authorize an insurer to transact life or life and disability insurance in this state until it has complied with the applicable deposit requirement, as follows:

Domestic stock insurer.

(a) A domestic stock insurer must, within 18 months from the date of its articles of incorporation, deposit with the state treasurer \$200,000.00, if to transact life insurance, or \$300,000.00 if to transact life and disability insurance. The deposit shall be and shall be maintained in securities at market value, exclusive of interest, and of the kind and character in which domestic insurers are permitted to invest their funds as prescribed in chapter 9. The securities shall be duly assigned to the state treasurer in trust for the benefit of all policyholders. The securities shall be retained by the state treasurer and disposed of as directed in chapter 11. Except, that domestic stock insurers heretofore organized to insure on the monthly or weekly premium payment plan any person or persons against bodily injury or death by accident, or against disabilities on account of sickness, or to provide a cash funeral benefit not exceeding \$500.00, shall maintain a deposit with the state treasurer of \$25,000.00, in cash or other security, and under the same conditions as are applied to other domestic stock insurers under this provision.

Domestic mutual insurer.

b) A domestic mutual insurer must, within 18 months from the date of its articles of incorporation, deposit with the state treasurer \$200,000.00, if to transact life insurance, or \$300,000.00 if to transact life and disability insurances. The deposit shall be in securities at market value, exclusive of interest, and of the kind and character in which domestic insurers are permitted to invest their funds as prescribed in chapter 9. The securities deposited pursuant to this provision (b) shall be held by the state treasurer in trust for the benefit and protection of and as security for the applicants, policyholders and creditors of the insurer. Such securities shall be retained by the state treasurer and disposed of as directed in chapter 11.

Foreign life insurer.

c) A foreign life insurer shall deposit with the state treasurer of this state or with the state treasurer, commissioner of insurance or other state officer of the state in which such insurer is incorporated as required by the law of such other state, securities at least equal in market value to the amount of deposit required of domestic insurers transacting similar kinds of business. At least 50% of such deposits shall be in bonds of the United States or of this state or any city or county in this state authorized by law to issue bonds, or of state, county or city bonds of the state where such insurer is organized, or of bonds or mortgages on improved real estate worth double the amount loaned thereon.

Deposit may include paid-in capital or surplus.

2 Any such deposit may be inclusive of the paid-in capital or surplus required of such insurer under section 408.

HISTORY: New, 1956, p. 498, Act 218, Eff. Jan. 1, 1957.

500.413 Casualty, disability or title insurance; deposit required to transact business.

Sec. 413. (1) The commissioner shall not authorize an insurer to transact casualty insurance, disability insurance, other than a life insurer, or title insurance in this state until it has complied with the applicable deposit requirement, as follows:

a) A domestic stock insurer shall, within 18 months from the date of its articles of incorporation, deposit with the state treasurer \$200,000.00. The deposit shall be, and shall be maintained, in securities at market value, exclusive of interest, and of the kind and character in which domestic insurers are permitted to invest their funds as prescribed in chapter 9. The securities shall be duly assigned to the state treasurer in trust for the benefit of all policyholders. The securities shall be retained by the state treasurer and disposed of as directed in chapter 11.

b) A domestic mutual insurer shall, within 18 months from the date of its articles of incorporation, deposit with the state treasurer \$200,000.00 except as otherwise provided by this code. The deposit shall be in securities at market value, exclusive of interest, of the kind and character in which domestic insurers are permitted to invest their funds as prescribed in chapter 9. The deposit shall be as security for any liability to insured parties and shall be retained by the state treasurer and disposed of as directed in chapter 11.

c) A foreign insurer shall deposit with the state treasurer of this state or with the state treasurer, commissioner of insurance or other state officer of the state in which such insurer is incorporated as required by the law of such other state, securities at least equal in market value of the amount of deposit required of domestic insurers transacting similar kinds of business. At least 50% of such deposits shall be in bonds of the United States or of this state or of any city or county in this state authorized by law to issue bonds, or of state, county or city bonds of the state where such insurer is or-

ganized, or bonds or mortgages on improved real estate worth double the amount loaned thereon.

(2) The deposit may be inclusive of the paid-in capital, surplus or assets required of such insurer under section 408.

HISTORY: New 1956, p. 489, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 257, Act 221, Imd. Eff. Jul. 11;—Am. 1969, p. 747, Act 330, Imd. Eff. Oct. 27.

500.414 Alien life insurer; deposit required to transact business.

Sec. 414. Any alien life insurer shall be required to keep on deposit with the state treasurer of this state, or with some state officer of 1 of the United States, or with trustees for the benefit of policyholders resident in the United States, said trustees being residents or corporations of this or some other state, securities in which any such insurer is authorized to invest, in an amount at least equal in market value to the net value of the outstanding policies insuring residents of these United States as computed by the commissioner.

HISTORY: New 1956, p. 490, Act 218, Eff. Jan. 1, 1957.

500.415 Alien insurer other than life insurer; deposit required to transact business.

Sec. 415. (1) The commissioner shall not authorize an alien insurer other than an alien life insurer to transact insurance in this state unless the insurer has a deposit of securities in any state of the United States, in accordance with the laws thereof, which deposit complies with the following conditions:

(a) The deposit shall be of the kinds of securities and to the amount required of domestic insurers transacting similar kinds of insurance.

(b) The deposit shall be for the sole benefit and security of the policyholders of the insurer residing in the United States, and be made available to the citizens of this state under the laws of the state in which the securities are deposited.

(c) The insurer shall make and execute, under oath, a report of such securities, attested by the trustees thereof and file such statement with the commissioner as a part of its report of its financial standing as required under section 424.

(2) Such deposit shall be considered the cash capital of the insurer.

HISTORY: New 1956, p. 490, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 748, Act 330, Imd. Eff. Oct. 27.

500.416 Fidelity and surety insurer; deposit required to transact business.

Sec. 416. (1) The deposit of any fidelity and surety insurer with the state treasurer shall not be less than \$200,000.00, and no domestic mutual insurer shall commence such business until it shall likewise have deposited with the state treasurer securities in the amount of at least \$250,000.00.

(2) Such deposit shall be subject to the applicable provisions of section 413, and of chapter 11.

HISTORY: New 1956, p. 490, Act 218, Eff. Jan. 1, 1957.

500.417 Repealed. 1966, p. 162, Act 137, Eff. Mar. 10, 1967.

Sections made provisions of code relating to stock life insurers relative to deposit of securities governing domestic automobile insurers.

500.418 Domestic reciprocal insurer; deposit required to transact business.

Sec. 418. (1) A domestic reciprocal insurer shall deposit and maintain at all times with the state treasurer \$50,000.00 in cash or securities, as a general deposit for the benefit of subscribers wherever located. Such securities shall conform to the investment requirements as outlined for stock insurers writing the same class of risks.

(2) The deposit of a foreign reciprocal insurer shall be no less than the requirements for domestic reciprocal insurers as outlined in subsection (1) of this section. The deposit may be made in the home state of such exchange, in which event a certification from the state treasurer, or other proper official, of the state in which the insurer is domiciled must be attached to the insurer's application for certificate of authority provided for in section 426. Where the laws of the home state do not provide for the acceptance of such a deposit, the same may be made with a bank or trust company in escrow, subject to the control of the commissioner of insurance of that state and to be released only upon his written order. Such a deposit shall be a general deposit for the benefit of subscribers or policyholders wherever located.

HISTORY: New 1956, p. 490, Act 218, Eff. Jan. 1, 1957.

500.422 Foreign or alien fire, marine or inland insurer; agreements as to competition prohibited.

Sec. 422. No foreign or alien fire, fire and marine, or marine and inland insurance insurer shall be permitted to do business in this state under the provisions of this code, until it has filed with the commissioner an undertaking, duly executed and authenticated by the insurer, in such form as the commissioner shall from time to time prescribe: that it will not directly or indirectly enter into any contract, agreement, arrangement or undertaking of any nature or kind whatever with any other insurer or insurers, the object or effect of which is to prevent open and free competition between it and said insurer or insurers, or the agents of their respective insurers in the business transacted in this state, or in any part thereof.

HISTORY: New 1956, p. 491, Act 218, Eff. Jan. 1, 1957.

500.424 Foreign or alien insurers; admission to do business, application, fee.

Sec. 424. (1) No foreign or alien insurer shall hereafter be admitted to this state until such insurer shall file with the commissioner an application therefor upon such form as the commissioner shall prescribe. Such application shall be accompanied by a copy of the insurer's charter, compact or articles of incorporation or agreement, and bylaws, duly certified by the commissioner of insurance or corresponding officer of the state of origin or entry, together with a sworn statement of such insurer's business affairs up to any date required by the commissioner of insurance of this state to be furnished him, and any other information, under oath or otherwise, that the commissioner may demand of such applicant.

(2) In addition to the foregoing, an alien fire or fire and marine insurer shall make and execute, under oath, a report of its financial standing, and of its deposit as required under section 415, together with a full statement of its business in the United States for the year next preceding such statement, in the same manner and form and at the same time as is now required by law of insurers of other states of the United States. The manager, resident directors, resident secretary, or general agents for the United States shall, for the purposes of this provision and of such deposit, be deemed the legal and proper officers of such insurer, and such insurer shall file with the commissioner its consent thereto.

3. The commissioner shall examine such application and if satisfied that such applicant is safe, reliable and entitled to public confidence and is possessed of the capital and assets required of like insurers organized in this state, is authorized to do the kind or class of insurance it seeks to transact, and has complied in all other respects with the laws of this state, as applicable thereto, he shall issue his certificate of authority to such applicant.

4. The applicant must pay the filing fee as provided by section 240 (1) (a) (ii) (schedule of fees).

(5) This section does not apply to reciprocal insurers, nor to mutual insurers (other than life insurers) governed by section 425.

HISTORY: New 1956, p. 491, Act 218, Eff. Jan. 1, 1957.

500.425 Foreign mutual insurers; admission to do business, procedure.

Sec. 425. (1) Any mutual insurer organized outside of this state and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles of incorporation to the extent and with the powers and privileges specified in chapter 58, when it shall be solvent under such chapter and shall have complied with the following requirements:

(a) Filed with the commissioner a certified copy of its charter or articles of incorporation;

(b) Paid the commissioner the filing fee provided by section 240 (1) (a) (ii) (schedule of fees);

(c) Filed with the commissioner a copy of its bylaws certified to by its secretary;

(d) Appointed the commissioner its agent for the service of process, in any action, suit or proceeding in any court of this state, which authority shall continue as long as any liability shall remain outstanding in this state;

(e) Filed a financial statement under oath, in such form as the commissioner may require, and have complied with other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(f) If organized without the United States, make and maintain the deposit required of stock insurers formed without the United States transacting the same kind of insurance.

(2) Upon compliance by any such foreign insurer with the provisions of this section, such insurer shall be licensed and authorized to transact business in this state, subject to all the provisions of law relating to information to and examinations by the commissioner, annual reports, taxes and the renewal of licenses applicable to stock insurers transacting the same kinds of insurance, except as otherwise provided in chapter 58.

HISTORY: New 1956, p. 491, Act 218, Eff. Jan. 1, 1957.

500.426 Foreign reciprocal insurers; admission to do business, procedure.

Sec. 426. No certificate of authority to transact any kind of insurance in this state shall be issued to any foreign reciprocal insurer until such insurer through its attorney shall file with the commissioner, verified by the oath of such attorney, an application therefor upon such form as the commissioner shall prescribe setting forth such information as required under section 7210. Certification of deposit must be attached as provided under section 418. Such application shall be accompanied by a sworn statement of such insurer's business affairs up to any date required by the commissioner to be furnished him, and any other information, under oath or otherwise, that the commissioner may require of such applicant. The commissioner shall examine such application and if satisfied that such applicant meets the requirements as outlined for domestic reciprocal insurers under this code, is authorized to do the kind of insurance it seeks to exchange, and has complied with the laws of this state, as applicable thereto, he shall issue a certificate of authority to such reciprocal insurer in the name or title adopted.

HISTORY: New 1956, p. 492, Act 218, Eff. Jan. 1, 1957.

500.430 Foreign or alien life or sickness and accident insurer on cooperative assessment plan; reciprocity requirement.

Sec. 430. No foreign or alien insurer organized for the purpose of insuring life or furnishing sickness or accident indemnity upon the cooperative assessment plan, shall be authorized or entitled to do business in this state, unless the state or territory of the United States or District of Columbia, or foreign country, under whose laws such insurer is organized, shall extend the right to such insurers in this state to do business in such state or territory of the United States or District of Columbia, or foreign country, upon similar conditions to those in this code prescribed.

HISTORY: New 1956, p. 492, Act 218, Eff. Jan. 1, 1957.

500.432 Insurers; certificate of authority, continuance.

Sec. 432. The certificate of authority issued by the commissioner to an insurer shall not require annual reissuance but shall remain in force so long as the insurer continues to meet the requirements of this act, or unless otherwise revoked, suspended or withdrawn.

HISTORY: New 1956, p. 492, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 107, Act 101, Eff. Mar. 19, 1960.

500.434 Insurers; certificate of authority, revocation, grounds.

Sec. 434. (1) Whenever the commissioner shall have reason to suspect the correctness of any annual statement, or that the affairs of the insurer making the same are in an unsound condition, it shall be his duty to cause an examination to be made into the books, papers, and securities of such insurer, and if in his opinion the condition of the insurer is such as to render it improper that it should continue to issue policies in this state, he shall have the power to revoke the license of such insurer; and whenever he shall deem it for the public interest so to do, he shall publish the result of such investigation in such newspaper as he shall select, or if the insurer is one organized under the laws of this state, then in some newspaper published in the county where the principal business office of the insurer is located.

2 Whenever it shall appear to the commissioner that the affairs of any fire insurance company not incorporated by the laws of this state are in an unsound condition, he shall revoke the certificates granted in behalf of such insurer, and shall cause a notification thereof to be published in some paper of general circulation in this state for 4 weeks; and the agent or agents of such insurer are, after such notice, required to discontinue the issuing of any new policy, and the renewal of any previously issued; and the agent or agents of such insurer not incorporated by the laws of this state who shall issue any new policy, or make any contract for the same after such publication, shall be liable in an action of trover to the persons insured in double the sum named as premium in such policy or contract.

3 The commissioner may cancel and revoke the certificate of authority of any foreign or alien incorporated insurer refusing or unreasonably neglecting to comply with the provisions of section 222 (examination of insurers).

4 The commissioner may revoke the certificate of authority of a reciprocal insurer in case of a breach of any of the provisions of this code applicable to such insurer.

5 An insurer's certificate of authority is subject to revocation for other causes as expressly provided in other provisions of this code.

HISTORY: New 1956, p. 493, Act 218, Eff. Jan. 1, 1957.

500.438 Insurers; annual statement, fee, form, additional inquiry, penalty; alien insurer's statement, contents.

Sec. 438. (1) Each and every insurer, foreign, alien or domestic, transacting business within this state, shall annually, on or before March 1, prepare under oath and deposit with the commissioner a statement concerning its affairs upon such form and includ-

ing such information as shall be prescribed by the commissioner. The annual statement shall be filed on or before March 1 of the year following that covered by the statement. The commissioner, upon request and for good cause shown, may grant to any company a reasonable extension of time not to exceed 30 days within which the statement shall be filed. The insurer shall pay the filing fee therefor as specified in section 240 (1) (b).

The commissioner shall prepare such forms of statements as shall be suitable and adaptable to each kind of insurance authorized by this code. The commissioner shall include in such forms, requisitions for information upon any and all important elements of such business, including any matter, condition or requirement regulated by this code. The commissioner shall cause the information contained in the statements to be arranged in convenient form.

(2) The commissioner shall prepare and furnish to each of the insurers, doing business in this state, printed forms of the annual statements required by this code, which statements shall be printed at the expense of the state.

The commissioner may address any inquiries to any insurer, in relation to its doings or conditions, or any matter connected with its transactions; any insurer so addressed shall promptly reply in writing to any such inquiries.

(3) Every domestic insurance company failing to make and deposit the annual statement required in this section, or failing to reply within 30 days to any inquiry of the commissioner shall be subject to a penalty of not less than \$100.00 and not to exceed \$500.00 and an additional \$50.00 for every month that such company shall fail to make and deposit the annual statement or reply to such inquiries. Every foreign or alien insurer failing to make and deposit such annual statements, or to make satisfactory replies to such inquiries as may be put to it, concerning its affairs, by the commissioner, shall be subject to like penalties and to a revocation of its authority to do business in this state.

(4) The annual statement of an alien insurer shall relate only to its assets, transactions and affairs in the United States unless the commissioner requires otherwise.

HISTORY: New 1956, p. 493, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 99, Act 91, Eff. Sep. 27;—Am. 1959, p. 43, Act 39, Eff. Mar. 19, 1960.

500.439 Reciprocal insurers; annual report, fee.

Sec. 439. The attorney of a reciprocal insurer shall make a report to the commissioner for each calendar year, on the first day of March, showing the financial condition of affairs of such insurer and shall furnish such additional information and reports as may be required. With the filing of each annual report the attorney of a foreign reciprocal insurer shall pay an annual license fee therefor as set forth in section 240 (1) (b) (ii).

HISTORY: New 1956, p. 494, Act 218, Eff. Jan. 1, 1957.

500.440 Foreign insurers; tax on premiums, rates.

Sec. 440. (1) Every foreign insurance company, of the classes herein enumerated, admitted to do and doing any insurance business in this state, shall, as a condition precedent to the privilege of doing business, pay to the commissioner for prompt deposit with the treasurer of the state of Michigan, on the first day of January of each year, or before the first day of April next thereafter, (subject to the retaliatory provisions in section 476) a tax upon its said business written in this state under the authority of the commissioner hereof, for the year ending December 31 of the preceding year, computed as follows:

First, Life insurance companies, a tax of 2% on the gross premiums, excluding considerations for original annuities;

Second, All casualty, title insurance companies and surety and fidelity companies whether stock, mutual, cooperative or assessment associations, a tax of 2% on all premiums, deducting for premiums returned on cancelled policies, and reinsurance premiums received when the tax has been paid on the original premiums, and in mutuals, also deducting for dividends paid to members;

Third, Fire, marine and strictly automobile insurance companies, whether stock or mutual, 3%, on all premiums, deducting for return premiums on cancelled policies and reinsurance when the tax has been paid on the original premiums; and in mutuals also deducting for dividends paid to members.

Other taxes.

2 Such specific taxes shall be in lieu of all other taxation, whether state or local, excepting for real estate owned by such companies within this state and securities deposited herein and excepting for tangible personal property owned or held for investment purposes by such companies within this state unless exempted under the general tax laws of the state.

Receipts.

3 The commissioner, on receiving such tax from any company, shall issue therefor duplicate receipts, 1 of which he shall deliver to the company, and he shall file the other.

HISTORY: New 1956, p. 494, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 39, Act 37, Eff. Mar. 19, 1960;—Am. 1966, p. 256, Act 221, Imd. Eff. Jul. 11.

500.441 Tax on premiums; application.

Sec. 441. The taxes on premiums from insurance companies shall be upon all premiums, whether upon business written or renewed, which, during the year or part of the year ending on the preceding thirty-first day of December, shall have been received by any insurance company, or by any person acting as agent therefor, both upon policies issued by agents in this state, or policies issued at the office of the companies, upon application of sub-agents or others, or for any individuals or association of individuals, not incorporated or authorized by the laws of this state, to effect insurance against fire, inland, marine, life, casualty, title, or other risks, or which shall have been received by any person for such company or agent, or shall have been agreed to be paid for any insurance effected, or agreed to be effected or procured by such company or agent, or against fire, inland, marine, life, casualty, title, or other risks, although such companies, associations, or individuals may be incorporated or authorized for that purpose by the laws of any other state of the United States, or of any foreign government.

HISTORY: New 1956, p. 494, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 259, Act 221, Imd. Eff. Jul. 11.

500.442 Tax on premiums; deductions, deposit premiums.

Sec. 442. The taxable premiums of any foreign or alien mutual insurer (other than a life insurer) admitted in this state for the purpose of taxation under any law of this state shall be the gross direct premiums received for insurance upon property or risks in this state, deducting premiums upon policies not taken and premiums returned on cancelled policies and also any so-called dividend or other return made to the policyholder other than for losses: Provided, That in case of any company receiving deposits or deposit premiums, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year.

HISTORY: New 1956, p. 494, Act 218, Eff. Jan. 1, 1957.

500.443 Tax on premiums; annual statement for computation.

Sec. 443. Each foreign insurance company admitted to do any insurance business in this state, and subject to any tax prescribed in this chapter, shall annually, on the first day of January, or before the first day of March next thereafter, make and file with the

commissioner, its statement showing all of the data necessary to a computation of its taxes under this chapter, upon such forms and including such information as the commissioner may prescribe. The commissioner shall compute such taxes, and deliver 1 copy to such insurance company. The failure to file such statement with the commissioner, or his failure to compute such tax or to deliver such computation, shall not, however, excuse or relieve any company from the payment of such tax as is justly due.

HISTORY: New 1956, p. 495, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 40, Act 37, Eff. Mar. 19, 1960.

500.444 Tax on premiums; collection on delinquency.

Sec. 444. The taxes prescribed in this code may be collected, in case of delinquency, by the commissioner, out of any moneys or by the sale of any securities, deposited with the state treasurer by such delinquent company, or if no securities or moneys are deposited, by a suit in any court of competent jurisdiction as for the collection of a debt to the state, and in any such suit, the computation of the commissioner, duly sworn to, shall be prima facie evidence of the amount thereof.

HISTORY: New 1956, p. 495, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 40, Act 37, Eff. Mar. 19, 1960;—Am. 1967, p. 139, Act 111, Eff. Nov. 2.

500.445 Tax on premiums; delinquency, penalty.

Sec. 445. (1) Every insurer, from whom any tax provided in this code is due, and delinquent, shall be liable to a penalty of \$10.00 for each and every day of such delinquency from and after April 1, which penalty shall be added to the tax and collected in the same manner as the tax.

(2) No certificate of authority shall be granted to any insurance company or to its agents as such, that is delinquent in the payment of the taxes or penalties prescribed in this chapter.

HISTORY: New 1956, p. 495, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 139, Act 111, Eff. Nov. 2.

500.446 Foreign reciprocal insurers; tax on premiums, rates.

Sec. 446. The attorney for every reciprocal insurer not organized under the laws of this state, shall pay to the state treasurer of this state a premium tax of 2% of the gross premiums or deposits for the preceding calendar year, deducting return premiums and all amounts distributed to subscribers or credited to their accounts, the same to be in lieu of all other taxes in this state.

HISTORY: New 1956, p. 495, Act 218, Eff. Jan. 1, 1957.

CITED IN OTHER SECTIONS: The above section is cited in § 206.211.

500.448 Domestic insurers; privilege fee, rates.

Sec. 448. (1) Every domestic corporation, association or organization, whether stock, mutual, reciprocal or interinsurance exchange, cooperative or assessment association, whether profit or non-profit, incorporated, organized or existing under the provisions of Act No. 256 of the Public Acts of 1917, as amended, or organized or existing under this code, and also the "state accident fund" so-called, created by Act No. 10 of the Public Acts of the First Extra Session of 1912, as amended, being sections 411.1 to 417.14a of the Compiled Laws of 1948, each of which is hereafter referred to as the "company," and shall, for the privilege of exercising its franchise and of transacting its business within this state pay annually to the commissioner for prompt deposit with the treasurer of the state of Michigan, on or before July first at the time of filing its annual statement with the Michigan insurance commissioner, a fee of 5 mills upon each dollar of its paid-up capital, if any, surplus and unassigned funds, as the case may be, and as reported in said annual statement, but in no case shall such privilege fee be less than \$10.00 nor more than \$50,000.00. The terms "surplus" or "unassigned funds" shall be taken and deemed to mean the excess of net admitted assets over the paid-up capital, if any, and the reserves and other liabilities as required by law or regulation of the Michigan insurance commissioner.

Ratio for out of state business.

2. In the case of a company transacting any portion of its business outside the state of Michigan, such privilege fee shall be computed upon that portion of the company's paid-up capital, if any, surplus and unassigned funds, as the case may be, determined by the ratio that such company's net written premiums in the state of Michigan bears to the company's total net written premiums as shown by its aforesaid annual statement filed with the Michigan insurance commissioner, but in no case shall such ratio be less than 15%.

Computation of fee.

3. From the data submitted in the annual statement so filed, it shall be the duty of said commissioner to compute and determine such fee and deliver 1 copy of such computation to such company. Such company shall pay the additional amount which may be finally determined to be due or shall be entitled to a refund of the amount which may finally be determined as an overpayment. The failure to file such statement with the commissioner, or his failure to compute such fee or deliver such computation, shall not, however, excuse or relieve any company from the payment of such fee as is justly due.

Privilege fees in lieu of other taxes except on realty and personality.

4. Such privilege fees shall be in lieu of all other privilege or franchise fees or taxes imposed by any other law of the state, except taxes on real and personal property.

HISTORY: New 1956, p. 495, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 40, Act 37, Eff. Mar. 19, 1960.

500.449 Privilege fee; disposition of receipts.

Sec. 449. Every company paying any privilege fee under section 448 shall be entitled to receipt for the same showing the time of payment and the purpose for which paid. All such fees shall go into the state treasury and shall there be credited to the general fund of the state, and shall be available for any purpose for which such general fund is made available by law.

HISTORY: New 1956, p. 496, Act 218, Eff. Jan. 1, 1957.

500.450 Privilege fee; delinquency, penalty.

Sec. 450. Every company from whom any fee is due under section 448, and delinquent, shall be liable to a penalty of \$10.00 for each and every day of such delinquency from and after the first day of July, which shall be added to the fee and collected in the same manner as the fee. No certificate of authority shall be granted to any company that is delinquent in the payment of such fees or penalties.

HISTORY: New 1956, p. 496, Act 218, Eff. Jan. 1, 1957.

500.451 Unauthorized insurers; tax on premiums, application.

Sec. 451. Any unauthorized insurer transacting insurance in this state shall be subject to the same premium taxes on business so transacted as though it were business written by an authorized insurer. In addition thereto, each separate transaction of insurance in this state by an unauthorized insurer shall be subject to a tax of \$25.00, which shall be added to the premium tax. Such taxes are payable within 30 days after each such transaction and shall be deemed delinquent if not paid within 30 days after a copy of the computation of the tax by the commissioner is delivered to such insurer in the manner prescribed by law for the service of process.

HISTORY: Add. 1967, p. 139, Act 111, Eff. Nov. 2.

500.454 Insurers; business names.

Sec. 454. (1) Every domestic insurer shall transact its business under its own name. Every fire insurer shall conduct its business in this state in the name under which it is incorporated.

(2) No foreign insurance company shall be admitted to do business in this state whose name is the same as or closely resembles the name of any other company organized under or admitted to do business under the laws of this state.

HISTORY: New 1956, p. 496, Act 218, Eff. Jan. 1, 1957.

500.456 Foreign insurers; service of process on insurance commissioner, fee.

Sec. 456. Every insurance company, or association, not organized under the statutes of this state shall also, as a condition precedent to doing business in this state file with the commissioner its irrevocable written stipulation, duly authenticated by the company, stipulating and agreeing that any legal process affecting such company, served on the commissioner or his deputies, shall have the same effect as if personally served on the company. A copy of such appointment shall be filed with the commissioner. Service upon the commissioner shall be deemed sufficient service upon the company and the fee for such service shall be in the amount of \$2.00 payable at time of service. This appointment shall remain in force as long as any liability shall remain within the state of Michigan.

HISTORY: New 1956, p. 496, Act 218, Eff. Jan. 1, 1957.

500.457 Reciprocal insurers; service of process on insurance commissioner, copies.

Sec. 457. Concurrently with the filing of the declaration provided for by the terms of section 7210, the attorney of a reciprocal insurer shall file with the commissioner an instrument in writing executed by him for the subscribers, conditioned that upon the issuance of certificate of authority provided for in section 7222, service of process may be had upon the commissioner in all suits in this state arising out of the insurer's policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. Three copies of such process shall be served and the commissioner shall file 1 copy, forward 1 copy to said attorney, and return 1 copy with his admission of service.

HISTORY: New 1956, p. 497, Act 218, Eff. Jan. 1, 1957.

500.460 Resident agents; policy writing, reinsurance.

Sec. 460. (1) It shall be unlawful for any insurer legally authorized to transact business in this state, to write, place or cause to be written or placed, any policy or contract for indemnity or insurance in this state, except through a resident agent duly licensed by the Michigan department of insurance: Provided, That nothing in this provision contained shall be construed to prevent any insurer which has lawfully issued a policy of insurance through its resident agent within this state from reinsuring said risk or any portion thereof in any authorized insurer without having said policy of reinsurance signed or countersigned by a local agent in this state.

Countersignature of policies by resident agents only.

(2) No general, district, state or special agent or other salaried representative of any insurer (other than a life insurer or an insurer operating upon the mutual or reciprocal plan) shall countersign any policy or contract of insurance or indemnity on property or persons within this state, which policy or contract was effected outside this state or by any nonresident agent; and every such contract or policy (other than life insurance or insurance upon the mutual or reciprocal plan) shall be countersigned by a resident agent of the insurer.

Report of violation, procedure.

(3) When notice of any violation of subsection (1) of this section is received by the commissioner he shall forthwith visit the office of such insurer where such contract of insurance may have been written or made, and demand an inspection of the books and records of such insurer. Any insurer refusing to exhibit its books and records for such

inspection shall be deemed guilty of violating the provisions of this section, and the penalties provided in subsection (5) of this section shall immediately be enforced against such insurer by the commissioner.

Mutual insurer, countersignature by resident agent.

4 A mutual insurer (other than a life insurer) shall comply with the provisions of any law applicable to stock insurance companies effecting the same kind of insurance requiring that policies be countersigned by a resident agent.

Violation, revocation of authority to transact business.

5 Any insurer violating the provisions of the foregoing subsection (1) upon notice and satisfactory proof thereof being made to the commissioner, shall have its authority to transact business in this state revoked for a period of not less than 90 days, and any insurer whose license to do business in Michigan may be so revoked by the commissioner shall not again be permitted to do business in Michigan until all taxes and penalties due thereon shall have been paid, together with any expenses that may be due under the provisions of this code to the commissioner.

Readmission to transact business.

Any such insurer may be readmitted to transact business in the state of Michigan upon a complete recompliance with the laws now in force in regard to the admission of insurance companies to do business in Michigan.

Reciprocal exchange.

6 This section shall not apply to the attorney-in-fact of a reciprocal or interinsurance exchange.

Bid bonds in connection with public or private contract.

7 This section shall not apply to bid bonds issued by any surety insurer in connection with any public or private contract.

HISTORY: New 1956, p. 497, Act 218, Eff. Jan. 1, 1957;—Am. 1963, p. 36, Act 37, Eff. Sep. 6.

500.462 Resident agents; life insurance application, signature required.

Sec. 462. All applications for life insurance shall bear the signature of a licensed resident agent.

HISTORY: New 1956, p. 498, Act 218, Eff. Jan. 1, 1957.

500.470 Life insurers; deficiency in assets, notice.

Sec. 470. In case the assets of any life insurer transacting business within this state shall at any time be less than is required by the provisions of this code, the commissioner shall serve a written notice upon the person designated by such insurer to receive service of process under the laws of this state, or shall address such notice by mail to the principal office of such insurer and publish the same at least 3 times in some newspaper circulated daily in this state; and if, after the expiration of 10 days from the service of publication of such notice, any agent or officer of such insurer shall receive applications for policies, or issue policies, while such deficiency of assets exists and the cost of giving such notice remains unpaid by such insurer, he shall be subject to the penalties provided in section 1812.

HISTORY: New 1956, p. 498, Act 218, Eff. Jan. 1, 1957.

500.476 Securities; reciprocity as to deposit; taxes, penalties, valuation, fees.

Sec. 476. Whenever, by any law in force without this state, an insurance corporation, or reciprocal exchange of this state or agent thereof is required to make any deposit of securities thereunder for the protection of policyholders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, license fees, or otherwise, or any special burden or other burden is imposed, greater in the aggregate than is required by the laws of this state for similar foreign corporations

or their agents, the insurance companies, and reciprocal exchanges of such states or governments shall be and they are hereby required as a condition precedent to their transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the commissioner for taxes, fines, penalties, certificates of authority, valuation of policies, license fees and otherwise an amount equal in the aggregate to such charges and payments imposed by the laws of such other state upon similar corporations of this state and the agents thereof. In the case of fire department or salvage corps taxes or other local taxes the amount shall be computed by the commissioner by dividing the total of such payments made by insurance corporations of this state in such state by the gross premium received by such corporations in such state less return premiums. Any corporation refusing for 30 days to make payment of such fees or taxes as above required shall have its certificate of authority revoked by the commissioner: Provided, That corporations organized under the laws of any state or country, other than these United States, shall, as to the provisions of this section, be considered corporations of that state wherein their general deposit for the benefit of their policyholders is made.

HISTORY: New 1956, p. 498, Act 218, Eff. Jan. 1, 1957.

CHAPTER 6.

KINDS OF INSURANCE; REINSURANCE; LIMIT OF RISK.

500.600 Insurance; definitions applicable.

Sec. 600. The applicable definitions of the kinds of insurance set forth in this chapter shall apply to all insurers.

HISTORY: New 1956, p. 498, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 537, Act 180, Imd. Eff. Aug. 3.

500.602 Life insurance; definition.

Sec. 602. (1) "Life" insurance is insurance upon the lives and health of persons and every insurance pertaining thereto, and to grant, purchase or dispose of annuities.

(2) Transaction of life insurance includes the issuance of policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, and contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such policies or contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

(3) All corporations, associations, partnerships, or individuals, doing business in this state under any charter, compact, agreement, or statute of this or any other state, involving an insurance, guaranty, contract, or pledge, for the payment of annuities or endowments, or for the payment of moneys to families, or representatives of policy or certificate holders or members, shall be considered and deemed to be life insurance companies within the meaning of the laws relating to life insurance within this state.

HISTORY: New 1956, p. 499, Act 218, Eff. Jan. 1, 1957.

500.606 Disability insurance; definition.

Sec. 606. "Disability" insurance is insurance of any person against bodily injury or death by accident, or against disability on account of sickness or accident including also the granting of specific hospital benefits and medical, surgical and sick-care benefits to any person, family, or group, subject to such limitations as may be prescribed with respect thereto: Provided, The insured under this section may be an employe of any person not subject to the provisions of the workmen's compensation law and in such case the liability may be limited to such as may arise out of and in the course of

employee's employment and the premium may be paid by the employer under an agreement with the employee.

HISTORY: New 1956, p. 499, Act 218, Eff. Jan. 1, 1957.

500.610 Property insurance; definition.

Sec. 610. "Property" insurance is insurance on dwelling houses, stores, and all kinds of buildings, and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire, earthquake, lightning, wind and water; and also against bombardment and/or explosion, whether fire ensues or not, but not to include steam boiler or flywheel explosion; and by and with the consent of the commissioner, insurance against any other loss or damage to property or any interest therein not prohibited by the laws of this state nor exclusively delegated to any other class or kind of insurer, including loss or damage of any character, whether by reason of burglary and theft of personal property or otherwise, and whether situated at any given time at a place of residence, or in storage, transit, or upon the person of the insured or otherwise. Property insurance shall be deemed to include also marine insurance as defined in section 614, inland navigation and transportation insurance as defined in section 616, and automobile insurance (limited) as defined in section 620.

HISTORY: New 1956, p. 499, Act 218, Eff. Jan. 1, 1957.

500.614 Marine insurance; definition.

Sec. 614. "Marine" insurance is insurance against any and all kinds of loss of or damage to:

1 Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests therein, in respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment, or while awaiting the same, or during any delays, storage, transshipment, or reshipment incident thereto, including marine builders' risks and all personal property floater risks.

2 Person or to property in connection with or appertaining to a marine, inland marine, transit, or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such insurance (but not including life insurance or surety bonds), but shall not mean insurances against loss by reason of bodily injury to the person arising out of the maintenance, operation or use of motor vehicles.

3 Precious stones, jewels, jewelry, gold, silver, and other precious metals whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, which shall include jeweler's block insurance.

4 Bridges, tunnels, and other instrumentalities of transportation and communication, excluding buildings, their furniture and furnishing, fixed contents, and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered. Piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion. Other aids to navigation and transportation, including dry dock and marine railways, against all risks.

HISTORY: New 1956, p. 499, Act 218, Eff. Jan. 1, 1957.

500.616 Inland navigation and transportation insurance; definition.

Sec. 616. "Inland navigation and transportation" insurance is insurance upon vessels, freights, goods, wares, merchandise and other property, against the risks of inland navigation and transportation.

HISTORY: New 1956, p. 500, Act 218, Eff. Jan. 1, 1957.

500.620 Automobile insurance (limited); definition.

Sec. 620. "Automobile insurance (limited)" is insurance upon automobiles, whether stationary or being operated under their own power, which shall include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of automobiles, and loss by burglary or theft or both, but shall not include insurance against loss by reason of bodily injury to the person.

HISTORY: New 1956, p. 500, Act 218, Eff. Jan. 1, 1957.

500.624 Casualty insurance; definition.

Sec. 624. (1) "Casualty" insurance includes insurances as follows:

(a) Steam boiler and flywheel. Insurance against loss or damage to property of the insured, and loss or damage to the life, person or property of another for which the insured is liable, caused by the explosion of steam boilers or their connections or by the breakage or rupture of machinery or flywheels; and against loss of use and occupancy caused thereby;

(b) Liability, automobile, and workmen's compensation. Insurance of any person, partnership, or corporation against loss or damage on account of the bodily injury or death by accident of any person, or against damage caused by automobiles, vehicles or draft animals to property of another, for which loss or damage said person, partnership or corporation is responsible, or against accidental damage sustained by automobiles or vehicles, or against all of the said contingencies, inclusive of workmen's compensation insurance;

(c) Plate glass. Insurance against a breakage of plate glass, local or in transit;

(d) Sprinkler. Insurance of any goods or premises against loss or damage by water caused by the breakage or leakage of sprinklers, pumps, water pipes or plumbing and its fixtures, and against accidental injury from other causes than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures;

(e) Credit. The business commonly known as credit insurance or guaranty, either by agreeing to purchase uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted to the insured to meet their liabilities;

(f) Burglary and theft. Insurance against loss or damage by burglary, theft, house breaking or forgery;

(g) Livestock. Insurance upon the lives of horses, cattle and other livestock or against loss by the theft of any of such property or both;

(h) Malpractice. Insurance of persons lawfully engaged in the practice of medicine, surgery, dentistry, or dispensing drugs or medicines, and partnerships or corporations lawfully engaged in the operation of hospitals or sanitariums, against loss resulting from all claims and suits alleging malpractice, error or mistake and based upon professional services rendered or which should have been rendered by insured and/or his or her assistants or employees, and to defend and indemnify insured against any loss resulting from all other suits for civil damages arising out of the practice by insured of his profession; except that indemnity under such insurance shall not extend to claims or suits based on criminal acts or on services rendered while under the influence of liquor or drugs;

1 Miscellaneous. By and with the consent of the commissioner, insurance against any other hazards of a casualty nature not prohibited by the laws of this state nor exclusively delegated to any other class or kind of insurer.

Combination with property insurance.

2 Any insurance carrier authorized under any section of this code to write any casualty insurance, shall have the right and authority to insure against any of the risks specified or referred to in any of the provisions of section 610 (property insurance defined), combined in a single policy. Nothing herein contained shall be construed to extend the lines permitted to be written by any class of insurer beyond those otherwise provided, except as to personal property floater policies.

HISTORY: New 1956, p. 500, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 259, Act 221, Imd. Eff. Jul. 11.

500.625 Automobile passenger and liability coverage; expense or disability coverage included.

Sec. 625. Any insurer authorized to write automobile bodily injury liability insurance policies may, by an endorsement attached to or as a part of such a policy, insure any person or in behalf of any person for expense or disability including death growing out of any accidental injury incurred while driving, riding in, entering, alighting from, or through being struck by, any motor vehicle. Such coverage shall not be subject to provisions of this code otherwise applicable to disability insurance.

HISTORY: New 1956, p. 501, Act 218, Eff. Jan. 1, 1957.

500.628 Surety and fidelity insurance; definition.

Sec. 628. "Surety and fidelity" insurance is to guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations, and to indemnify banks, bankers, brokers, financial or moneyed associations, or financial or moneyed corporations, against the loss of any bills of exchange, notes, drafts, acceptances of drafts, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, bills of lading, documents, currency, money, gold, platinum, silver and other precious metals refined or unrefined, and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, and also against loss, resulting from damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein caused by burglary, robbery, holdup, theft or larceny, or attempt thereat. No such indemnity indemnifying against loss of any property as specified herein shall indemnify against the loss of any such property occurring while in the mail or in the custody or possession of a carrier for hire for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle accompanied by 1 or more armed guards.

HISTORY: New 1956, p. 501, Act 218, Eff. Jan. 1, 1957.

500.632 Domestic life, disability, surety and fidelity, or casualty insurers; reinsurance, authorization.

Sec. 632. (1) Every domestic life, disability, surety and fidelity, or casualty insurer shall be entitled to reinsure any risk authorized to be undertaken by it, and to grant reinsurance upon any similar risk undertaken by any other insurer. Every domestic stock title insurer shall be entitled to reinsure subject to the provisions of section 7308.

Mutual company other than life.

2 Subject to chapter 58 (general mutual insurers), any mutual insurance company other than life may, by policy, treaty or other agreement, cede to or accept from any insurance company or insurer reinsurance upon the whole or any part of any risk which reinsurance shall be without contingent liability or participation or membership unless provided otherwise. No such reinsurance shall be effected with any company or insurer disapproved by written order of the commissioner filed in his office.

Multiple line insurer.

(3) An insurer authorized to transact multiple lines of insurance may, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, reinsure risks of every kind or description.

Cooperative or assessment plan insurer.

(4) No reinsurance shall be ceded to or accepted by any insurer operating under the cooperative or assessment plan. Reinsurance of any insurer operating under the cooperative or assessment plan shall be ceded only to insurers authorized under this code to transact a similar kind of insurance in this state, and to accept reinsurance.

HISTORY: New 1956, p. 501, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 44, Act 53, Eff. Mar. 28, 1963;—Am. 1966, p. 260, Act 221, Imd. Eff. Jul. 11.

500.636 Domestic property marine insurers; reinsurance, authorization.

Sec. 636. (1) Any domestic property and/or marine insurer shall have power to effect reinsurance of any risks taken by them respectively.

Same; property, marine insurers, violation, penalty.

(2) No insurer transacting property and/or marine insurance in this state shall, directly or indirectly, contract for or effect reinsurance of any risks in this state except in an insurer authorized by the commissioner to transact business herein, or in an insurer authorized to transact business in any of the United States or the District of Columbia, but only as long as such insurer is and remains of the same standard of solvency as is required and fixed by the laws of this state for insurers of the same class transacting business in this state. No authorized insurer shall effect reinsurance with an insurer not regularly admitted unless such assuming insurer, has been approved by the commissioner. In order to secure approval an authorized insurer shall notify the commissioner in writing of each nonadmitted insurer with which it intends to effect reinsurance. The commissioner shall approve or disapprove such assuming insurer within 20 days after receipt of the notice. An insurer which has not been disapproved within such time shall be deemed approved. The commissioner may at any time withdraw his approval when he finds that the assuming insurer no longer meets the requirements of this section. No insurer authorized by the commissioner to transact business in this state shall directly or indirectly take or assume reinsurance under any policy or policies or contracts or any agreements of indemnity covering property in this state from any insurer not authorized to transact property and/or marine insurance business herein under penalty of revocation of authority to transact business in this state for wilful or continued violation of this prohibition or provision. Any violation of this subsection shall be punished by a fine of not exceeding \$500.00, as a misdemeanor.

Same; multiple line insurer.

(3) An insurer authorized to transact multiple lines of insurance may, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, reinsure risks of every description.

HISTORY: New 1956, p. 502, Act 218, Eff. Jan. 1, 1957.

500.640 Stock or mutual fire insurers; limit of risk, exception.

Sec. 640. No stock or mutual fire insurer transacting business in this state, shall expose itself to any loss on any 1 fire or inland navigation risk or hazard, to an amount exceeding 10% of its paid-up capital and surplus, nor shall any fire insurance company organized under the laws, or by authority of any foreign government, expose itself to any loss on any 1 fire or inland navigation risk, or hazard, to an amount exceeding 10%

its deposited capital and surplus in the United States: Provided, however, That no portion of any such risk or hazard which shall have been reinsured in a corporation licensed to do fire insurance business in this state, shall be included in determining the limitation of risk prescribed in this section.

HISTORY: New 1956, p. 502, Act 218, Eff. Jan. 1, 1957.

500.644 Life, disability, and loss of position insurers; limit of risk.

Sec. 644. For provisions as to limit of risk applicable to life, disability, and loss of position insurers operating on the cooperative or assessment plan see section 6446.

HISTORY: New 1956, p. 503, Act 218, Eff. Jan. 1, 1957.

CHAPTER 8.

ASSETS AND LIABILITIES.

500.808 Stock or mutual insurers; unearned premium reserves, pro rata basis, computation.

Sec. 808. Every insurer doing business in this state shall establish and maintain an unearned premium reserve on a pro rata basis on all unexpired policies and contracts except for those policies and contracts for which a different basis is specified in this act. A liability shall be set forth for the unearned pro rata portion of the aggregate premiums on all such unexpired risks as ascertained in a manner approved by the commissioner. In the case of perpetual risks or policies of fire insurance, the whole amount of the deposit or premium collected shall be included as unearned. On all unexpired trip risk insurance the entire premium received shall be included as unearned.

HISTORY: New 1956, p. 503, Act 218, Eff. Jan. 1, 1957;—Am. 1961, p. 218, Act 153, Eff. Sep. 8;—Am. 1962, p. 42, Act 51, Eff. Mar. 28, 1963;—Am. 1969, p. 670, Act 318, Eff. Mar. 20, 1970.

500.810 Losses and claims reserves; maintenance, computation.

Sec. 810. Every insurer transacting business in this state, at all times, shall maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves shall be computed in accordance with rules made from time to time by the commissioner, after due notice and hearing, upon reasonable consideration of the ascertained experience and the character of such kinds of business for the purpose of adequately protecting the insureds and securing the solvency of such insurer. Whenever the loss and loss expense experience of the insurer shows the reserves, calculated in accordance with the rules, to be inadequate, the commissioner may require the insurer to maintain additional reserves.

HISTORY: Add. 1969, p. 670, Act 318, Eff. Mar. 20, 1970.

500.811 Outstanding disability policies and benefits reserves; maintenance, computation.

Sec. 811. Every insurer shall establish and maintain reserves for outstanding disability insurance policies and benefits. Except for those policies for which a different basis is specified in this act, the reserves shall be calculated in a manner approved by the commissioner and shall be based on tables of morbidity, mortality and other appropriate decrement factors that are approved by the commissioner and an interest rate of not more than 4% per annum.

HISTORY: Add. 1969, p. 671, Act 318, Eff. Mar. 20, 1970.

500.812, 500.816 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to liability or workmen's compensation and automobile insurers' reserve for claims.

500.817 Repealed. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

Section related to unearned premium reserve of title insurers.

500.818, 500.822 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to unearned premium reserve of reciprocal and mutual insurers.

500.830 Life insurer's reserves; annual valuation, fee.

Sec. 830. (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, except that in the case of an alien insurer, such valuation shall be limited to its United States' business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign insurer, including any insurer organized under the laws of any foreign government, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction, when such valuation complies with the minimum standard herein provided, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner, when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

The insurer shall pay the commissioner, as compensation for such valuation, 1 cent for each thousand dollars insured, under policies insuring residents of these United States, or issued by an insurer organized under the laws of this state.

Any such insurer, which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided, may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(2) Every foreign cooperative or assessment insurer shall have its business valued and shall maintain reserves in accordance with the standards currently required of Michigan insurers transacting similar insurance by this insurance code.

HISTORY: New 1956, p. 504, Act 218, Eff. Jan. 1, 1957;—Am. 1961, p. 390, Act 226, Eff. Sep. 8.

500.831 Domestic insurer's business in foreign country; variance of mortality standard.

Sec. 831. In case of insurance issued by a domestic insurer authorized to do business in a foreign country upon the lives of residents of that country, the commissioner may vary the mortality standard to a standard applicable to that country.

HISTORY: Add. 1961, p. 180, Act 127, Eff. Sep. 8.

500.832 Life insurance policies and contracts; valuation of forfeitable contracts.

Sec. 832. (1) This section shall apply to only those life insurance policies and contracts issued prior to the operative date of section 4060 (the standard nonforfeiture law).

(2) In valuing such policies, the rate of interest to be assumed shall, after and including the year 1896, be 4% per annum, and at the election of any such insurer such rate of 4% shall be assumed any year prior to 1896, and the rate of mortality shall be that established by the "table of mortality based on American experience." Group life insurance policies may be valued on the basis of the American men ultimate table of mortality with interest at the rate of 3 ½% per annum. All outstanding industrial life insurance policies issued on or after January 1, 1944, except as otherwise provided in section 834, shall be valued on a basis of not less than the standard industrial table of mortality or the substandard industrial table of mortality with interest at the rate of 3 ½ %

per annum. The commissioner may, upon written application of the insurer, vary the standards of mortality and interest required by this section; nothing in this section shall be construed as permitting the use of standards of mortality and interest or methods of producing aggregate reserves lower than those based upon the standard prescribed by this section; said policies shall be valued in accordance with the terms of the policy contracts. In every case in which the actual premium charged for an insurance is less than the net premium for such insurance, based upon the American experience table of mortality with interest at the rate of 4%, then and not otherwise the insurer shall also be charged with the value of an annuity, the amount of which shall be equal to the difference between the premium charged and the net premium for such insurance based upon the American experience table with interest at the rate of 4% and the term of which in years shall equal the number of future annual payments due in the insurance at the date of valuation.

HISTORY. Nov 1956, p. 504, Act 218, Eff. Jan. 1, 1957.

500.834 Life insurance policies and contracts; valuation under standard nonforfeiture law.

Sec. 834. This section shall apply to only those life insurance policies and contracts issued on and after the operative date of section 4060 (the standard nonforfeiture law).

Minimum standard for valuation.

I The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in paragraph (2) of this section, 3 1/2% interest, and the following tables:

I For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioners 1941 standard ordinary mortality table, for such policies issued prior to the operative date of paragraph 5 of subsection (5) of section 4060 of this act, and the commissioners 1955 standard ordinary mortality table for such policies issued on or after such operative date. For any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than 3 years younger than the actual age of the insured.

II For all industrial life insurance policies issued before the operative date of paragraph 7 of subsection (5) of section 4060 on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table; and for such policies issued on or after such operative date, the commissioners 1961 standard industrial mortality table.

III For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

IV For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

V For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926).

Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(VI) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the company, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(VII) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

Reserves, computation.

(2) Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (x) over (y), as follows:

(x) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of 1 per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due: Provided, however, That such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy.

(y) A net 1 year term premium for such benefits provided for in the first policy year. Reserves according to the commissioners reserve valuation method for (I) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (II) annuity and pure endowment contracts, (III) disability and accidental death benefits in all policies and contracts, and (IV) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph (2), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

Minimum aggregate reserves.

(3) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits be less than the aggregate reserves calculated in accordance with the method set forth in paragraph (2) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Reserves for any category of policies, contracts, or benefits.

(4) Reserves for any category of policies, contracts or benefits as established by the commissioner, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein: Provided, however, That re-

values for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than 1/2%, the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

Deficiency reserves.

5 If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and methods used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserves shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

SCHEDULE

BASIC VALUES COMMISSIONERS STANDARD ORDINARY

1958 TABLE OF MORTALITY

Values of number living at exact age (l_x), number dying (d_x)
AND EXPECTATION OF LIFE (e_x)

Age	l_x	d_x	e_x	Age	l_x	d_x	e_x
0	10,000,000	70,800	68.30	25	9,575,636	18,481	45.82
1	9,929,200	17,475	67.78	26	9,557,155	18,732	44.90
2	9,911,725	15,066	66.90	27	9,538,423	18,981	43.99
3	9,896,659	14,449	66.00	28	9,519,442	19,324	43.08
4	9,882,210	13,835	65.10	29	9,500,118	19,760	42.16
5	9,868,375	13,322	64.19	30	9,480,358	20,193	41.25
6	9,855,053	12,812	63.27	31	9,460,165	20,718	40.34
7	9,842,241	12,401	62.35	32	9,439,447	21,239	39.43
8	9,829,840	12,091	61.43	33	9,418,208	21,850	38.51
9	9,817,749	11,879	60.51	34	9,396,358	22,551	37.60
10	9,805,870	11,865	59.58	35	9,373,807	23,528	36.69
11	9,794,005	12,047	58.65	36	9,350,279	24,685	35.78
12	9,781,958	12,325	57.72	37	9,325,594	26,112	34.88
13	9,769,633	12,896	56.80	38	9,299,482	27,991	33.97
14	9,756,736	13,562	55.87	39	9,271,491	30,132	33.07
15	9,743,175	14,225	54.95	40	9,241,359	32,622	32.18
16	9,728,950	14,983	54.03	41	9,208,737	35,362	31.29
17	9,713,967	15,737	53.11	42	9,173,375	38,253	30.41
18	9,698,230	16,390	52.19	43	9,135,122	41,382	29.54
19	9,681,840	16,846	51.28	44	9,093,740	44,741	28.67
20	9,664,994	17,300	50.37	45	9,048,999	48,412	27.81
21	9,647,694	17,655	49.46	46	9,000,587	52,473	26.95
22	9,630,039	17,912	48.55	47	8,948,114	56,910	26.11
23	9,612,127	18,167	47.64	48	8,891,204	61,794	25.27
24	9,593,960	18,324	46.73	49	8,829,410	67,104	24.45

Age	l_x	d_x	e_x	Age	l_x	d_x	e_x
50	8,762,306	72,902	23.63	75	4,129,906	303,011	7.81
51	8,689,404	79,160	22.82	76	3,826,895	303,014	7.39
52	8,610,244	85,758	22.03	77	3,523,881	301,997	6.98
53	8,524,486	92,832	21.25	78	3,221,884	299,829	6.59
54	8,431,654	100,337	20.47	79	2,922,055	295,683	6.21
55	8,331,317	108,307	19.71	80	2,626,372	288,848	5.85
56	8,223,010	116,849	18.97	81	2,337,524	278,983	5.51
57	8,106,161	125,970	18.23	82	2,058,541	265,902	5.19
58	7,980,191	135,663	17.51	83	1,792,639	249,858	4.89
59	7,844,528	145,830	16.81	84	1,542,781	231,433	4.60
60	7,698,698	156,592	16.12	85	1,311,348	211,311	4.32
61	7,542,106	167,736	15.44	86	1,100,037	190,109	4.06
62	7,374,370	179,271	14.78	87	909,929	168,455	3.80
63	7,195,099	191,174	14.14	88	741,474	146,997	3.55
64	7,003,925	203,394	13.51	89	594,477	126,303	3.31
65	6,800,531	215,917	12.90	90	468,174	106,809	3.06
66	6,584,614	228,749	12.31	91	361,365	88,813	2.82
67	6,355,865	241,777	11.73	92	272,552	72,480	2.58
68	6,114,088	254,835	11.17	93	200,072	57,881	2.33
69	5,859,253	267,241	10.64	94	142,191	45,026	2.07
70	5,592,012	278,426	10.12	95	97,165	34,128	1.80
71	5,313,586	287,731	9.63	96	63,037	25,250	1.51
72	5,025,855	294,766	9.15	97	37,787	18,456	1.18
73	4,731,089	299,289	8.69	98	19,331	12,916	.83
74	4,431,800	301,894	8.24	99	6,415	6,415	.50

HISTORY: New 1956, p. 505, Act 218, Eff. Jan. 1, 1957;—Am. 1960, p. 225, Act 153, Imd. Eff. May 23;—Am. 1961, p. 391, Act 226, Eff. Sep. 8;—Am. 1963, p. 144, Act 110, Eff. Sep. 6.

500.838-500.840 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to group life policies, premiums and value of stock assets.

CHAPTER 9.

INVESTMENTS.

500.900 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Section related to investments by domestic insurer.

500.901 Insurance; investments by insurer; assets and liabilities, valuation.

Sec. 901. (1) Every domestic insurer authorized to transact insurance in this state, including domestic fraternal benefit societies and the accident fund created by section 2 of part 5 of Act No. 10 of the Public Acts of the first extra session of 1912, as amended, being section 415.2 of the Compiled Laws of 1948, may loan or invest its funds in any investment, and may buy, sell, hold title to, possess, occupy, hypothecate, convey, manage, protect, insure and deal with respect to its investments, property and moneys to the same extent as any other person or corporation may do under the laws of this state or of the United States and may value its assets and liabilities in accordance with generally accepted accounting principles if:

Assets equal to liabilities; reserves.

(a) The insurer or fund has assets in cash or as defined in this chapter in a total amount at least equal to its liabilities including its reserves as required by this act, plus an amount for contingencies as defined in subsection (5), plus an amount equal to the

minimum capital and surplus required to be maintained by this act. Assets defined by sections 946 and 947 shall not be used to satisfy more than 10% of this requirement. Such liabilities and reserves may be reduced by: (i) reinsurance ceded to the extent admitted in accordance with rules prescribed by the commissioner, (ii) policy loans secured by policies included in such liabilities and reserves but not in excess of the cash surrender value of such policies, (iii) the net amount of life insurance premiums and annuity considerations deferred and uncollected, (iv) amounts receivable from any person to the extent that the offset liabilities or amounts payable to the same person, or amounts receivable from an agent or agency which does not have control of more than 10% of all agents' balances of the insurer and which is not affiliated with the insurer as defined in subsection (3), on policies with an effective date not more than 1 month old, to the extent that such amounts are offset by unearned premium reserves on the same policies. Such assets, liabilities and reserves shall exclude assets, liabilities and reserves included in separate accounts established in accordance with section 925. The value of income due and accrued in respect to such assets may be included in the total amount. Such assets shall not be valued at more than the actual value as ascertained in the manner approved by the commissioner, except those assets valued in accordance with subdivision (b) by insurers subject to subdivision (b).

Life insurers; fraternal benefit societies.

b. An insurer authorized to transact life insurance, including fraternal benefit societies, shall have assets in cash or as defined by sections 910, 912, 914, 916, 918, 924, 932, 934, 936, 942 and 944 in a total amount at least equal to 90% of the reserves established in accordance with sections 830, 831, 832 and 834 as to life insurers and section 5055 as to fraternal benefit societies. Assets defined by section 924 shall not be used to satisfy more than 1/9 of this requirement. Such reserves may be reduced by: (i) reinsurance ceded to the extent admitted in accordance with rules prescribed by the commissioner, (ii) policy loans secured by policies included in such reserve but not in excess of the cash surrender value of such policies, (iii) the net amount of life insurance premiums and annuity considerations deferred and uncollected, (iv) amounts receivable from any person to the extent that they offset liabilities or amounts payable to the same person. Such assets and reserves shall exclude assets and reserves included in separate accounts established in accordance with section 925. The value of income due and accrued in respect to such assets may be included in such total amount. Assets defined by section 916 may be valued at the cost price thereof. Assets defined by sections 912, 914, 918, 934, 938 and 942 which have a fixed term and rate, if amply secured and not in default as to principal and interest may be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made. The purchase price shall not be taken at a higher figure than the actual market value at the time of purchase. The commissioner shall have discretion in determining the method of calculating values. Such other assets shall not be valued at more than the actual value as ascertained in the manner approved by the commissioner.

Assets invested with 1 person or parcel of realty.

2. The assets required by subdivision (a) of subsection (1) shall not include more than 5% of such assets invested in, loaned to, secured by, leased or rented to or deposited with 1 person, or invested in 1 parcel of real estate but this restriction shall not apply to obligations of the United States or any state, or agencies or instrumentalities thereof, if the principal and interest are fully guaranteed by the United States or any state.

Assets invested with subsidiaries or affiliates.

(3) The assets required by subsection (1) shall not include assets invested in, loaned to, secured by, leased or rented to or deposited with a person that is, directly or indirectly, owned or controlled by the insurer, or that, directly or indirectly, owns, controls or is affiliated with the insurer. Two persons shall be deemed to be affiliated if they are both owned or controlled, directly or indirectly, by the same person or by the same group of persons. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies, representing 10% or more of the voting securities of any other person.

Wholly owned insurance subsidiary.

(4) Notwithstanding the limitations in subsections (2) and (3), the assets required by subsection (1) may include the value of a wholly owned subsidiary authorized to transact insurance in this state in an amount equal to the assets defined by subdivisions (a) and (b) of subsection (1), as limited by subsections (2) and (3), which are held by the subsidiary and which are in excess of the amount of assets required for the subsidiary by subsection (1).

Amount for contingencies, calculation.

(5) The amount for contingencies referred to in this section for each insurer other than an insurer authorized to transact life insurance and other than an insurer transacting only title insurance, shall equal the sum of its underwriting gain, if any, realized for each of the 2 most recent calendar years in respect to its entire business excluding reinsurance ceded and assumed, as calculated by subtracting from the premiums earned during each year the sum of: The incurred policy benefits and adjustment expenses related thereto arising out of accidents or events that occurred during each such year, the other underwriting expenses, excluding federal and foreign income taxes to the extent offset by net investment gain, incurred during each year, and dividends to policyholders incurred during each year. The amount for contingencies referred to in this section for insurers authorized to transact life insurance and insurers transacting only title insurance shall equal zero. Two or more insurers authorized to transact insurance in this state may compute the amount for contingencies referred to in this section on a consolidated basis and prorate the total amount for contingencies to each insurer in proportion to the premiums earned by each insurer, if:

(a) They are affiliated through ownership, where each insurer is wholly owned by or wholly owns 1 or more of the other insurers in the group, or

(b) They pool substantially all their business with each other and the commissioner certifies that such computation on a consolidated basis will more accurately reflect the financial condition and affairs of the insurers.

Time for compliance.

(6) Every insurer or fund, including fraternal benefit societies, authorized to transact insurance in this state on the effective date of this section shall be allowed 2 years after the effective date of this section in which to comply with the requirements of this section. Any insurer which fails to meet the requirements of this section at the end of such 2 years may be granted 1 extension of an additional 2 years in which to comply by the commissioner if the commissioner is satisfied the insurer is safe, reliable and entitled to public confidence and would materially suffer from a forced conversion of its assets to comply with this section.

Failure to maintain compliance; restoration.

(7) If, at any time following compliance with the requirements of this section, an insurer, fund or fraternal benefit society, fails to maintain compliance, the commissioner, upon written request by the insurer, may grant a period of time not to exceed 1 year within which to restore compliance. Such period of time may be granted only if

the commissioner (1) is satisfied the insurer is safe, reliable and entitled to public confidence, (2) is satisfied the insurer would suffer a material financial loss from an immediate forced conversion of its assets, and (3) approves a plan filed by the insurer for restoring compliance within the time granted.

HISTORY. Add. 1969, p. 671, Act 318, Eff. Mar. 20, 1970;—Am. 1970, p. 387, Act 125, Imd. Eff. Jul. 23.

500.902 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Section authorized investments by domestic insurers.

500.904 Repealed. 1957, p. 107, Act 91, Eff. Sep. 27.

Section related to investment limitations of domestic mutual insurer.

500.906, 500.908 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to assets heretofore acquired; limit of investment in 1 institution or loan to 1 person.

500.910 Certificates of deposit or depository receipts; construction as deposits of cash.

Sec. 910. Certificates of deposit or depository receipts issued by a bank, trust company or savings and loan association insured by the federal deposit insurance corporation or federal savings and loan insurance corporation to an insurer and not otherwise negotiable, transferable, encumbered or pledged, maturing not more than 1 year from date of issue, shall be construed as deposits of cash by the insurer.

HISTORY. Add. 1969, p. 673, Act 318, Eff. Mar. 20, 1970.

500.912 Investments in public obligations; authorization.

Sec. 912. An insurer may invest its funds: (a) In the bonds or other evidences of indebtedness of the United States, or of the dominion of Canada, or any state, province or territory or public instrumentality of the United States, or the dominion of Canada, or in the valid public debt, bonds or other evidence of indebtedness of any city, county, township, village, school district, or any other political subdivision having the power to levy taxes, of any state or territory of the United States or province of the dominion of Canada, if the state, province, municipality or other political subdivision has not in the 3 years preceding the time of such investment, failed to pay its debt or any part thereof or the interest due thereon, or any part thereof. Delay, not exceeding 6 months, in the payment of any installment of principal or interest shall not be construed as failure to pay.

b. In the bonds or other evidences of indebtedness of any political subdivision of the United States, or any state or county therein, or any agency, public instrumentality or authority created by the United States, or any state or county therein, or any political subdivision thereof, if, by statutory or other legal requirements, such obligations are payable, as to both principal and interest, from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment.

c. In such governmental securities of this or any foreign government, or governmental subdivisions or authorities or instrumentalities, thereof not otherwise provided for herein, as may be first approved by the commissioner and subject to such limitations as are herein prescribed for other government and municipal securities.

HISTORY. New 1956, p. 509, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 673, Act 318, Eff. Mar. 20, 1970.

500.914 Investment in federally guaranteed interest bonds; authorization.

Sec. 914. An insurer may invest its funds in bonds or other securities, the interest of which is guaranteed by the United States government pursuant to any act of congress heretofore or hereafter enacted.

HISTORY. New 1956, p. 509, Act 218, Eff. Jan. 1, 1957.

500.916 Investment in federal financing agency stock; authorization.

Sec. 916. Whenever any agency or corporation shall be established by the federal government, with authority to purchase, discount or loan money upon the security of real estate mortgages but requires membership or ownership of capital stock in such federal agency or corporation in order that any insurer organized under the laws of this state may avail itself of the full privileges of selling, rediscounting or borrowing money upon such mortgages, then such insurer shall be authorized to buy not exceeding such amount of such capital stock as is required by such federal law or the rules of the governing body of such federal agency or corporation.

HISTORY: New 1956, p. 509, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 99, Act 91, Eff. Sep. 27;—Am. 1969, p. 673, Act 318, Eff. Mar. 20, 1970.

500.918 Investment in solvent institution; authorization.

Sec. 918. An insurer may invest in lawfully authorized obligations issued, assumed or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, district or territory thereof, or of the Dominion of Canada or any province thereof, which are not in default as to principal or interest and which are qualified under any of the following clauses:

Mortgage loans.

(1) Obligations secured by the mortgage of property or the pledge of adequate collateral if, during any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, the net earnings of the issuing, assuming or guaranteeing institution available for fixed charges, as determined in accordance with standard accounting practice, shall have been not less than the total of its fixed charges for such year on an overall basis nor less than 1 ½ times its fixed charges for such year on a priority basis after excluding interest requirements on obligations junior to such issue as to security;

Equipment trust certificates.

(2) In equipment trust certificates of railroad companies organized under the laws of any state of the United States or of the Dominion of Canada or of any province thereof, payable within 20 years from their date of issue, in annual or semi-annual installments, beginning not later than the fifth year after such date, and which certificates are a first lien on the specific equipment pledged as security for the payment thereof which are either the direct obligations of such railroad companies or guaranteed by them, or are executed by trustees holding title to the equipment;

Fixed interest bearing obligations.

(3) Fixed interest bearing obligations other than those described in clauses (1) and (2) above, if the net earnings of the issuing, assuming or guaranteeing institution available for fixed charges during each of any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, shall have been not less than 1 ½ times the total of its fixed charges for such year.

HISTORY: New 1956, p. 509, Act 218, Eff. Jan. 1, 1957.

500.920 Net earnings available for fixed charges; definition.

Sec. 920. For the purposes of this chapter, the term "net earnings available for fixed charges" means net income after deducting operating and maintenance expenses, taxes other than federal and state income taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income and expenses appearing in the regular financial statements of the issuing company.

HISTORY: New 1956, p. 510, Act 218, Eff. Jan. 1, 1957.

500.922 Investment in stocks, bonds or evidences of corporate indebtedness; authorization.

Sec. 922. Any insurer may purchase such stocks, bonds or other evidence of indebtedness of solvent corporations as its board of directors or a committee of such board,

entrusted by it with the investment of such company's funds, in the exercise of its judgment may deem proper and such insurer may hold such stocks, bonds or other evidences of indebtedness so purchased as an investment.

HISTORY New 1956, p. 510, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 100, Act 91, Eff. Sep. 27;—Am. 1969, p. 673, Act 315, Eff. Mar. 20, 1970.

500.924 Investment in preferred stock; authorization, conditions.

Sec. 924. An insurer may invest in preferred stocks of any company organized under the laws of the United States, a state of the United States, or the District of Columbia, if such company has continuously and regularly paid the dividends provided for by such preferred stock during the 5 years preceding the investment; except that with respect to preferred stocks issued within such 5-year period, the foregoing requirements as to dividend payments shall apply only from the date of issuance, and in such cases the net earnings of the company and its subsidiaries available for fixed charges of the company and its subsidiaries and the net earnings of any predecessor organizations and their subsidiaries, if any, available for fixed charges of such predecessor organizations and their subsidiaries, must have averaged an amount per annum for the 5 fiscal years preceding the making of the investment at least equal to 2 times the total of the annual interest charges (including amortization of debt discount and expense) and dividends guaranteed, if any, and the preferred dividend requirement on a pro forma basis.

HISTORY New 1956, p. 510, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 674, Act 318, Eff. Mar. 20, 1970.

500.925 Life insurers; investment of variable annuities, regulations.

Sec. 925. (1) A life insurer, after adoption of a resolution by its board of directors and certification thereof to the commissioner, may allocate to 1 or more separate accounts, in accordance with the terms of a written agreement or a contract on a variable basis, amounts which are paid to the insurer, in connection with a pension, retirement or profit-sharing plan, or in connection with a contract on a variable basis, whether on an individual or group basis, and which amounts are to be applied to purchase retirement benefits in fixed or in variable dollar amounts, or both, or to provide benefits in accordance with a contract on a variable basis. The income, if any, and gains or losses realized or unrealized on each such account may be credited to or charged against the amount allocated to such account in accordance with such agreement, without regard to the other income, gains or losses of the insurer. Notwithstanding any other provision in the insurer's articles of incorporation or in this act, the amounts allocated to such accounts and accumulations thereon may be invested and reinvested in any class of loans and investments specified in such agreement, and such loans and investments shall not be considered in applying any limitation in this chapter.

Definition.

2. "Contract on a variable basis" means a contract issued by an insurer providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a segregated portfolio of investments or of a designated account in which amounts received in connection with such a contract have been placed and such other contracts as may be approved by the commissioner.

Powers; committee.

3. Notwithstanding any other provision of law, a life insurer, if necessary to comply with the investment company act of 1940, with respect to any such account or any portion thereof may:

(a) Exercise the voting rights of the stock or shares or interest in accordance with instructions from the persons having the beneficial interests in such account ratably according to their respective interests in such account.

(b) Establish a committee for such account, the members of which may be directors or officers or other employees of such insurer, or persons having no such relationship to such insurer, or any combination thereof, who may be elected to such membership by the vote of the persons having the beneficial interests in such account ratably according to their respective interests in such account. Such committee may have the power, which may be exercisable alone or in conjunction with others, or which may be delegated to such insurer or any other person, as investment manager or investment adviser, to authorize purchases and sales of investments for such account, provided that as long as such life insurer or any subsidiary or affiliate of such life insurer shall be the investment manager or investment adviser of such account, the investments of such account shall be eligible under the provisions of this section. If compliance with the investment company act of 1940 shall involve only a portion of such account, such insurer may establish such a committee for only such portion, and its members may be elected by the vote of the persons having the beneficial interests in such portion. Any such committee for only a portion of such account may be given the further power to require the subdivision of such account into 2 accounts so that the portion of the account with respect to which such committee shall be acting shall constitute a separate account. If such committee shall so require, the insurer shall segregate from the account being so subdivided a portion of each asset held with respect to the reserve liabilities of such account. Such portion shall be in the same proportion to the total of such asset as the reserve liability for the portion of the account with respect to which such committee is acting bears to the total reserve liability of such account; and notwithstanding any other provision of law, the assets so segregated shall be transferred to a separate account with respect to which such committee shall act.

Accounts kept separate.

(4) The investments and liabilities of such account shall at all times be clearly identifiable and distinguishable from the other investments and liabilities of the insurer. No sale, transfer or exchange of investments may be made between any of the separate accounts or between any other investment account of the company and 1 or more of the separate accounts, except for the purpose of (i) conducting the business of the account in accordance with provisions of a "contract on a variable basis", or (ii) making adjustments necessitated by such contract for mortality experience adjustment, and then only if such transfers are made by a transfer of cash or by a transfer of securities having a valuation which can readily be determined in the market place. The commissioner may require for domestic life insurers that a transfer of cash or investments from a separate account or accounts to the company be approved in advance of such transfer.

Investment company act, defined.

(5) The term "investment company act of 1940" as used in this section means the act of congress approved August 22, 1940 entitled "investment company act of 1940" as amended from time to time, or any similar statute enacted in substitution therefor.

Rules.

(6) The commissioner may issue such reasonable rules as may be necessary to carry out the provisions of this section.

HISTORY: Add. 1963, p. 49, Act 48, Eff. Sep. 6;—Am. 1966, p. 642, Act 344, Imd. Eff. Oct. 26;—Am. 1969, p. 674, Act 318, Eff. Mar. 20, 1970.

500.926-500.931 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to investments by insurers.

500.932 Investment in shares of savings and loan associations.

Sec. 932. An insurer may invest in shares of any building and loan association or savings and loan association, either state chartered or federally chartered.

HISTORY: New 1956, p. 511, Act 216, Eff. Jan. 1, 1957;—Am. 1969, p. 675, Act 318, Eff. Mar. 20, 1970.

500.933 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Section related to investments by insurers.

500.934 Investment in farm loan bonds, intermediate credit bank loans, central bank for cooperatives, home loan banks, federal savings and loan insurance corporation obligations; authorization.

Sec. 934. An insurer may invest in the farm loan bonds, consolidated or otherwise, issued by the federal land banks pursuant to the federal farm loan act, as amended; in collateral trust debentures or other similar obligations, consolidated or otherwise, issued by federal intermediate credit banks pursuant to the federal farm loan act, as amended; in debentures, consolidated or otherwise, issued by the central bank for cooperatives or banks for cooperatives pursuant to the farm credit act of 1933, as amended; in obligations issued pursuant to the provisions of the federal home loan bank act, approved July 22, 1932, as amended; and in interest-bearing obligations of the federal savings and loan insurance corporation issued pursuant to title 4 of the national housing act, approved June 27, 1934, as amended.

HISTORY: New 1956, p. 511, Act 216, Eff. Jan. 1, 1957;—Am. 1958, p. 124, Act 118, Eff. Sep. 13.

500.938 Authorized investments.

Sec. 938. An insurer may invest funds:

Negotiable secured obligations.

1 In any negotiable paper or other evidence of indebtedness secured by any of the classes of securities in which such insurance companies may lawfully invest their funds pursuant to sections 912 (federal, state, municipal, and foreign government obligations) and 918 (obligations of solvent corporations and institutions).

Negotiable notes secured by bank stock.

2 Upon negotiable notes secured by pledge of stock of national or state banks, which have a surplus equal in amount to 25% of the paid in capital stock: Provided, That such loans shall not exceed 85% of the market value of the stock, and that the total amount of the loan on bank secured collateral shall not exceed 15% of the capital and surplus of the insurance company.

Loans secured by stocks and securities.

3 If other than a life insurer, in loans secured as collateral by corporate stocks and securities eligible for investment under section 922 (corporate stocks, bonds), but no loan shall be made of more than 50% of the fair market value of such stocks and securities.

HISTORY: New 1956, p. 512, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 100, Act 91, Eff. Sep. 27.

500.942 Investment in real estate loans secured by first liens; authorization, rates, conditions.

Sec. 942. (1) An insurer may invest in real estate loans secured by first liens upon improved or income bearing real estate, including also improved farm land and improved business and residential properties; or which are secured by first mortgages or deeds of trust on leasehold estates having an unexpired term equivalent to the term of the mortgage, inclusive of the term or terms which may be provided by enforceable options of renewal; vacant property, at least 60% of which is under contract of sale and the contract or contracts in connection therewith trustee or pledged as additional collateral, shall be considered income bearing real estate within the meaning of this section.

2 Real estate shall not be deemed to be encumbered within the meaning of this

section when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner; or when subject to an easement for a right of way.

(3) A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument upon real estate, and any insurer may purchase any obligation so secured when the entire amount of such obligation is sold to the insurer, except that an insurer may purchase a part of such an aggregate obligation if the investment of each participant is not less than \$100,000.00 at the time of the insurer's investment and if all other participants are insurers, banks or savings and loan associations all of which are authorized to do business in the state.

(4) The amount of any such loan hereafter made shall not exceed 50% of the appraised value of the real estate constituting or offered as security and no such loan shall be made for a longer term than 5 years; except that (a) any such loan on land improved with permanent buildings used for agriculture or pasture may be made in an amount not to exceed 66-2/3% of the appraised value of the real estate constituting or offered as security if the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize on not to exceed an annual basis of 40% or more of the principal of the loan within a period of not more than 10 years, and (b) any other loan may be made in an amount not to exceed 75% of the appraised value of the real estate offered as security and for a term not longer than 30 years, if the real estate is improved if it is not used for agriculture or pasture and if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of not more than 30 years, and (c) the foregoing limitations and restrictions shall not apply to real estate loans which are insured under the provisions of title 2 of the national housing act by the federal housing administration, or to loans insured under the Canadian national housing act of 1954 by the central mortgage and housing corporation, nor to real estate loans which are guaranteed as to principal by the United States government or Canadian government or any agency or instrumentality thereof.

(5) No insurer shall make any such loan unless an appraisal shall have been made in writing by a disinterested and competent appraiser and filed with the investment committee authorized to approve such loan.

HISTORY: New 1956, p. 512, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 101, Act 91, Eff. Sep. 27;—Am. 1961, p. 100, Act 128, Eff. Sep. 8;—Am. 1969, p. 675, Act 318, Eff. Mar. 20, 1970.

CITED IN OTHER SECTIONS: The above section is cited in §§ 38.346, 38.1125, and 38.1130.

500.944 Accounts receivable; includible as assets.

Sec. 944. An insurer may include as an asset the value of any amounts receivable from insurers authorized to transact insurance in this state.

HISTORY: Add. 1969, p. 676, Act 318, Eff. Mar. 20, 1970.

500.946 Investment in home office and buildings; authorization, conditions, appraisal.

Sec. 946. A domestic insurer may invest in a home office, lands and buildings, and may continue to hold the same for its own use and as a source of revenue, described as follows: (a) a building in which the insurer has its principal home office and the land upon which the building stands; (b) real estate requisite for its accommodation in the convenient transaction of its business; (c) any parcel of real estate acquired under this section may include excess space for rental to others, or if the excess is reasonably required in order to have a building that would be an economic unit; (d) acquisition of other real estate requisite or desirable for the protection or enhancement of the value of such real estate; (e) such real estate may be subject to a mortgage. No such investment shall be made until a certificate of permission for the purchase or construction of

such property is granted by the commissioner. The commissioner may require an appraisal of such property by 3 qualified appraisers, appointed by the commissioner for the purpose of such appraisal, and their certification to the commissioner of a valuation of the property at least equal to the amount which is proposed to be invested therein by such insurer.

HISTORY: New 1956, p. 513, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 102, Act 91, Eff. Sep. 27;—Am. 1969, p. 676, Act 318, Eff. Mar. 20, 1970.

500.947 Investment in income producing real estate and housing projects; authorization.

Sec. 947. (1) An insurer may invest in and hold real estate or any interest therein, acquired by it for the purpose, under its franchise, of construction, development, maintenance, operation or lease as an investment for the production of income, or for the purpose, under its franchise, of constructing, maintaining or operating housing projects including incidental retail and service facilities.

(2) An insurer may invest in and hold interests in real estate conveyed or mortgaged to it in good faith, by way of security for debts or in satisfaction for debts, or purchased at sales on judgments, decrees or mortgages in favor of such insurer or acquired in the process of settling claims asserted under its policies.

HISTORY: Add. 1969, p. 676, Act 318, Eff. Mar. 20, 1970.

500.948, 500.950, 500.951, 500.960 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to investments by insurers.

CHAPTER 11.

ADMINISTRATION OF DEPOSITS.

500.1106 Domestic fire or life insurers; additional deposits, purpose.

Sec. 1106. (1) Whenever any domestic fire or life insurance company desiring to be admitted to do business in any state of the United States or in any foreign country, shall be required to make or maintain a deposit of cash or securities or both in some state for the benefit of its policyholders other than or in addition to the deposit required to be made with the state treasurer under the law of its incorporation, such other or additional deposit may be made and maintained with the state treasurer of this state.

(2) Such deposits so made shall be held by the state treasurer as security for the policyholders of the company making the deposit and shall be subject so far as applicable to all the provisions of law governing deposits with the state treasurer by domestic legal reserve life insurance companies.

HISTORY: New 1956, p. 514, Act 218, Eff. Jan. 1, 1957.

500.1108 Deposits with state treasurer; purposes.

Sec. 1108. Deposits of insurers with the state treasurer pursuant to this code shall be held for purposes as follows:

(1) The bonds, or stocks and mortgage securities deposited by a domestic life, disability, surety, title or casualty insurer shall be held as security for policy holders in such insurer and as security for any liability to insured parties. Such securities deposited by a disability, surety, or casualty insurer shall be duly assigned to the state treasurer in trust for the benefit of all policyholders. Deposit of a foreign life, disability, surety, or casualty insurer shall be held as security for any loss suffered by policy holders of such insurer upon the same terms and conditions as apply with respect to domestic insurers.

(2) The securities deposited pursuant to section 412 (1) (b) by a domestic mutual life or disability insurer shall be held in trust for the benefit and protection of and as security for the applicants, policyholders, and creditors of the insurer.

(3) The deposit of a domestic mutual casualty insurer made pursuant to section 413 (1) (b) shall be as security for any liability to insured parties.

(4) The deposits of domestic stock automobile insurers organized under chapter 60 of this code shall be held for the same purposes as apply hereunder to stock life insurers.

(5) The deposit of a reciprocal insurer shall be a general deposit for the benefit of subscribers or policy holders wherever located.

(6) Deposits of alien life insurers shall be held for purposes stated in section 414, and deposits of alien fire and marine insurers shall be for purposes stated in section 415.

HISTORY: New 1956, p. 514, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 261, Act 221, Imd. Eff. Jul. 11.

500.1112 Mortgages; assignment, enforcement.

Sec. 1112. The mortgages authorized to be deposited with the state treasurer, under this code shall be made or assigned to him in his name of office, but shall not be subject to assignment or sale by him, except as the company depositing the same may become entitled to receive the same back according to the conditions of this code, but the state treasurer may enforce the same in his name of office, whenever necessary to pay claims as hereinbefore provided.

HISTORY: New 1956, p. 514, Act 218, Eff. Jan. 1, 1957.

500.1116 Deposits; maintenance of required amount, depreciation; additional deposits.

Sec. 1116. Securities held on deposit by the state treasurer shall at all times have a market value not less than the required amount of the deposit. In case any of said securities deposited by a domestic life, disability, surety, title or casualty insurer shall depreciate, the commissioner shall cause the insurer which has deposited them to make such depreciation good by additional deposit of such securities as are allowed by law, and the commissioner is hereby authorized to prohibit any insurer from transacting any insurance business within this state until the same shall have been deposited.

HISTORY: New 1956, p. 514, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 41, Act 37, Eff. Mar. 19, 1960;—Am. 1966, p. 262, Act 221, Imd. Eff. Jul. 11.

500.1120 Securities; custody of state treasurer; conversion deemed embezzlement, penalty.

Sec. 1120. The custody of any securities by the state treasurer under this code shall be deemed the custody of the state and any sale, transfer by hypothecation, or conversion of any such securities by the state treasurer, or by any officer, clerk or other person employed in his office, except as authorized by this chapter shall be deemed an act of embezzlement, and shall be punished by imprisonment in the state prison not more than 14 years, or by fine not exceeding \$2,000.00, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1956, p. 515, Act 218, Eff. Jan. 1, 1957.

500.1124 Securities; deposit with state treasurer, withdrawal, procedure.

Sec. 1124. (1) The securities deposited with the state treasurer shall remain in his hands, notwithstanding the company may cease or be prohibited to do business within the state, and shall only be withdrawn on the order of the supreme court, or when the officers of the insurer shall show by affidavit to the satisfaction of the commissioner and state treasurer that the risks for which the insurer remains liable, and for the security of which the same are held, are less than the securities so deposited, in which case the insurer may be permitted to withdraw the surplus securities over and above the risks which then remain.

Dividends, interest, exchange, distribution of securities deposited.

(2) But so long as it continues solvent, the insurer shall have the right from time to time to collect and receive the dividends or interest thereon, and to withdraw any of the same, on depositing with the state treasurer other securities of the kinds specified, so that the amount in his hands for the security of policyholders, at any time, shall not

be less than the amount in any case required by this code, exclusive of interest: Provided, however, If any such insurer shall become insolvent, and proceedings shall be taken in equity with a view to its dissolution, nothing in this section contained shall prevent an equal and just distribution of all its assets, including the securities so deposited with the state treasurer, among the persons equitably entitled thereto.

HISTORY New 1956, p. 515, Act 218, Eff. Jan. 1, 1957.

CHAPTER 13

HOLDING COMPANIES

500.1301 Insurance holding companies; definitions.

Sec. 1301. As used in this chapter:

a "Affiliate" of, or a person "affiliated" with, a specific person, means a person that directly, or indirectly through 1 or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

b "Commissioner" means the commissioner of insurance, his deputies or the insurance bureau.

c "Control", including the terms "controlling", "controlled by" and "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section 1332 that control does not in fact exist. The commissioner may determine, after furnishing to all persons in interest, notice and opportunity to be heard and making specific findings of fact to support such determination, that control in fact exists, notwithstanding the absence of a presumption to that effect.

d "Insurance holding company system" means 2 or more affiliated persons, 1 or more of which is an insurer.

e "Insurer" means the same as set forth in section 106, except that it does not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state; fraternal benefit societies or nonprofit medical or hospital service associations.

f "Person" means the same as set forth in section 114, except that it does not include any securities broker performing no more than the usual and customary broker's function.

g "Securityholder" of a specified person means a person who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

h "Subsidiary" of a specified person means an affiliate controlled by such person directly or indirectly through 1 or more intermediaries.

i "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

HISTORY Add 1970, p. 427, Act 136, Imd. Eff. Jul. 29.

500.1305 Domestic insurers; organization or acquisition of subsidiaries.

Sec. 1305. A domestic insurer may organize or acquire 1 or more subsidiaries consistent with the provisions of chapter 9.

HISTORY: Add. 1970, p. 428, Act 136, Imd. Eff. Jul. 29.

500.1311 Domestic insurers; acquisition of control or merger.

Sec. 1311. (1) A person other than the issuer shall not make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person directly or indirectly, or by conversion or by exercise of any right to acquire, would be in control of the insurer; nor enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any offer, request or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer which has sent to its shareholders, a statement containing the information required by this section and the offer, request, invitation, agreement or acquisition has been approved by the commissioner.

(2) For purposes of sections 1311 to 1319 inclusive, a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

HISTORY: Add. 1970, p. 428, Act 136, Imd. Eff. Jul. 29.

500.1312 Statement filed with commissioner; contents.

Sec. 1312. The statement to be filed with the commissioner shall be made under oath or affirmation and shall contain the following information:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in section 1311 is to be effected, hereinafter called the acquiring party, and

(i) If the person is an individual, his principal occupation and all offices and positions held during the past 5 years and any conviction of crimes other than minor traffic violations during the past 10 years.

(ii) If the person is not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as the person and any predecessors thereof have been in existence, an informative description of the business intended to be done by such person and such person's subsidiaries and a list of all individuals who are or who have been selected to become directors or executive officers of the person or who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by paragraph (i) of this subdivision.

(b) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction, wherein funds were or are to be obtained for any such purpose and the identity of persons furnishing the consideration. Where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing the statement so requests.

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each acquiring party, or for such lesser period as the acquiring party and any predecessors thereof have been in existence and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

d Any plans or proposals which each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person or to make any other material change in its business or corporate structure or management.

e The number of shares of any security referred to in section 1311 which each acquiring party proposes to acquire and the terms of the offer, request, invitation, agreement or acquisition referred to in section 1311 and a statement as to the method by which the fairness of the proposal was arrived at.

f The amount of each class of any security referred to in section 1311 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

g A full description of any contracts, arrangements or understanding with respect to any security referred to in section 1311 in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements or understanding have been entered into.

h A description of the purchase of any security referred to in section 1311 during the 12 calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

i A description of any recommendations to purchase any security referred to in section 1311 made during the 12 calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party.

j Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in section 1311 and additional distributed soliciting material relating thereto.

k The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in section 1311 for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

l Such additional information as the commissioner prescribes by rule as necessary or appropriate for the protection of policyholders and security holders of the insurer or in the public interest.

HISTORY. Add. 1970, p. 428, Act 136, Imd. Eff. Jul. 29.

500.1313 Partnership, syndicate or other group; statement filed with commissioner, amendment.

Sec. 1313. (1) If the person required to file the statement referred to in section 1311 is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information required by section 1312 shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group and each person who controls a partner or member. If any partner, member or person is a corporation or the person required to file the statement referred to in section 1311 is a corporation, the commissioner may require that the information required by section 1312 shall be given with respect to the corporation, each officer and director of the corporation and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

2: If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to section 1311, an amendment setting forth the change, together with copies of all documents and other material relevant to

the change, shall be filed with the commissioner and sent to the insurer within 2 business days after the person learns of the change. The insurer shall send the amendment to its shareholders.

HISTORY: Add. 1970, p. 429, Act 136, Imd. Eff. Jul. 29.

500.1314 Alternative filing materials.

Sec. 1314. If any offer, request, invitation, agreement or acquisition referred to in section 1311 is proposed to be made by means of a registration statement under the securities act of 1933 or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in section 1311 may utilize such documents in furnishing the information called for by that statement.

HISTORY: Add. 1970, p. 429, Act 136, Imd. Eff. Jul. 29.

500.1315 Merger or acquisition of control; approval of commissioner, hearing, notice.

Sec. 1315. (1) The commissioner shall approve any merger or other acquisition of control referred to in section 1311 unless, after a hearing thereon, he finds that any of the following conditions exist:

(a) After the change of control the domestic insurer referred to in section 1311 would not be able to satisfy the requirements for the issuance of a license to write the lines of insurance for which it is presently licensed.

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein.

(c) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with the acquiring party.

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in section 1311 are unfair and unreasonable to the securityholders of the insurer.

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest.

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(2) The hearing shall be held within 60 days after the statement required by section 1311 is filed and at least 20 days' notice thereof shall be given by the commissioner to the person filing the statement, to the insurer and to such other persons as the commissioner deems appropriate. The person filing the statement shall give not less than 10 days' notice of the hearing to such persons as may be designated by the commissioner. The insurer shall give the notice to its securityholders. The commissioner shall make a determination within 30 days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interest may be affected thereby may present evidence, examine and cross-examine witnesses and offer oral and written arguments and in connection therewith may conduct discovery proceedings in the same manner as is presently allowed in the circuit court. All discovery proceedings shall be concluded not later than the commencement of the hearing.

HISTORY: Add. 1970, p. 430, Act 136, Imd. Eff. Jul. 29.

500.1316 Information to shareholders; expense, bond.

Sec. 1316. All statements, amendments or other material filed pursuant to sections 1311 or 1312 and all notices of hearings held pursuant to section 1315, shall be mailed by the insurer to its shareholders within 5 business days after the insurer has received them. The expenses of mailing shall be borne by the person making the filing. As security for the payment of the expenses, the person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

HISTORY: Add. 1970, p. 430, Act 136, Imd. Eff. Jul. 29.

500.1317 Exemptions.

Sec. 1317. The provisions of sections 1311 to 1319 shall not apply to:

a. Any offers, requests, invitations, agreements or acquisitions by the person referred to in section 1311 of any voting security referred to in section 1311 which, immediately prior to the consummation of the offer, request, invitation, agreement or acquisition, was not issued and outstanding.

b. Any transaction which is subject to the provisions of chapter 76.

c. Any offer, request, invitation, agreement or acquisition which the commissioner by order exempts therefrom as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer or as otherwise not comprehended within the purposes of sections 1311 to 1319.

HISTORY: Add. 1970, p. 430, Act 136, Imd. Eff. Jul. 29.

500.1318 Violations.

Sec. 1318. The following are violations of sections 1311 to 1319:

a. Failure to file any statement, amendment or other material required to be filed pursuant to sections 1311 or 1312.

b. The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval.

HISTORY: Add. 1970, p. 431, Act 136, Imd. Eff. Jul. 29.

500.1319 Jurisdiction of actions arising out of violations; consent to process.

Sec. 1319. The courts of this state have jurisdiction over every person not resident, domiciled or authorized to do business in this state who files a statement with the commissioner under section 1311 and over all actions involving such person arising out of violations of sections 1311 to 1319. Each such person shall be deemed to have performed acts equivalent to and constituting an appointment by him of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to the person at his last known address.

HISTORY: Add. 1970, p. 431, Act 136, Imd. Eff. Jul. 29.

500.1324 Insurer registration; exceptions; time.

Sec. 1324. (1) Every insurer which is a member of an insurance holding company system and is authorized to do business in this state shall register with the commissioner. A foreign insurer is not required to register if it is subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in sections 1324 to 1343 inclusive and under which insurers domiciled in this state are exempt from the requirements of registration or are permitted to satisfy the registration requirement by filing copies of materials required to be filed under this chapter. A domestic insurer is not required to register if it does not transact insurance in any other state. An insurer subject to registration under this chapter shall register within 60 days after the effective date of this

chapter or 15 days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the time for registration and then within the extended time. The commissioner may require an authorized insurer which is a member of a holding company system not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

HISTORY: Add. 1970, p. 431, Act 136, Imd. Eff. Jul. 29.

500.1325 Registration statement; form, contents.

Sec. 1325. Every insurer subject to registration shall file a registration statement on a form provided by the commissioner, which shall contain current information about:

- (a) The capital structure, comprehensive financial condition, ownership and management of the insurer and any person controlling the insurer.
- (b) The identity of every member of the insurance holding company system.
- (c) The following agreements in force, relationships subsisting and transactions currently outstanding between the insurer and its affiliates:
 - (i) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.
 - (ii) Purchases, sales or exchanges of assets.
 - (iii) Transactions not in the ordinary course of business.
 - (iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.
 - (v) All management and service contracts and all cost sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.
 - (vi) Reinsurance agreements covering all or substantially all of 1 or more lines of insurance of the ceding company.
- (d) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

HISTORY: Add. 1970, p. 431, Act 136, Imd. Eff. Jul. 29.

500.1326 Registration statement; nonmaterial information not disclosed.

Sec. 1326. No information need be disclosed on the registration statement filed pursuant to section 1325 if the information is not material for the purposes of sections 1324 to 1343 inclusive. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit or investments, involving ½ of 1% or less of an insurer's admitted assets as of December 31 next preceding are not material for purposes of sections 1324 to 1343 inclusive.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1327 Registration statement; amendment; report of distributions to shareholders.

Sec. 1327. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which it learns of each change or addition. Subject to section 1343, each registered insurer shall report all dividends and other distributions to shareholders within 2 business days following the declaration thereof.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1328 Registration; termination.

Sec. 1328. The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1329 Consolidated registration statements.

Sec. 1329. The commissioner may require or allow 2 or more affiliated insurers subject to registration to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1330 Registration on behalf of affiliated insurer.

Sec. 1330. The commissioner may allow an insurer authorized to do business in this state which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under section 1324 and to file all information and material required to be filed under this chapter.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1331 Exemptions.

Sec. 1331. The provisions of sections 1324 to 1333 shall not apply to any insurer, information or transaction if and to the extent that the commissioner by rule or order exempts the insurer.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1332 Registration on behalf of affiliated insurer; disclaimer of affiliation, contents, effect, disallowance.

Sec. 1332. Any person may file with the commissioner a disclaimer of affiliation with an authorized insurer or an insurer or any member of an insurance holding company system may file such a disclaimer. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. After a disclaimer is filed, the insurer is relieved of any duty to register or report under this chapter which may arise out of the insurer's relationship with the person until the commissioner disallows the disclaimer. The commissioner shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.

HISTORY: Add. 1970, p. 432, Act 136, Imd. Eff. Jul. 29.

500.1333 Registration; failure to file.

Sec. 1333. The failure to file a registration statement or any amendment thereto required by sections 1324 to 1333 within the time specified for such filing is a violation of this chapter.

HISTORY: Add. 1970, p. 433, Act 136, Imd. Eff. Jul. 29.

500.1341 Material transactions with affiliates; standards.

Sec. 1341. Material transactions by registered insurers with their affiliates shall be subject to all the following standards:

- a. The terms shall be fair and reasonable.
- b. The books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions.
- c. The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

HISTORY: Add. 1970, p. 433, Act 136, Imd. Eff. Jul. 29.

500.1342 Surplus; determination of adequacy.

Sec. 1342. For the purposes of sections 1324 to 1343 inclusive in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

- (a) The size of the insurer as measured by its assets, capital and surplus reserves, premium writings, insurance in force and other appropriate criteria.
- (b) The extent to which the insurer's business is diversified among the several lines of insurance.
- (c) The number and size of risks insured in each line of business.
- (d) The extent of the geographical dispersion of the insurer's insured risks.
- (e) The nature and extent of the insurer's reinsurance program.
- (f) The quality, diversification and liquidity of the insurer's investment portfolio.
- (g) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
- (h) The surplus as regards policyholders maintained by other comparable insurers.
- (i) The adequacy of the insurer's reserves.
- (j) The compliance with section 901.

HISTORY: Add. 1970, p. 433, Act 136, Imd. Eff. Jul. 29.

500.1343 Extraordinary dividends and distributions; limitations, approval of commissioner.

Sec. 1343. (1) An insurer subject to registration under section 1324 shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until 30 days after the commissioner has received notice of the declaration thereof and has not disapproved the payment within such period or the commissioner has approved the payment within such period.

(2) An extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of 10% of the insurer's surplus as regards policyholders as of December 31 next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the 12-month period ending December 31 next preceding but shall not include pro rata distributions of any class of the insurer's own securities.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof. Such a declaration shall confer no rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or has not disapproved the payment within the 30-day period.

HISTORY: Add. 1970, p. 433, Act 136, Imd. Eff. Jul. 29.

500.1351 Examination of insurer or affiliates; consultants; expenses.

Sec. 1351. (1) Subject to the limitation contained in this section and in addition to the powers which the commissioner has under chapters 2 and 4 relating to the examination of insurers, the commissioner may order any insurer registered under section 1324 to produce such records, books or other information papers in the possession of the insurer or its affiliates as are necessary to ascertain the financial condition or legality of conduct of the insurer. If the insurer fails to comply with the order, the commissioner may examine the affiliates to obtain the information.

(2) The commissioner shall exercise his power under subsection (1) only if the exam-

nation of the insurer under chapters 2 and 4 is inadequate or the interests of the policyholders of the insurer may be adversely affected.

3 The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as are reasonably necessary to assist in the conduct of the examination under subsection (1). The expense of such attorneys, actuaries, accountants and other experts shall be certified by the commissioner and paid as prescribed in sections 216 and 224. Any person so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

4 Each registered insurer producing for examination records, books and papers pursuant to subsection (1) shall be liable for and shall pay the expense of the examination in accordance with sections 216 and 224.

HISTORY: Add. 1970, p. 434, Act 136, Imd. Eff. Jul. 29.

500.1355 Examination of insurer or affiliates; confidentiality of information, written consent; notice, publication in interest of public.

Sec. 1355. All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 1351 and all information reported pursuant to sections 1324 to 1333 shall be given confidential treatment, is not subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains, unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he deems appropriate.

HISTORY: Add. 1970, p. 434, Act 136, Imd. Eff. Jul. 29.

500.1361 Issuance of rules and orders.

Sec. 1361. Upon notice and opportunity for all interested persons to be heard, the commissioner may issue such rules and orders as shall be necessary to carry out the provisions of this chapter.

HISTORY: Add. 1970, p. 434, Act 136, Imd. Eff. Jul. 29.

500.1365 Injunctions; violation of chapter, rule or order.

Sec. 1365. When it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this chapter or of any rule or order issued by the commissioner, he may apply to the circuit court for the county in which the principal office of the insurer is located or if the insurer has no such office in this state then to the circuit court for Ingham county for an order enjoining the insurer or the director, officer, employee or agent thereof from violating or continuing to violate this chapter, rule or order and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

HISTORY: Add. 1970, p. 434, Act 136, Imd. Eff. Jul. 29.

500.1367 Voting certain securities prohibited; injunction.

Sec. 1367. A security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this chapter or of any rule or order issued by the commissioner may not be voted at any shareholders' meeting nor counted for quorum purposes and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding. If an insurer or the commis-

sioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this chapter or of any rule or order issued by the commissioner, the insurer or the commissioner may apply to the circuit court for Ingham county or to the circuit court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of sections 1311 to 1319 inclusive or any rule or order issued by the commissioner to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

HISTORY: Add. 1970, p. 434, Act 136, Imd. Eff. Jul. 29.

500.1368 Voting securities in violation of chapter; sequestration of securities.

Sec. 1368. When a person has acquired or is proposing to acquire any voting securities in violation of this chapter or any rule or order issued by the commissioner, the circuit court for Ingham county or the circuit court for the county in which the insurer has its principal place of business, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner, may seize or sequester any voting securities of the insurer owned directly or indirectly by such person and issue such orders with respect thereto as may be appropriate. Notwithstanding any other provisions of law, for the purposes of this chapter the situs of the ownership of the securities of domestic insurers is deemed to be in this state.

HISTORY: Add. 1970, p. 435, Act 136, Imd. Eff. Jul. 29.

500.1371 Violation of chapter; criminal proceeding, penalty.

Sec. 1371. When it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a wilful violation of this chapter, the commissioner may cause criminal proceedings to be instituted in the circuit court for the county in which the principal office of the insurer is located or if the insurer has no such office in the state, then in the circuit court for Ingham county against the insurer or the responsible director, officer, employee or agent thereof. Any insurer wilfully violating this chapter may be fined not more than \$50,000.00. Any individual wilfully violating this chapter may be fined not more than \$10,000.00 or, if the wilful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned not more than 2 years, or both.

HISTORY: Add. 1970, p. 435, Act 136, Imd. Eff. Jul. 29.

500.1375 Violation of chapter; receivership.

Sec. 1375. When it appears to the commissioner that any person has committed a violation of this chapter which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, the commissioner may proceed as provided in chapter 78 to take possession of the property of the domestic insurer and conduct the business thereof.

HISTORY: Add. 1970, p. 435, Act 136, Imd. Eff. Jul. 29.

500.1379 Violation of chapter; suspension, revocation or refusal to renew license.

Sec. 1379. When it appears to the commissioner that any person has committed a violation of this chapter which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner, after giving notice and an opportunity to be heard, may determine to suspend, revoke or refuse to renew the insurer's license or authority to do business in this state for such period as he finds is

required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusion of law.

HISTORY: Add. 1970, p. 435, Act 136, Imd. Eff. Jul. 29.

CHAPTER 14.

AGENTS, SOLICITORS, ADJUSTERS, & COUNSELORS.

500.1400 Application of chapter as to agents, solicitors, adjusters and counselors.

Sec. 1400. (1) The applicable provisions of this chapter shall apply with respect to all insurers authorized to transact insurance in this state.

(2) The insurance laws of this state regarding the appointment or licensing, qualification and regulation of insurance agents or resident agents shall not apply to the attorney-in-fact of a reciprocal or interinsurance exchange. This exemption shall not apply to any person, firm or corporation employed by any such attorney-in-fact to act as a general, district, state or special, resident or nonresident agent, or solicitor in this state.

(3) The provisions of this chapter relating to agents or solicitors shall not extend to, include or prohibit the employment of or the acting by any attorney-at-law for or in behalf of any client by whom he shall have been retained, nor extend to or include any officer of any insurance company not compensated on a commission basis, nor shall such an officer be required to obtain a license under such provisions.

HISTORY: New 1956, p. 515, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 102, Act 91, Eff. Sep. 27.

500.1402 General, district, state or special agent; definitions.

Sec. 1402. (1) For the purposes of this code, a general, district, state or special agent is defined as a person, firm or corporation acting under authority from any insurer, to supervise and appoint agents, inspect risks, and otherwise transact business for and as a representative of such insurer.

(2) As to powers to countersign policies, see section 460.

(3) Except as otherwise required by context, the unqualified word "agent" as used in this chapter shall be deemed to include also such general, district, state, or special agents.

HISTORY: New 1956, p. 515, Act 218, Eff. Jan. 1, 1957.

500.1404 Resident agent; definition, licenses.

Sec. 1404. (1) "Resident agent" means a person, firm or corporation meeting the requirements of subsection (2) of this section and acting under written authority from any insurer to solicit insurance and/or write and countersign policies of insurance and collect premiums therefor.

(2) Licenses as resident agents shall be issued only to persons who, or partnerships whose members, are actual residents of this state, or to corporations of this state a majority of whose board of directors and executive officers shall be residents hereof and a majority of whose stock is owned and controlled by residents of Michigan: Provided, That any corporation which shall have been continuously licensed as a resident insurance agent in this state for the continuous period of 10 years immediately prior to July 1, 1945, shall not become ineligible to classification as a resident agent hereunder solely because of outstate ownership of its stock.

HISTORY: New 1956, p. 516, Act 218, Eff. Jan. 1, 1957.

500.1408 Solicitor; definition.

Sec. 1408. A "solicitor" is a person acting under express authority, from a resident agent having authority to appoint solicitors, to solicit insurance for such agent.

HISTORY: New 1956, p. 516, Act 218, Eff. Jan. 1, 1957.

500.1412 Insurance agent; license required.

Sec. 1412. (1) No person shall act in this state as general, district, state or special agent, resident or nonresident agent or solicitor, in procuring or receiving applications or in any manner directly or indirectly to aid in transacting any business for or in behalf of any insurer or agent authorized to transact business within this state, until he shall have procured from the commissioner a license as herein provided.

Employment of agent.

(2) No insurer shall appoint or employ any general, district, state or special agent, or resident or nonresident agent, or directly or indirectly authorize any person to transact any insurance business or in any manner to receive the benefit of any business done or services rendered by any such agent or person within this state in any other manner than as herein provided.

Representation of insurers by an agent, additional insurers.

(3) Any general, district, state, special, or resident or nonresident agent may represent any insurer authorized or admitted to do business in this state, in such capacity when the commissioner has issued, and such agent is in possession of, a license authorizing such agent to represent such insurer in this state. The commissioner may issue licenses to represent additional insurers to a licensed agent, who is otherwise qualified, to be effective as of the date of the requisitions therefor although the agent does not receive possession on such date.

HISTORY: New 1956, p. 516, Act 218, Eff. Jan. 1, 1957;—Am. 1964, p. 123, Act 129, Eff. Aug. 28.

500.1413 Action by unlicensed agent; penalty, revocation of authority, re-admission, court review.

Sec. 1413. Any insurer employing an agent, state or special agent, and failing to procure a license required by this chapter, or permitting such agent, or state or special agent, to transact business for it within the state before such certificate has been procured, shall pay to the commissioner for the use of the state a penalty of \$25.00 for each offense, and in the event of failure to pay such penalty within 10 days after notice from the commissioner, the authority of such insurer shall be revoked by the commissioner until such penalty is paid, and no such insurer shall be readmitted until it shall have complied with all the terms and conditions imposed for admission in the first instance. Any action taken by the commissioner under this section shall be subject to review by any court of competent jurisdiction.

HISTORY: New 1956, p. 516, Act 218, Eff. Jan. 1, 1957.

500.1414 Agents or solicitors; clerical help, license not required.

Sec. 1414. The provisions of this chapter relating to agents or solicitors shall not extend to or include any clerical help that may be necessary in performing any of the functions provided for agents, general, district, state or special agents nor to require such clerical help to be licensed in the same manner as their employers. No such clerical help shall solicit the business unless licensed as an agent or solicitor.

HISTORY: New 1956, p. 516, Act 218, Eff. Jan. 1, 1957.

500.1416 Agent's license; requisition by insurer, authority.

Sec. 1416. A general, district, state, special or resident or non-resident agent license shall be issued only on the requisition of an executive officer or head of a department of a domestic or foreign insurer, or of the United States manager of any alien insurer. The authority to make such requisitions may be delegated by the executive officer, head of a department or United States manager, in writing, signed by the delegating authority, and filed with the commissioner.

HISTORY: New 1956, p. 517, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 107, Act 101, Eff. Mar. 19, 1960.

500.1417 License; application, form, examination fee.

Sec. 1417. No license as agent or solicitor shall be granted until the person, or if a firm or corporation, then the persons representing the firm or corporation for which requisition is made, shall have filed with the commissioner an application duly signed and verified by him, which application shall be in the following form, to-wit:

To the commissioner of insurance of the state of Michigan:

I hereby make application for a license to represent the

(Company)
(Agency)

....., and make the following statement on oath:

First, I will not knowingly violate any of the insurance laws of this state during the term of the license applied for, if issued;

Second, I will not knowingly deceive any applicant for insurance, or misrepresent any of the terms or conditions of any insurance policy or the financial responsibility of any insurance company;

Third, I will not persuade or attempt to persuade by any incomplete comparison or misrepresentation, any person to discontinue any insurance that he may have with any company or association during the term of such insurance for the purpose of taking insurance in any like company or association that I may represent;

Fourth, During the past year I have represented the following companies:

.....
.....

Fifth, I am not indebted to any insurance company or agent by virtue of any contract as former agent or solicitor except as follows:

.....

Sixth, I have had years of experience in the insurance business and have lived in Michigan for the past years;

Seventh, I expect to devote my time to the insurance business;

Eighth, In what other business are you engaged and in what capacity? (Explain fully.)

Ninth, I have never had a license refused or revoked by the department of insurance of this or any other state.

Except

Tenth, I understand that it is against the laws of this state:

- a. To act as an insurance agent or solicitor without a license from the department of insurance;
- b. To misrepresent the conditions of any policy;
- c. To estimate future dividends that may be paid by a company;
- d. To make any discrimination between citizens of this state or to rebate any part of the premium or commission or offer any valuable consideration as an inducement to take insurance other than that clearly expressed in the policy;
- e. To twist or attempt to twist insurance policies by misrepresentation and/or unfair comparison;

The commissioner may address any additional inquiries to such applicant. The entire application shall be sworn to and signed by the applicant.

(2) Each application except those for renewal of license and except as provided in section 1420, shall be accompanied by an examination fee in the amount specified in section 240 (fee schedule), to be paid by the applicant.

HISTORY: New 1956, p. 517, Act 218, Eff. Jan. 1, 1957.

500.1420 Applicant for license as resident agent or solicitor; examination, exceptions.

Sec. 1420. (1) After the receipt of such application for license in due form, properly verified and certified, the commissioner or his subordinates shall, within a reasonable time and in a place reasonably accessible to the applicant, in order to determine the trustworthiness and competency of an applicant for a license, subject each first time applicant for a license as a resident agent or solicitor, and if he deems necessary subject any applicant for renewal of license, to reasonable personal written examination as to his competency to act as such agent or solicitor.

(2) Except, that any person who acts only as agent in reference to the issuance of baggage or accident insurance tickets primarily for the purpose of covering risks of travel and who is a ticket selling agent or representative of a common carrier, and applicants for license to write limited personal accident insurance policies covering primarily risks of travel and whose employment is for a purpose other than the sale of such limited personal accident insurance policies and who receive no commission or other compensation directly dependent upon the amount of such insurance written, shall not be required to take such examination or pay the examination fee; but the commissioner may make such inquiry and/or examination as to the qualifications of any applicant as he shall deem necessary.

HISTORY: New 1956, p. 518, Act 218, Eff. Jan. 1, 1957.

500.1424 Agent or solicitor; qualifications.

Sec. 1424. When it is shown from such application and examination that the applicant is intending in good faith to act as an insurance agent or solicitor, and is of good business reputation and is qualified in the line of insurance for which he desires to be licensed, and is a resident of this state, and is reasonably familiar with the insurance laws of this state, and with the provisions, terms and conditions of the policies or contracts he is proposing to solicit, negotiate or effect, and is a fit and proper person, the commissioner shall issue to the applicant a license to transact business in this state as an insurance agent or solicitor.

HISTORY: New 1956, p. 518, Act 218, Eff. Jan. 1, 1957.

500.1426 Refusal to issue license; court review.

Sec. 1426. (1) The commissioner shall have power after a hearing to refuse to grant any agent or solicitor license requested should he be satisfied that the person, partnership or corporation for whom the requisition is made is not a proper or fit person, partnership or corporation to be permitted to transact such business within this state.

(2) In order to prevent indirect rebating of insurance premiums the commissioner shall likewise have power after a hearing to refuse to grant any license to a partnership or corporation if he be satisfied that the partnership or corporation was organized or is existing or is availed of for the purpose, among others, of writing insurance for the members of the partnership, stockholders of the corporation or for persons, partnerships or corporations represented by said members or stockholders.

(3) The commissioner shall at once notify the insurer or agent making such requisition of his refusal to issue the license and the reason therefor.

(4) The commissioner's action under this section is subject to review by the circuit court for Ingham county.

HISTORY: New 1956, p. 518, Act 218, Eff. Jan. 1, 1957.

500.1428 License; contents, payment of fees, forms.

Sec. 1428. (1) Every license shall set forth the name of the person, partnership or corporation licensed, and the name of the insurer or insurers for which the agent is authorized to act. A license issued to any partnership or corporation shall designate the members of such partnership or the officers of such corporation who shall be empowered to act thereunder, and only 1 such license shall be required for any partnership or corporation.

2 As to each agent licensed, and each individual so designated in an agent's license issued to a firm or corporation, an insurer shall pay the license fee prescribed in section 240 (fee schedule).

3 The commissioner shall prescribe all forms used in connection with the licensing of agents and solicitors.

HISTORY: New 1956, p. 515, Act 218, Eff. Jan. 1, 1957;—Am. 1982, p. 41, Act 49, Imd. Eff. Apr. 17.

500.1436 Solicitors; advertisement, license fee, residency requirements.

Sec. 1436. Any resident agent duly authorized as such, and representing 1 or more insurance corporations may employ such solicitors as he may desire to represent him and his agency. Such solicitors shall not represent themselves, by advertisement or otherwise, as agents of insurance companies for which their employer may be the authorized agent, and such solicitors shall in all instances represent themselves only as solicitors for said authorized agent. The fee for each solicitor's license shall be as prescribed in section 240 (fee schedule). The issuance of a solicitor's license shall be limited to persons who are residents of the state of Michigan.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957.

500.1437 Solicitor; authority, acts prohibited.

Sec. 1437. A solicitor shall be authorized by his license to solicit insurance for the resident agent by whom employed in any insurers which said resident agent is licensed to represent; but shall not be authorized to issue or countersign policies or otherwise bind any insurer.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957.

500.1440 Nonresident agents; license, issuance, fees; countersignature of policies prohibited.

Sec. 1440. Under such regulations and restrictions as may be deemed necessary by the commissioner, licenses may be issued to nonresident agents to represent in this state insurers which they are licensed to represent in the state in which they reside, and which insurers are authorized or admitted to do business in Michigan, upon the payment of the annual license fee prescribed in section 240 (fee schedule). Nonresident agents shall not countersign any policy or contract of insurance, but all such policies and contracts shall be countersigned by resident agents only.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957.

500.1444 License; renewal, fee, additional information; refusal to furnish, license revocation.

Sec. 1444. All agent and solicitor licenses issued by the commissioner shall expire on the last day of March of each year and may be renewed or extended upon the payment of the fee prescribed in section 240 (fee schedule), from year to year, in such manner as the commissioner may prescribe. The commissioner in his discretion may omit the requirement provided for in section 1417, of the filing of the information as to the agent. Where such information has not been required by the commissioner upon the renewal of the license, the commissioner may at any time require from any insurer represented by such agent full information as to such agent covering the several matters provided for in section 1417, and upon refusal of any insurer to furnish

such information as is required by the commissioner, forthwith, the license shall stand revoked.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957.

500.1446 Life and disability insurance agents; temporary license, extension.

Sec. 1446. The commissioner of insurance, if he is satisfied with the honesty and trustworthiness of the applicant, may issue a temporary insurance agent's license without requiring the applicant to pass a written examination, as follows:

Executor or administrator of deceased insurance agent.

(a) To the executor or administrator of the estate of a deceased person who at the time of his death was a licensed insurance agent.

Surviving spouse or kin of deceased insurance agent; revocation.

(b) To a surviving spouse or next of kin of such a deceased person, if no administrator or executor has been appointed and qualified, but any license issued under this subparagraph shall be revoked upon issuance of a license to an executor or administrator under subparagraph (a) above.

Collector of premiums on industrial insurance contracts, definitions.

(c) To an applicant who has fulfilled the provisions of section 1417 of this act where such applicant will only collect the premiums on industrial insurance contracts during the period of such temporary license; if such temporary license is not received from the commissioner within 15 days from the date the application was sent to the commissioner, the company may assume that the temporary license will be issued in due course. For the purpose of this subparagraph (c) an industrial insurance contract shall mean a contract for which the premiums are payable at monthly or more frequent intervals directly by the owner thereof, or by a person representing the owner, to a representative of the company.

Death or inability of a licensed agent.

(d) To an applicant who has fulfilled the provisions of section 1417, because of the inability or death of a licensed agent to act further.

Effective time of license; renewal for cause.

(e) No license issued under this section shall be effective for more than 90 days. The commissioner, in his discretion, may renew a license granted under subparagraph (a) (b) or (d) once upon proper application and for good cause.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957;—Am. 1965, p. 91, Act 61, Imd. Eff. Jun. 18.

500.1448 License; revocation, suspension, nonrenewal, penalty; court review.

Sec. 1448. The commissioner shall have power to revoke, suspend or refuse to renew for cause shown and upon hearing given to all parties concerned, any agent or solicitor license issued by him, or may impose a civil penalty of \$25.00 for each offense, to be credited to the general fund of the state. Any action taken by the commissioner under this provision shall be subject to review by the circuit court for the county of Ingham.

HISTORY: New 1956, p. 519, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 107, Act 101, Eff. Mar. 19, 1960.

500.1450 Insurance of previously refused risks authorized.

Sec. 1450. (1) Any authorized agent of an insurer transacting business in this state shall have the right to procure the insurance of risks or parts of risks, that have been refused by insurers represented by him, in other like insurers duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed resident agent of the insurer taking the risk: Provided, however, That nothing herein contained shall be deemed to authorize the conducting of any insurance brokerage business in this state.

Insurance brokerage.

2 The term "insurance brokerage" shall be construed to include any arrangement or agreement whereby any agent or solicitor can be held to be the agent of the insured and not of the insurer, or whereby an agent is permitted to solicit or place any class of insurance other than those authorized to be issued in Michigan by such agent's insurer.

HISTORY: New 1956, p. 520, Act 218, Eff. Jan. 1, 1957.

500.1452 Procurement of business by unlicensed person; reward prohibited.

Sec. 1452. No agent or solicitor shall reward or remunerate any person, partnership or corporation, other than an agent or solicitor licensed under this chapter, for procuring or inducing business in this state, furnishing leads or prospects, or in similar manner acting indirectly in this state as an agent or solicitor without a license.

HISTORY: New 1956, p. 520, Act 218, Eff. Jan. 1, 1957.

500.1454 Violation of sections; penalty, license suspension.

Sec. 1454. Any person violating any of the provisions of sections 1400 through 1452, shall, upon conviction thereof, be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than 90 days or by both such fine and imprisonment in the discretion of the court; and upon the conviction of any agent, state or special agent, or solicitor, of any violation of the provisions of this code, the commissioner shall suspend the license of such agent, state or special agent, or solicitor, for a period of not less than 3 months.

HISTORY: New 1956, p. 520, Act 218, Eff. Jan. 1, 1957.

500.1455 Agents; record of funds received in fiduciary capacity, examination; violations, penalty.

Sec. 1455. (1) Each agent shall record in commonly accepted accounting fashion the funds received by him in his fiduciary capacity including the receipt and distribution of all premiums due each of his insurers. Such records shall also include all return premiums due each of his insureds on policies reduced or canceled and to each of his applicants on rejected or declined applications.

2 All records required hereunder shall be open at all times to examination by the commissioner.

3 A violation of this section shall be sufficient grounds, after hearing, for the commissioner to revoke the agent's license pursuant to section 1448, which penalty shall be in addition to any other penalties provided by law.

HISTORY: Add. 1967, p. 25, Act 18, Eff. Nov. 2.

500.1456 Agent, solicitor or broker as fiduciary; intent to embezzle.

Sec. 1456. Any money, substitute for money or thing of value whatsoever, received by any agent, solicitor or broker as premium or return premium, on or under any policy of insurance or application therefor, shall be deemed to have been received by such agent, solicitor or broker in his fiduciary capacity, and any agent, solicitor or broker who embezzles, or fraudulently converts or appropriates to his own use, or, with intent to embezzle, takes, secretes or otherwise disposes of, or fraudulently withholds, appropriates, lends, invests or otherwise uses or applies any money, substitute for money or thing of value received by him as premium or return premium on or under the policy of insurance or application therefor, contrary to the instructions or without the consent of the insurer, for or on account of which the same was received by him, shall be deemed guilty of larceny by embezzlement, and shall be punished as provided

in the criminal statutes of this state, irrespective of whether or not such agent, solicitor or broker has, or claims to have, any commission or other interest in such money, substitute for money or thing of value.

HISTORY: New 1956, p. 520, Act 218, Eff. Jan. 1, 1957.

500.1458 Insurance adjusters; license requirements; inapplicability of section.

Sec. 1458. (1) No person shall engage in the business of adjusting the loss or damage by fire or other hazard under any policy of insurance, nor engage in the business of adjusting claims for compensation under Act No. 10 of the Public Acts of 1912, first extra session, and acts amendatory thereof, for insurers carrying workmen's compensation insurance, or advertise, solicit business, or hold himself out to the public as such adjuster, without first procuring a license to act as such adjuster from the commissioner. License fee shall be paid by the licensee as prescribed in section 240 (fee schedule).

(2) This section shall not apply to any licensed agent or employe of any underwriter admitted to do business in this state by whom a policy of insurance against loss or damage by fire shall have been written upon property within this state, in adjusting loss or damage under such policy.

HISTORY: New 1956, p. 520, Act 218, Eff. Jan. 1, 1957.

500.1460 Insured's adjuster; insurance commissioner, regulatory powers; bond.

Sec. 1460. (1) The commissioner may issue a license to any adjuster for the insured after an applicant therefor has been subjected to an examination as may be prescribed by the commissioner.

(2) The commissioner may make such rules and regulations for the operation of adjusters for the insured as he deems necessary. Such adjusters for the insured shall file a bond with the commissioner in the amount of \$5,000.00 for the protection of loss claimants.

HISTORY: New 1956, p. 521, Act 218, Eff. Jan. 1, 1957.

500.1462 Adjuster's license; expiration, renewal, extension fee, revocation or suspension, hearing.

Sec. 1462. (1) An adjuster license shall, unless otherwise suspended or revoked, be in force from date of issue until the last day of March. The license may be renewed or extended from year to year in such manner as the commissioner may prescribe. The fee for each such license issued or renewed shall be as prescribed in section 240 (fee schedule).

(2) Such license may be suspended or revoked by the commissioner for fraud or serious misconduct on the part of the adjuster. Before revoking the license of any adjuster, the commissioner shall give notice in writing to such adjuster of the charges of fraud or misconduct preferred against him, and shall give such adjuster full opportunity to be heard in relation to the same.

HISTORY: New 1956, p. 521, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 107, Act 101, Eff. Mar. 19, 1960.

500.1464 Violation of sections; misdemeanor, penalty.

Sec. 1464. Any person, partnership, association or corporation or their agents or employes violating any of the provisions of sections 1458 through 1462 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100.00, or imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1956, p. 521, Act 218, Eff. Jan. 1, 1957.

500.1465 False representation as adjuster for insured or withholding policy from insured; penalty, revocation of license.

Sec. 1465. Any person who shall make any false or misleading statement for the purpose of misleading or deceiving any other person into believing that he is an adjuster for the insured, or otherwise convey such impression by means of concealment of any fact, or who shall withhold a policy of insurance from the insured, before a full settlement is made, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding 1 year or by both such fine and imprisonment in the discretion of the court, together with permanent revocation of all licenses under this code.

HISTORY: New 1956, p. 521, Act 218, Eff. Jan. 1, 1957.

500.1468 Life insurance counselor's license; issuance, renewal, extension, fees.

Sec. 1468. (1) No person, firm or corporation in the state of Michigan shall engage or advertise, or to hold himself or itself out as engaged in the business of auditing or abstracting policies of life insurance or annuities, or of giving or affording any advice, counsel or opinion with respect to the benefits promised under any policy of life insurance or annuity issued or proposed to be issued by any insurer authorized to transact the business of life insurance in this state, or the terms, value, effect, advantages or disadvantages thereof, or, directly or indirectly, take or receive any commission or other compensation or reward in money, or otherwise, or directly or indirectly obtain or acquire any benefit or advantage in consideration of, return for, or as a result of, the auditing or abstracting of a policy of life insurance or annuity, or policies of life insurance or annuities, or the giving or affording of advice, counsel or opinion with respect thereto, or with respect to the plan of insurance of any such insurer, until a license therefor shall have been issued to him or it by the commissioner.

2. Such licenses may be issued for the period of 1 year and may be renewed annually and extended in such manner as the commissioner may prescribe. The fee for each such license issued or renewed shall be as prescribed in section 240 (fee schedule).

3. For the purposes of this code, all such licensees may be referred to as "life insurance counselors".

HISTORY: New 1956, p. 521, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 107, Act 101, Eff. Mar. 19, 1960.

500.1470 Life insurance counselor's license; application, form.

Sec. 1470. (1) No license as life insurance counselor shall be granted until the person or if it be a firm or corporation, then the person or persons representing such firm or corporation, applying therefor, shall have filed with the commissioner an application duly signed and verified by him or them, which application shall be in the following form, to-wit: To the commissioner of insurance of the state of Michigan:

I hereby make application for a license to audit and abstract policies of life insurance and annuities and to give counsel and advice with respect to such policies of life insurance and annuities, and the plans of insurance of corporations authorized to transact the business of life insurance in the state of Michigan, and make the following statement on oath:

First, I will not knowingly violate any of the insurance laws of this state during the term of the license applied for if issued;

Second, I will not knowingly deceive any applicants for insurance or misrepresent any of the terms or conditions of any policy of life insurance or annuity, or the financial responsibility or business practices of any life insurance company authorized to transact business in this state;

Third, I will not upon the basis of any incomplete comparison or misrepresentation, advise or persuade, or attempt to persuade any person to drop or discontinue any in-

insurance that he may have with any company or association during the term of such insurance for the purpose of taking insurance in any like company or association, or otherwise.

(2) The commissioner may address any additional inquiries to any such applicant. The entire application shall be sworn to and signed by the applicant.

HISTORY: New 1956, p. 522, Act 218, Eff. Jan. 1, 1957.

500.1472 Life insurance counselor's license; hearing on refusal or revocation.

Sec. 1472. (1) The commissioner may, after a hearing, refuse to grant any life insurance counselor license requested, should he be satisfied the person, firm or corporation applying therefor is not a proper or fit person, firm or corporation to be permitted to engage in such business within this state.

(2) The commissioner may revoke for cause shown and upon hearing given to all parties concerned, any such license issued by him. Any action taken by the commissioner under this section shall be subject to review by any court of competent jurisdiction.

HISTORY: New 1956, p. 522, Act 218, Eff. Jan. 1, 1957.

500.1474 Violation of sections; penalty.

Sec. 1474. Any person violating any of the provisions of this chapter relating to life insurance counselors shall, upon conviction thereof, be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment in the discretion of the court, and upon the conviction of any person, firm or corporation so licensed, of any violation of the provisions thereof, the commissioner shall suspend the authority of such person, firm or corporation to act under such license within the state of Michigan for a period of not less than 3 months.

HISTORY: New 1956, p. 522, Act 218, Eff. Jan. 1, 1957.

CHAPTER 15

INSURANCE PREMIUM FINANCE COMPANIES

500.1501 Inapplicability of chapter.

Sec. 1501. The provisions of this chapter shall not apply with respect to:

(a) Any insurance company authorized to do business in the state or a subsidiary of an authorized insurer admitted in this state or a corporation under substantially the same management or control as an admitted authorized insurer or group of insurers, which such subsidiary, managed or controlled company is engaged in the business of financing insurance premiums on policies issued only by its parent insurer or affiliated group of insurers, subject to the provisions of subsection (3) of section 1508.

(b) Any bank, industrial bank, trust company, safe and collateral deposit company, small loan company, credit union, building and loan association, finance company, or cooperative savings association authorized to do business in the state.

(c) The inclusion of a charge for insurance in connection with an installment sale of a motor vehicle made in accordance with Act No. 27 of the Public Acts of the Extra Session of 1950, as amended, being sections 492.101 to 492.138 of the Compiled Laws of 1948.

(d) The financing of insurance premiums in accordance with the provisions of Act No. 326 of the Public Acts of 1966, being sections 438.31 to 438.33 of the Compiled Laws of 1948, relating to legal interest rate.

(e) Any insurance agent who finances insurance premiums on business produced only by himself.

HISTORY: Add. 1968, p. 677, Act 352, Eff. Nov. 15.

500.1501a Financial institutions; application of chapter.

Sec. 1501a. Nothing in this chapter shall limit or interfere with any bank, company or association described in subsection (b) of section 1501 as to any business which it is otherwise authorized to conduct, including the financing of insurance premiums. Nothing in this chapter shall prevent any such bank, company or association, if otherwise permitted by law and regulation, from qualifying under this chapter as an insurance premium finance company.

HISTORY: Add. 1968, p. 677, Act 352, Eff. Nov. 15.

500.1502 Insurance premium finance companies; definitions.

Sec. 1502. As used in this chapter:

a "Insurance premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent in payment of premiums on an insurance contract together with a service charge as authorized and limited by this chapter.

b "Insurance premium finance company" means a person engaged in the business of entering into insurance premium finance agreements.

c "Licensee" means a premium finance company holding a license issued by the commissioner under this chapter.

HISTORY: Add. 1968, p. 677, Act 352, Eff. Nov. 15.

500.1503 License requirements; violation, penalty; fees, renewal, application.

Sec. 1503. (1) No person, except those excluded by section 1501, shall engage in the business of financing insurance premiums in this state without first having obtained a license as a premium finance company from the commissioner. Any person who shall engage in the business of financing insurance premiums in this state without obtaining a license, upon conviction as provided in section 230, shall be subject to a fine of not more than \$200.00.

2 The annual license fee shall be \$200.00. Licenses may be renewed from year to year as of April 1 of each year upon payment of the fee of \$200.00. The fee for the license shall be paid through the commissioner to the state treasury.

3 Each applicant shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner may require. The commissioner at any time may require the applicant fully to disclose the identity of all stockholders, partners, officers and employees and he may refuse to issue or renew a license in the name of any firm, partnership or corporation if he is not satisfied that any officer, employee, stockholder or partner thereof who may materially influence the applicant's conduct meets the standards of this chapter.

HISTORY: Add. 1968, p. 678, Act 352, Eff. Nov. 15.

500.1504 License investigation of applicant; issuance, grounds, hearing, bond.

Sec. 1504. (1) Upon the filing of an application and the payment of the license fee the commissioner shall make an investigation of each applicant and shall issue a license if the applicant is qualified in accordance with this chapter. If the commissioner does not so find, he shall, within 30 days after he has received the application, at the request of the applicant, give the applicant a full hearing.

2 The commissioner shall issue or renew a license as may be applied for when he is satisfied that the applicant is competent and trustworthy, has a good business reputation and has had experience, training or education in the business for which the license is applied, if a corporation, is a corporation incorporated under the laws of this state or

admitted to do business in this state, and has proven in form satisfactory to the commissioner, that he has paid-up capital and surplus of \$50,000.00, if a corporation, or net worth if an individual or copartnership of \$50,000.00 which shall be maintained, and that allowing the applicant to engage in the business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted. A \$10,000.00 cash or corporate surety bond shall be deposited with the state treasurer for the benefit of any or all borrowers, who may become creditors of the premium finance company.

HISTORY: Add. 1968, p. 678, Act 352, Eff. Nov. 15.

500.1505 License; revocation or suspension, grounds.

Sec. 1505. (1) The commissioner may revoke or suspend the license of any premium finance company when and if after investigation it appears to the commissioner that:

- (a) Any license issued to such company was obtained by fraud.
- (b) There was any misrepresentation in the application for the license.
- (c) The holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company.
- (d) The company has violated any of the provisions of this chapter, or the rules and regulations promulgated hereunder.
- (e) The company has remunerated any insurance agent or any employee of an insurance agent or to any other person as an inducement to the financing of any insurance policy with the premium finance company. Except, that if the insurance agent prepares the premium finance agreement, the premium finance company may pay him a service fee not to exceed \$2.00.

Hearing; penalty.

(2) Before the commissioner revokes, suspends or refuses to renew the license of any premium finance company, he shall give to the person an opportunity to be fully heard and to introduce evidence in his behalf. In lieu of revoking or suspending the license for any of the causes enumerated in this section, after a hearing, the commissioner may subject the company to a penalty of not more than \$200.00 for each offense but the total not to exceed \$1,000.00 when in his judgment he finds that the public interest would not be harmed by the continued operation of the company. The amount of any penalty shall be paid by the company through the office of the commissioner to the state treasury. At any hearing provided by this section, the commissioner shall have authority to administer oaths to witnesses. Anyone testifying falsely, after having been administered such oath, shall be subject to the penalty of perjury.

Appeal.

(3) If the commissioner refuses to issue or renew any license or if any applicant or licensee is aggrieved by any action of the commissioner, the applicant or licensee shall have the right to a hearing and court proceeding as provided for in section 244.

HISTORY: Add. 1968, p. 678, Act 352, Eff. Nov. 15.

500.1506 Premium finance transaction records; examination, preservation.

Sec. 1506. (1) Every licensee shall maintain records of its premium finance transactions and the records shall be open to examination and investigation by the commissioner. The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination.

(2) Every licensee shall preserve its records of such premium finance transactions, including cards used in a card system, for at least 3 years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic microfilm or other commercially acceptable form constitutes compliance with

this requirement, except that any such record shall not be reduced to microfilm or other form until at least 2 years after the final entry has been made therein.

HISTORY: Add. 1968, p. 679, Act 352, Eff. Nov. 15.

500.1507 Insurance commissioner; regulatory powers.

Sec. 1507. The commissioner may make and enforce such reasonable rules and regulations as may be necessary in making effective the provisions of this chapter, but such rules and regulations shall not be contrary to nor inconsistent with the provisions of this chapter. The rules shall be promulgated in accordance with the provisions of Act No. 55 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 679, Act 352, Eff. Nov. 15.

500.1508 Premium finance agreement; requirements, specifications.

Sec. 1508. (1) A premium finance agreement shall:

a) Be dated, signed by or on behalf of the insured, and the printed portion thereof shall be in at least 8-point type.

b) Contain the name and place of business of the insurance agent negotiating the related insurance contract, the name and residence or the place of business of the insured as specified by him, the name and place of business of the premium finance company to which payments are to be made, a description of the insurance contracts involved and the amount of the premium therefor.

c) Set forth the following items where applicable:

i) The total amount of the premiums,
 ii) The amount of the down payment,
 iii) The balance of premiums due, the difference between items (i) and (ii),
 iv) The amount of the service charge, or other charges for each installment to be paid pursuant to the terms of the contract and the total charges to be paid for the duration of the contract,

v) The balance payable by the insured, sum of items (iii) and (iv),

vi) The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

Sequence of items; additional items.

(2) The items set out in subdivision (c) of subsection (1) need not be stated in the sequence or order in which they appear in the clause, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

Subsidiary companies; exemption; fees.

(3) A subsidiary of an authorized insurer or a corporation under substantially the same management or control as an authorized insurer or group of authorized insurers may finance insurance premiums on insurance policies issued on business produced by such authorized insurer or group of insurers under an open-end, revolving credit plan wherein credit is advanced for the payment of insurance premiums from time to time, without being required to comply with the provisions of paragraphs (1) and (2) of this section if the service charge made under such premium finance agreement shall not exceed the service charge permitted under section 1509.

HISTORY: Add. 1968, p. 679, Act 352, Eff. Nov. 15.

500.1509 Premium finance companies; unauthorized charges; service charges, computation, maximums.

Sec. 1509. (1) A premium finance company shall not charge, contract for, receive or collect any charge other than as permitted by this chapter.

Service charge, computation.

(2) The service charge is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

Service charge, maximum rate; refunds.

(3) Except as provided in subsection (4), the service charge shall be a maximum of \$7.00 per \$100.00 per year plus an additional charge of \$11.00 per premium finance agreement. The \$11.00 need not be refunded upon cancellation or prepayment. Notwithstanding the provisions of any premium finance agreement to the contrary, any insured may pay it in full at any time before the maturity of the final installment of the balance thereof and shall receive a refund of the unearned service charge which shall represent at least as great a proportion of the service charge after first deducting therefrom an acquisition cost of not more than \$12.00 as:

(a) The sum of the monthly balances under the schedule of payments in the finance agreement beginning as of the date after such prepayment which is the next succeeding monthly anniversary date of the due date of the first installment under the agreement, or, if the prepayment is prior to the due date of the first installment under the agreement, then as of the date after such prepayment which is the next succeeding monthly anniversary date of the date of the agreement, bears to;

(b) The sum of all the monthly balances under the schedule of installment payments in the agreement. Where the amount of refund is less than \$1.00, no refund need be made.

Service charge, premium balance less than \$100.00.

(4) When the balance of premiums due is less than \$100.00 and is:

(a) To be paid in 3 monthly installments or less, the maximum service charge shall be \$8.00; or

(b) To be paid in 4 or 5 monthly installments, the maximum service charge shall be \$10.00.

Time of computation.

(5) The interest and service charge are to be computed at the time of making the contract of insurance.

Change in balance, amendment.

(6) If the balance of premium due is changed an amendment shall be added to the original contract setting forth the items required in paragraph (c) of subsection (1) of section 1508.

HISTORY: Add. 1968, p. 680, Act 352, Eff. Nov. 15.

500.1510 Premium finance agreement; delinquency charges, cancellation charges, amount.

Sec. 1510. A premium finance agreement may provide for the payment by the insured of a delinquency charge of \$1.00 to a maximum of 5% of the delinquent installment but not to exceed \$5.00 on any installment which is in default for a period of 10 days or more. If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for the payment by the insured of a cancellation charge equal to the difference between any delinquency charge imposed in respect to the installment in default and \$5.00.

HISTORY: Add. 1968, p. 681, Act 352, Eff. Nov. 15.

500.1511 Premium finance agreement; cancellation of insurance, procedure, notice, refund.

Sec. 1511. (1) When a premium finance agreement empowers the premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be canceled by the premium finance company unless such cancellation is effectuated in accordance with this section.

2) Not less than 10 days' written notice shall be mailed to the insured of the intent of the premium finance company to cancel the insurance contract unless the default is cured within the 10-day period.

3) After expiration of the 10-day period, the premium finance company may request cancellation of the insurance contract by mailing to the insurer a notice of cancellation, and the insurance contract shall be cancelled by the insurer without requiring the return of the insurance contract. The premium finance company shall also mail a notice of cancellation to the insured at his last known address at the same time the premium finance company requests cancellation of the insurance contract.

4) All statutory, regulatory and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

5) Whenever a financed contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured.

6) If the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured, but no refund shall be required if it amounts to less than \$1.00.

HISTORY: Add. 1968, p. 681, Act 352, Eff. Nov. 15.

500.1512 Premium finance agreement; filing not required.

Sec. 1512. No filing of the premium finance agreement shall be necessary to perfect the validity of such agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrances, successors or assigns.

HISTORY: Add. 1968, p. 681, Act 352, Eff. Nov. 15.

500.1513 Existing companies; license, fee.

Sec. 1513. Any person who has been engaged in the business as a premium finance company in this state which premium finance company has paid-up capital and surplus of at least \$20,000.00 and whose fiscal solvency, general operation and financial condition has been investigated or audited and approved by the commissioner on written request and payment of the annual license fee made within 60 days of the effective date of this chapter shall be entitled to a license notwithstanding any other provisions of this chapter. Any premium finance company licensed pursuant to this section, the capital and surplus of which is less than \$50,000.00 shall increase its capital and surplus to at least \$50,000.00 within 2 years of the date of issuance of its first license hereunder and upon failure to do so such license shall not be further renewed. Nothing in this section shall prevent such company thereafter from being licensed under this act.

HISTORY: Add. 1968, p. 681, Act 352, Eff. Nov. 15.

500.1514 Insurance commissioner and employees; statement of expenses and charges, payment; employment of expert personnel.

Sec. 1514. (1) All actual and necessary expenses incurred by the commissioner, his deputies, assistants, and employees, or the commissioner himself, in connection with the regulation, examination, or investigation of any licensed premium finance company pursuant to this code shall be certified by the commissioner, together with an appropriate statement of the time spent by such persons, upon such regulation, examination, or investigation, to the accounting division of the department of administration, who, if correct, shall approve it and the expenses shall be paid to the persons by whom they were incurred, upon the warrant of the state treasurer.

(2) The insurance commissioner shall prepare and present to the premium finance company so regulated, examined, or investigated, the statement of such expenses and charges sufficient to defray all of the costs to the state of each person engaged in such regulation, examination, or investigation and that of any administrative or supervisory personnel utilized in connection therewith, and the applicant or licensed premium finance company, upon receiving such statement shall pay to the commissioner the amount stated therein. The commissioner shall deposit the funds so received with the state treasurer to be credited by him to the general fund.

(3) The commissioner may employ such expert personnel as may be necessary for other than routine regulation; examination, or investigation of any applicant for license or licensed premium finance company, and the compensation and expenses of such expert personnel shall be that charged by the expert personnel. Charges hereunder shall be accounted, charged, and paid in the same manner as provided in subsections (1) and (2) above.

HISTORY: Add. 1968, p. 682, Act 352, Eff. Nov. 15.

CHAPTER 18.

UNAUTHORIZED INSURERS.

500.1804 Fire insurance with unauthorized insurers; contracts void.

Sec. 1804. All contracts of fire insurance upon property real or personal located in this state in insurers not at the time of the making of such contracts duly authorized under the laws of this state to make such contracts are hereby declared to be void and unenforcible [sic] and no action at law or in equity shall be maintained on any such contract in any court.

HISTORY: New 1956, p. 522, Act 218, Eff. Jan. 1, 1957.

500.1805 Fire insurance with unauthorized insurers; insurer, penalty.

Sec. 1805. Any insurer not being duly authorized under the laws of this state to insure property located herein, which shall make or issue or cause to be made or issued any policy of fire insurance upon real or personal property located in this state, shall be liable to a penalty of not less than \$200.00 nor more than \$1,000.00 for each contract made or caused to be made by such insurer.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957.

500.1806 Fire insurance with unauthorized insurers; agent's solicitation, acceptance of premium, adjustment of loss, penalty.

Sec. 1806. Any person who as solicitor, agent or in any other capacity takes or receives any application for fire insurance in any insurer not duly authorized under the laws of this state, upon any real or personal property located in this state, or performs any service for any such unauthorized insurer, either in making a survey or examination of property for such insurer, making out or forwarding any application for fire insurance to such unauthorized insurer, delivering any unauthorized policy, or collecting or receiving the premium or any part thereof on such policy, making any endorsement

thereon, taking any part in the settlement or adjustment of any loss occurring under such unauthorized policy, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not to exceed \$200.00 or imprisonment in the Michigan reformatory not to exceed 1 year, in the discretion of the court.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957.

500.1810 Life insurance with unauthorized insurers; penalty, civil liability.

Sec. 1810. Any person soliciting applications for life insurance, or making any such insurance, guaranty, contract, or pledge as is mentioned in section 602 (3) (life insurance defined), before the deposit of securities by a life insurer as required for authority to transact life insurance in this state, or before compliance with any condition precedent provided by the laws of this state for life insurers, shall be liable to a penalty of \$100.00 for every application obtained, or insurance, guaranty, contract, or pledge made, to be sued for and recovered in the name of the people by the attorney general or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who may have paid moneys therefor shall be entitled to recover the same back from the person to whom it was paid, or in case such person was an agent, then at his option from the principal of such agent, by action of assumpsit, to be brought at any time within 6 years after such payment.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957.

500.1812 Disability, casualty, title or surety insurance with unauthorized insurer; penalty, civil liability.

Sec. 1812. Any person who shall solicit or obtain within this state, applications for any disability, casualty, title or surety insurance other than in accordance with the provisions of this insurance code, shall be deemed guilty of a misdemeanor and liable to a penalty of \$100.00 for every application obtained. Any person who shall have paid to any agent of such unauthorized insurer or purported insurer, any premium moneys for insurance granted or to be granted, shall be entitled to recover the same back from such agent, or at his option, from the person, association, partnership or company for which said agent acted, by action in assumpsit, to be brought at any time within 6 years after such payment.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 262, Act 221, Imd. Eff. Jul. 11.

500.1820 Unauthorized insurers process act; short title.

Sec. 1820. Sections 1820 through 1832 of this chapter may be cited as the unauthorized insurers process act.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957.

500.1821 Unauthorized insurers process act; purpose, substituted service of process.

Sec. 1821. The purpose of this unauthorized insurers process act is to subject certain insurers to the jurisdiction of courts of this state. The legislature declares that it is a subject of concern that many residents of this state are solicited by and hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises power to protect its residents and to define, for the purpose of this statute, what constitutes doing business in this state, and also exercises powers and privileges available

to the state by virtue of Public Law 15, 79th Congress of the United States, chapter 20, 1st session, S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

HISTORY: New 1956, p. 523, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 139, Act 111, Eff. Nov. 2.

500.1822 Unauthorized foreign or alien insurer; acts constituting appointment of commissioner as attorney for service of process.

Sec. 1822. Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

(1) The issuance or delivery of contracts of insurance (other than reinsurance negotiated with admitted and authorized insurers), to residents of this state or to corporations authorized to do business therein,

(2) The solicitation of applications for such contracts,

(3) The collection of premiums, membership fees, assessments or other considerations for such contracts, or

(4) Any other transaction of business in relation to such contracts, is equivalent to and shall constitute appointment by such insurer of the commissioner or his deputies, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

HISTORY: New 1956, p. 524, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 139, Act 111, Eff. Nov. 2.

500.1825 Unauthorized foreign or alien insurers; service of process on insurance commissioner; registered mail; affidavit of compliance.

Sec. 1825. (1) Service of process as provided for in section 1822 shall be made by mailing to or delivering to and leaving with the commissioner or some person in apparent charge of his office 2 copies thereof and the payment to him at the time of such service a fee of \$2.00. The commissioner shall forthwith mail by registered mail 1 of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within 10 days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

Service on person acting for insurer and by registered mail.

(2) Service of process in any such action, suit or proceeding mentioned in section 1822 shall in addition to the manner provided in subsection (1) of this section be valid if served upon any person within this state who, in this state on behalf of such insurer, is

(a) Soliciting insurance, or

(b) Making, issuing or delivering any contract of insurance, or

(c) Collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within 10 days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name

of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

Judgment by default.

3 No plaintiff or complainant shall be entitled to a judgment by default, or a judgment with leave to prove damages, or a judgment pro confesso under this section until the expiration of 30 days from date of the filing of the affidavit of compliance.

Service of process otherwise permitted.

4 Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

Service on secretary of state when commissioner is party.

5 Whenever the commissioner shall be a party to any action, suit or proceeding, service of process shall be made on the secretary of state as though he were the commissioner.

HISTORY: New 1956, p. 524, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 140, Act 111, Eff. Nov. 2.

500.1828 Unauthorized foreign or alien insurer; defense of action.

Sec. 1828. (1) Before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either (a) deposit with the clerk of the court in which such action, suit or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action: Provided, however, That the court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to such court that it maintains in a state of the United States funds or securities in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action, suit or proceeding; or (b) procures a certificate of authority to transact the business of insurance in this state.

Postponement to enable compliance.

2 The court in any action, suit, or proceeding, in which service is made in the manner provided in section 1825 may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (1) of this section and to defend such action.

Motion to quash.

(3) Nothing in subsection (1) of this section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in section 1825 hereof on the ground either (a) that such unauthorized insurer has not done any of the acts enumerated in section 1822, or (b) that the person on whom service was made pursuant to subsection (2) of section 1825 was not doing any of the acts therein enumerated.

Exempted insurers.

4 The requirements as to bond or other security imposed by subsection (1) of this section shall not apply to those exempt insurers lawfully operating under the provisions of chapter 80 of this code (fraternal benefit societies).

HISTORY: New 1956, p. 525, Act 218, Eff. Jan. 1, 1957.

500.1830 Unauthorized foreign or alien insurer; refusal to defend; vexatiousness, attorney fee.

Sec. 1830. In any action against an unauthorized foreign or alien insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the insurer has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Such fee shall not exceed 12 ½% of the amount which the court or jury finds the plaintiff is entitled to recover against the insurer, but in no event shall such fee be less than \$25.00. Failure of an insurer to defend any such action shall be deemed *prima facie* evidence that its failure to make payment was vexatious and without reasonable cause.

HISTORY: New 1956, p. 525, Act 218, Eff. Jan. 1, 1957.

500.1832 Inapplicability of sections.

Sec. 1832. The provisions of this unauthorized insurers process act shall not apply to any action, suit or proceeding against any unauthorized insurer arising out of a contract of

- (1) Insurance effectuated in accordance with sections 1843 to 1864 (surplus lines);
- (2) Aircraft insurance;
- (3) Insurance on property or operations of railroads engaged in interstate commerce;
- (4) Insurance against legal liability arising out of the ownership, operation or maintenance of any property having a permanent situs outside of this state; or
- (5) Insurance against loss of or damage to any property having a permanent situs outside this state;

Where such contract contains a provision designating the commissioner or his deputies to be its true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding or where the insurer enters a general appearance in any action.

HISTORY: New 1956, p. 526, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 140, Act 111, Eff. Nov. 2.

500.1840 Surplus lines; procurement by insured; report tax.

Sec. 1840. Any individual, partnership, corporation or association who is unable to procure sufficient indemnity from authorized insurers in this state, may file an affidavit with the commissioner to that effect, and in such case the affiant may be authorized to procure such needed additional indemnity from insurers not represented in this state: Provided, That such individual, partnership, corporation or association shall report to the commissioner the amount of such policy or policies, together with the amount of premium paid therefor, and shall pay thereon to the commissioner a sum of money equal to any tax imposed upon similar insurance premiums by this insurance code.

HISTORY: New 1956, p. 526, Act 218, Eff. Jan. 1, 1957.

500.1843 Surplus lines agents; licenses, renewal or extension, fee.

Sec. 1843. The commissioner may issue a surplus lines agent license to a licensed resident agent who has maintained the standards of section 1424, permitting the licensee to procure policies of insurance on risks in this state in unauthorized insurers. The license may be renewed or extended in such manner as prescribed by the commissioner. The fee for each license issued or renewed shall be as prescribed in section 240 (fee schedule).

HISTORY: New 1956, p. 526, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 106, Act 101, Eff. Mar. 19, 1960;—Am. 1967, p. 318, Act 221, Imd. Eff. Jul. 10.

500.1846 Surplus lines agents; examination, bond, oath as to statement of premiums.

Sec. 1846. Before receiving a license as a surplus lines agent, the applicant shall: (a) satisfactorily complete a written examination therefor, and the commissioner may subject a licensee to reexamination; (b) deliver to the commissioner a financial guarantee bond for \$5,000.00, with such sureties as the commissioner shall approve, with a condition that the licensee will faithfully comply with all the requirements of sections 1843 to 1864; and (c) attest that he will file with the commissioner, in January of each year or as otherwise directed by the commissioner, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross returned premiums on such insurance canceled under such license during the year ending on December 31 next preceding, or at such other periods of time as directed by the commissioner, and at the time of filing such statement will pay into the state treasury a tax thereon equal to any tax imposed upon similar insurance premiums by this insurance code.

HISTORY: New 1956, p. 526, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 318, Act 221, Imd. Eff. Jul. 10.

500.1849 Surplus lines agents; affidavits of inability to procure regular insurance.

Sec. 1849. Within 30 days after a surplus lines agent procures any such insurance he shall file his affidavit with the commissioner that he is unable to procure, after diligent search in authorized insurers, the amount of insurance necessary to protect the risks to be so insured. The licensee shall only procure insurance under such license after he has procured insurance in authorized insurers to the full amount which the insurers are willing to write on the risk.

HISTORY: New 1956, p. 526, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 319, Act 221, Imd. Eff. Jul. 10.

500.1852 Surplus lines insurers; solvency.

Sec. 1852. A surplus lines agent shall offer such insurance only to insurers which for a reasonable preceding period have been in a sound and unimpaired condition as determined by the commissioner.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 319, Act 221, Imd. Eff. Jul. 10.

500.1855 Surplus lines agent; insurance commissioner as attorney for service of process.

Sec. 1855. Any such insurer with which such insurance shall be placed by such a surplus lines agent shall appoint the commissioner as its attorney in fact in this state, upon whom process can be served.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.1856 Unlicensed surplus lines insurers; notice on policies, cover notes or other instruments of insurance.

Sec. 1856. Any policy, cover note or other instrument of insurance which is effected by authority of this chapter shall be delivered to the insured, and shall have printed, typed or stamped in red ink upon its face in not less than 10-point type the following notice: "This insurance is with an insurer that is not licensed by the state of Michigan." This notice shall in no manner be covered over or concealed. The surplus lines agent is responsible for compliance with these requirements by every such instrument of insurance that he has procured.

HISTORY: Add. 1967, p. 319, Act 221, Imd. Eff. Jul. 10.

500.1858 Surplus lines agents; records and reports.

Sec. 1858. Each surplus lines agent shall keep a separate account of the business done under his license, a certified copy of which he shall forthwith file with the commissioner showing the exact amount of such insurance placed for any person, firm or corporation, the gross premium charged thereon, the insurers in which the same is

placed, the date of the policies and the term thereof, and he shall also file a report in the same detail of all such policies cancelled and the gross return premiums thereon.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.1860 Surplus lines insurance; rewards for procuring prohibited.

Sec. 1860. A surplus lines agent shall not in any manner reward a person, other than a licensed resident agent, for the procuring or inducing the procuring of surplus lines insurance.

HISTORY: Add. 1967, p. 319, Act 221, Imd. Eff. Jul. 10.

500.1864 Violation of sections; penalties, effect on license, civil liability, review.

Sec. 1864. Any person, firm, or corporation who procures or causes to be procured insurance in an insurer not authorized to do business in this state in accordance with this code, without complying with sections 1843 through 1858, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$1,000.00 or by imprisonment in the county jail not more than 90 days, or both such fine and imprisonment, in the discretion of the court. For a violation of the provisions of this chapter the commissioner, after hearing, shall revoke, suspend or refuse to renew any licenses issued by him pursuant to this chapter or to chapter 14, or may impose a civil penalty of \$25.00 for each offense, to be credited to the general fund of the state. Action taken by the commissioner under this section is subject to review by the circuit court for the county of Ingham.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 319, Act 221, Imd. Eff. Jul. 10.

CHAPTER 20.

UNFAIR AND PROHIBITED TRADE PRACTICES AND FRAUDS.

500.2001 Uniform trade practices act; short title.

Sec. 2001. Sections 2001 through 2050 constitute, and may be referred to as, the uniform trade practices act.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.2002 Purpose of act.

Sec. 2002. The purpose of this uniform trade practices act is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress as amended), by defining, or by providing for the determination of (under standards or procedures herein prescribed), all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.2003 Unfair methods of competition or deception prohibited.

Sec. 2003. No person shall engage in this state in any trade practice which is defined in this uniform trade practices act as, or determined pursuant to such act to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.2005 Unfair methods of competition or deception; misrepresentations.

Sec. 2005. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or

share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

HISTORY: New 1956, p. 527, Act 218, Eff. Jan. 1, 1957.

500.2007 Unfair methods of competition or deception; false, deceptive or misleading advertising.

Sec. 2007. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2009 Unfair methods of competition or deception; defamation.

Sec. 2009. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2012 Unfair methods of competition or deception; combinations in restraint of trade.

Sec. 2012. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2014 Unfair methods of competition or deception; false financial statement.

Sec. 2014. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2015 Unfair methods of competition or deception; false or incomplete records and reports.

Sec. 2015. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2017 Unfair methods of competition or deception; illegal inducements.

Sec. 2017. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

HISTORY: New 1956, p. 528, Act 218, Eff. Jan. 1, 1957.

500.2019 Unfair methods of competition or deception; unfair discrimination in life insurance.

Sec. 2019. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

HISTORY: New 1956, p. 529, Act 218, Eff. Jan. 1, 1957.

500.2020 Unfair methods of competition or deception; unfair discrimination in accident or health insurance.

Sec. 2020. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, membership, or policy fees, or rates charged for any policy or contract of accident or health insurance applicable to individual or family expense coverage or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

HISTORY: New 1956, p. 529, Act 218, Eff. Jan. 1, 1957.

500.2022 Unfair methods of competition or deception; refusal to pay claims, compelling acceptance of less than amount due.

Sec. 2022. It is an unfair method of competition and unfair and deceptive act or practice in the business of insurance for an insurer, without just cause, and with such frequency as to indicate its general business practice in this state:

(a) To refuse to pay claims arising under coverages provided by its policies, whether the claim is in favor of an insured or of a third person with respect to the liability of an insured to such third person.

(b) To compel insureds or claimants to accept less than the amount due them or to

employ attorneys or bring legal action against the insurer or its insured to obtain full payment or settlement of such claims.

HISTORY. Add. 1967, p. 500, Act 282, Eff. Nov. 2.

500.2023 Unfair methods of competition or deception; insurance on debtor contracting credit.

Sec. 2023. It is an unfair method of competition and unfair and deceptive act or practice in the business of insurance for an insurer to automatically write insurance on a debtor who has contracted credit based on the principle that the insurance is applicable unless specifically rejected by the debtor, unless the premium or such other identifiable charge as may be applicable is paid in full by the creditor.

HISTORY. Add. 1988, p. 368, Act 240, Imd. Eff. Jun. 26.

500.2024 Unfair methods of competition or deception; rebates and special inducements.

Sec. 2024. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

HISTORY. New 1956, p. 529, Act 218, Eff. Jan. 1, 1957.

500.2025 Unfair methods of competition or deception; exclusions from discrimination, rebates.

Sec. 2025. Nothing in sections 2017 through 2024 shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance: Provided, That any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

HISTORY. New 1956, p. 529, Act 218, Eff. Jan. 1, 1957.

500.2028 Unfair methods of competition or deception; investigation by insurance commissioner.

Sec. 2028. Upon probable cause, the commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this

state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by sections 2003 through 2025.

HISTORY: New 1956, p. 529, Act 218, Eff. Jan. 1, 1957.

500.2029 Unfair methods of competition or deception; complaint, informal conference, statement of charges, notice, hearing.

Sec. 2029. Whenever the commissioner has probable cause to believe that any person engaged in the business of insurance has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice in the conduct of such business, and that a proceeding by the commissioner in respect thereto would be in the interest of the public, he shall first give preliminary notice in writing to the person involved, setting forth the general nature of the complaint against him and the proceedings contemplated pursuant to sections 2029 through 2034. Such person may within the 5 days immediately following the receipt of such notice, request in writing an informal conference with the commissioner for the purpose of discussing the complaint, which informal conference shall be granted by the commissioner at such time and place as the commissioner shall designate. Such preliminary proceedings shall be deemed to be privileged and shall not be subject to public inspection or announcement. Ten days after giving such preliminary notice, if no request for informal conference shall have been made, or at the conclusion of such conference, as the case may be, the commissioner may issue and serve upon such person a statement of charges and a notice of a hearing thereon to be held at a time and place fixed in the notice, which hearing date shall be not less than 15 days after the giving of notice thereof.

HISTORY: New 1956, p. 530, Act 218, Eff. Jan. 1, 1957.

500.2030 Unfair methods of competition or deception; hearing; defendant must show cause; intervenor.

Sec. 2030. At the time and place fixed for the hearing referred to in section 2029, such person shall have an opportunity to be heard, to be represented by counsel and to show cause why an order should not be made by the commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon showing by any person that he has an interest likely to be affected adversely, the commissioner shall permit such person to intervene, appear and be heard at such hearing by counsel or in person.

HISTORY: New 1956, p. 530, Act 218, Eff. Jan. 1, 1957.

500.2032 Unfair methods of competition or deception; hearing; oaths, witnesses, evidence, subpoenas, contempt of court.

Sec. 2032. (1) The commissioner, upon the hearing referred to in section 2030, may administer oaths, examine and cross examine witnesses, and receive oral and documentary evidence. Any party to the cause shall have the power to compel the subpoena of witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the circuit court of Ingham county or the county where such party resides, on application of any party to the cause, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

Stenographic record; statement of evidence.

(2) The commissioner, upon such hearing, may, and upon the request of any party to the cause shall, cause to be made a stenographic record of all the evidence and all the

proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review.

HISTORY New 1956, p. 530, Act 218, Eff. Jan. 1, 1957.

500.2033 Unfair methods of competition or deception; witnesses, refusal to testify, immunity, perjury, waiver of immunity.

Sec. 2033. If any natural person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such directions, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding: Provided, however, That no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance code. Any such individual may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

HISTORY New 1956, p. 530, Act 218, Eff. Jan. 1, 1957.

500.2034 Unfair methods of competition or deception; service of notices, process and other papers, return.

Sec. 2034. Statements of charges, notices, orders, subpoenas and other processes of the commissioner under this uniform trade practices act may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

HISTORY New 1956, p. 531, Act 218, Eff. Jan. 1, 1957.

500.2038 Unfair methods of competition or deception; order to cease and desist, modification, rescission.

Sec. 2038. (1) If, after the hearing referred to in section 2030, the commissioner shall determine that the method of competition or the act or practice in question is defined in sections 2003 through 2025 and that the person complained of has engaged in such method of competition, act or practice in violation of this uniform trade practices act, the commissioner shall reduce his findings and decision to writing and shall issue and cause to be served upon the person charged with the violation an order requiring such

person to cease and desist from engaging in such method of competition, act or practice.

(2) Until the expiration of the time allowed under section 244 for filing a petition for review if no such petition has been duly filed within such time or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the circuit court, as hereinafter provided, the commissioner may, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(3) After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the commissioner may at any time, by order, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

HISTORY: New 1956, p. 531, Act 218, Eff. Jan. 1, 1957.

500.2039 Unfair methods of competition or deception; order to cease and desist, finality.

Sec. 2039. A cease and desist order issued by the commissioner under section 2038 shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the commissioner may thereafter modify or set aside his order to the extent provided in section 2038(2); or

(2) Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

HISTORY: New 1956, p. 531, Act 218, Eff. Jan. 1, 1957.

500.2040 Unfair methods of competition or deception; order to cease and desist, violation, forfeiture; construction of section.

Sec. 2040. Any person who violates a cease and desist order of the commissioner under section 2038, after it has become final, and while such order is in effect, shall forfeit and pay to the state of Michigan a sum not to exceed \$5,000.00 for a wilful violation thereof; or a sum not to exceed \$250.00 when such violation is not wilful; which may be recovered in a civil action. Nothing herein shall be construed as limiting the authority of any court to enforce its orders, by contempt proceedings or otherwise.

HISTORY: New 1956, p. 532, Act 218, Eff. Jan. 1, 1957.

500.2041 Unfair methods of competition or deception; court review of orders, findings of fact conclusive, modification; additional evidence.

Sec. 2041. (1) Any order or decision of the commissioner under this uniform trade practices act shall be subject to review as provided in section 244. The findings of fact of the commissioner, and any modification thereof as provided for in subsection (2) of this section, if supported by the preponderance of the evidence, shall be conclusive.

(2) To the extent that the order of the commissioner is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commissioner. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings,

which, if supported by the preponderance of the evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

HISTORY. New 1956, p. 532, Act 218, Eff. Jan. 1, 1957.

500.2043 Unfair methods of competition or deception; undefined practices; procedure to enjoin, notice of hearing, finding of facts.

Sec. 2043. (1) Whenever the commissioner has probable cause to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in sections 2005 through 2025, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the interest of the public, the commissioner may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 15 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 2029. The commissioner shall, after such hearing, state in writing his findings of fact, his decision, and his order if any, and he shall serve a copy thereof upon all parties of record to the proceeding.

Injunction proceedings; orders pendente lite.

(2) If such finding and decision charges a violation of this uniform trade practices act and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after 15 days after the service of such finding and decision cause a petition to be filed in the circuit court of Ingham county to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

Review of commissioner's orders, transcript, additional evidence, modification of findings.

(3) A transcript of the proceedings before the commissioner including all evidence taken and the findings and decision shall be filed with such petition. If any party of record shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact and decision or make new findings and decision by reason of the additional evidence so taken, and he shall file such modified or new findings and decision with the return of such additional evidence.

Injunction.

(4) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is in the interest of the public and that the findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

Preliminary notice of hearing; application for trade conference.

(5) The commissioner shall not proceed with any formal statement of charges or notice of hearing under subsection (1) of this section until he shall first have provided

such person sought to be charged, within 10 days' preliminary notice of the commissioner's proposed statement of charges or intention to call a hearing. Such preliminary proceedings shall be deemed to be privileged and shall not be subject to public inspection or announcement. Such person sought to be charged, may within 10 days after receipt of such notice make application for a trade conference as provided for in section 2047 unless the practice complained of has been previously defined as an unfair trade practice by published rule, regulation or standard as provided in section 2047. If such application is made by such person, it shall be the duty of the commissioner to call such a trade conference as provided in section 2047 to discuss the method of competition, act or practice which is the subject matter of the proposed charge; and the commissioner shall not proceed to any action under subsection (1) of this section until after such trade conference shall have been held.

HISTORY: New 1956, p. 532, Act 218, Eff. Jan. 1, 1957.

500.2045 Unfair methods of competition or deception; court review on petition of intervenor.

Sec. 2045. If the finding and decision of the commissioner referred to in section 2043 does not charge a violation of this uniform trade practices act, then any intervenor in the proceedings, as defined in section 2030, may within 15 days after the service of such report, cause a petition to be filed in the circuit court of Ingham county for a review of such finding and decision. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is in the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such finding and decision of the commissioner, constitutes a violation of this chapter.

HISTORY: New 1956, p. 533, Act 218, Eff. Jan. 1, 1957.

500.2047 Unfair methods of competition or deception; undefined practices; trade practice conferences, calling by insurance commissioner, purpose.

Sec. 2047. (1) Trade practice conferences for the purpose of dealing with such trade practices as are within the purview of this uniform trade practices act and not defined in sections 2005 through 2025, or for the purpose of establishing supplementary regulations and rules relating to trade practices defined in sections 2005 through 2025, may be authorized by the commissioner upon his own motion, or upon written application therefor by any insurer or person to whom rulings arising therefrom may be directly applicable, whenever such a conference may appear to the commissioner to be in the interest of the public.

Notice, recommendations, scope of conference.

(2) The commissioner shall give reasonable notice to such persons as he shall deem directly affected, or to their representatives, of the time and place of any such conference. Such notice shall set forth briefly the subject matter for consideration. Each such conference shall be presided over by the commissioner or a member of his staff designated by him. Any such trade practice conference may submit to the commissioner its recommendations as to rules, regulations or standards defining certain methods of competition, acts or practices as being fair or unfair, deceptive or not deceptive within the meaning of this act. The scope of such trade conference shall be limited to the phase of the insurance business directly represented by those persons or insurers notified by the commissioner or attending such conference upon notice from the commissioner.

Rules and regulations as to trade practices; notice.

(3) The commissioner shall give due consideration to the recommendations, or conclusions of any such trade practice conference which has acted under the authority of this section; and if he shall find that the same is in the public interest and does not, in

his opinion, sanction, aid or abet a practice contrary to law, he may accept such recommendations, or conclusions and promulgate them in the form of a rule, regulation or standard, enforceable under the provisions of this act, applicable thereto, until modified or rescinded as herein provided. Before any such rule, regulation or standard shall be promulgated, the commissioner shall advise all persons or insurers who would be directly affected thereby and shall give 30 days' notice in writing to such persons or insurers to file their objections, if any. Any rule, regulation or standard so arrived at shall be filed and shall become effective in accordance with the statutes of Michigan governing rules of administrative agencies.

Same; amendment, rescission, notice.

4 Trade practice rules, regulations or standards promulgated under this section may be amended or rescinded by the commissioner upon his own motion, or upon motion of any directly affected person or insurer, after the commissioner shall have given reasonable notice to the persons or insurers directly affected thereby, and after there has been a hearing, if requested by such affected persons or insurers, concerning such amendment or rescission: Provided, That such request is made in writing within 30 days after notice is given.

Construction of section.

5 This section shall not be construed as limiting any other provision of the insurance code.

HISTORY: New 1956, p. 533, Act 218, Eff. Jan. 1, 1957.

500.2049 Unfair methods of competition or deception; liability under other state laws.

Sec. 2049. No order of the commissioner under this uniform trade practices act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

HISTORY: New 1956, p. 534, Act 218, Eff. Jan. 1, 1957.

500.2050 Construction of chapter.

Sec. 2050. The enumeration in this uniform trade practices act of powers vested in the commissioner or of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review but the provisions of such act are in all respects cumulative of and supplemental to the insurance code and all other applicable Michigan statutes or common law.

HISTORY: New 1956, p. 534, Act 218, Eff. Jan. 1, 1957.

500.2055 Misrepresentation of insurer's financial condition, misdemeanor, penalty.

Sec. 2055. (1) If any insurance corporation organized or operating within this state shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted or circulated through and by the agency of any officer, agent or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such insurer is greater than its actual cash or market value, or shall represent the financial condition to be other than it actually is or was at the time of making such statement, every director or officer of such insurer guilty of any participation therein shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$100.00, or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment, in the discretion of the court.

Civil liability of officers and agents.

(2) If any such insurer, after such false advertisement, circular, notice or statement shall have been published, posted or circulated, shall receive any money, note or obligation for the payment of money, from any person, as a consideration for any insurance made or policy issued or to be issued by such insurer, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such insurer, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured for the amount of the insurance.

Forfeiture of chartered privileges; publication of true statement.

(3) Any such false advertisement, circular, notice or statement shall be sufficient ground for proceedings in any court of competent jurisdiction to forfeit the chartered privileges of such insurer, or for an order prohibiting the further transaction of business by it within this state: Provided, That no such forfeiture shall be declared on that ground solely, if it shall appear either that the publication was by mistake, or that the directors, officers or agents making the same have been dismissed from the service of such insurer, and that the insurer has published such true statement of its affairs as may have been directed by the commissioner, or such court.

Intentional violation, penalty.

(4) Any officer or agent guilty of any intentional violation of this section, or who aids or abets others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 534, Act 218, Eff. Jan. 1, 1957.

500.2057 Misrepresentation of insurer's identity prohibited.

Sec. 2057. (1) No insurer or department or general agency of an insurer, doing business in this state, or its officers or agents, shall issue any false or misleading advertisement through newspapers or other periodicals, or any false or misleading representations by signs, cards, letterheads, or other stationery, tending to conceal or misrepresent the true identity of the issuer or insurer which is carrying the liability under any policy issued in this state. Nor shall any insurer or department or general agency of an insurer, doing business in this state, issue any advertisement or representation of any character, giving the appearance of a separate or independent insuring organization on the part of any department or general agency, and the type or lettering used in any advertisement or representation shall set forth the name of the company or organization assuming the risk more conspicuously than that of any department or general agency.

Fire insurer's representative, advertisement of own business.

(2) Nothing herein contained shall be construed as limiting the right of any representative of a fire insurance company to advertise his own individual business.

Violation, penalty.

(3) Any violation of this section shall be punished by a fine not exceeding \$500.00, as a misdemeanor.

HISTORY: New 1956, p. 535, Act 218, Eff. Jan. 1, 1957.

500.2059 Unlicensed insurance office; use of insurer's name for noninsurance business prohibited.

Sec. 2059. No person shall maintain or operate any office in this state for the transaction of the business of insurance, except as provided for in this code, or use the name of any insurer, fictitious or otherwise, in conducting or advertising any business not re-

ated or connected with the business of insurance as governed by the provisions of this code.

HISTORY. New 1956, p. 535, Act 218, Eff. Jan. 1, 1957.

500.2062 False reports; forfeiture of franchise or right to do business.

Sec. 2062. (1) It shall be unlawful for any person in any report required by law to be made by any insurance corporation, organized or authorized to do business in this state, to make any such statement or report as to fraudulently conceal the real facts, and if intentionally so made shall, if the insurer is organized under the laws of this state, be cause of forfeiture of the corporate franchise, and if the insurer is organized under the laws of any other state or government, be cause for revocation of such insurer's authority to do business in this state by the commissioner, after hearing granted.

Officers or agents, penalty.

2 Any officer or agent guilty of any such fraudulent statement or of any intentional violation of this section, or who aids or abets others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY. New 1956, p. 535, Act 218, Eff. Jan. 1, 1957.

500.2064 Misrepresentation of terms of policy, future benefits or dividends prohibited.

Sec. 2064. (1) No insurer, or any officer, director, agent or solicitor thereof shall issue, circulate or use or cause or permit to be issued, circulated or used, any written or oral statement or circular misrepresenting the terms of any policy issued or to be issued by such insurer, or misrepresenting the benefits or privileges promised under any such policy, or estimating the future dividends payable under any such policy.

Twisting.

2 No insurer, officer, director, agent or solicitor, or any person, firm, association or corporation, shall make any misrepresentation or incomplete comparison of policies, oral, written or otherwise, to any person insured in any insurer for the purpose of inducing or tending to induce such person to take out a policy of insurance or for the purpose of inducing or tending to induce a policyholder in any insurer to lapse, forfeit or surrender his insurance therein, and to take out a policy of insurance in another like insurer.

Violation; license, revocation, reissuance.

3 Upon satisfactory evidence of any violation of the provisions of this section by any insurer, its officers, solicitors or agents, or any insurance broker, the commissioner shall forthwith revoke the certificate of authority or license of such insurer, its officers, solicitors or agents, after following the procedures provided for in section 2068, and no certificate of authority or license shall be issued to such insurer, officers, agents or solicitors, within 1 year from the date of such revocation.

Same; penalty.

4 Violations of this section shall also be subject to the penalties provided for in section 2069.

HISTORY. New 1956, p. 536, Act 218, Eff. Jan. 1, 1957.

500.2066 Rebates and illegal inducements prohibited.

Sec. 2066. (1) No insurer, by itself or any other party, and no insurance agent or solicitor, personally or by any other party, transacting any kind of insurance business shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy or on any policy, or agent's commission

thereon, or earnings, profit, dividends or other benefit founded, arising, accruing or to accrue thereon, or therefrom, or any other valuable consideration or inducement to or for insurance, on any risk in this state now or hereafter to be written, which is not specified in the contract of insurance; nor shall any such insurer, agent or solicitor, personally or otherwise, offer, promise, give, sell, or purchase any stocks, bonds, securities or any dividend or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith which is not specified in the policy contract.

Violation; license, revocation, reissuance.

(2) Upon satisfactory evidence of the violation of this section by any insurer, its officers, solicitors or agents, or any insurance broker, the commissioner shall revoke the license or certificate of authority of such offending insurer, its officers, solicitors or agents, after following the procedures provided for in section 2068; and no license or certificate of authority shall be issued to such insurer, officers, agents, solicitors or brokers, within 1 year from the date of such revocation.

Same; penalty.

(3) Violations of this section shall also be subject to the penalties provided for in section 2069.

HISTORY: New 1956, p. 536, Act 218, Eff. Jan. 1, 1957.

500.2068 Revocation of license or certificate; notice, hearing, order.

Sec. 2068. (1) Before any such license or certificate is revoked, as provided in sections 2064 and 2066 hereof, the commissioner shall notify the holder thereof in writing of the complaint against him, and require such person on a date named, not less than 15 days after service of said notice, to appear for a hearing before him at the insurance department, and such certificate shall not be revoked until after a full hearing or an opportunity therefor has been granted as herein provided; and no such revocation shall take effect until 10 days after such order has been made by the commissioner and the holder thereof notified in writing of such action.

Order of revocation, review by supreme court.

(2) Any such order may be reviewed by the supreme court if the appeal for such review is taken within the 10 days immediately following the giving of the notice of the making of said order, and pending such appeal for review, such license or certificate of authority shall be deemed to be in full force and effect and until the final determination of such appeal, but in case the order of revocation by the commissioner is sustained the period of such revocation shall date from the time such appeal is determined.

HISTORY: New 1956, p. 537, Act 218, Eff. Jan. 1, 1957.

500.2069 Violation of sections; misdemeanor, penalty.

Sec. 2069. Any insurer, agent, solicitor, or any person, firm, association or corporation, violating any of the provisions of sections 2064 and 2066 shall be guilty of a misdemeanor, and upon conviction thereof the offender or offenders shall be sentenced to pay a fine of not more than \$100.00 for each and every violation or in the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed.

HISTORY: New 1956, p. 537, Act 218, Eff. Jan. 1, 1957.

500.2070 Acceptance of rebate or illegal inducement prohibited.

Sec. 2070. (1) No insured person or party shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's or broker's commission thereon, payable on the policy, or on any policy of insurance, or any favor or

advantage or share in the dividend or other benefit to accrue thereon, or any valuable consideration or inducement, not specified in the policy contract of insurance.

Reduction of insurance, penalty.

2 The amount of the insurance whereon the insured has knowingly received or accepted, either directly or indirectly any rebate of the premium or agent's, solicitor's or broker's commission thereon, shall be reduced in such proportion as the amount or value of such rebate, commission, dividend, or other consideration so received by the insured bears to the total premium on such policy, and any person insured, in addition to having the insurance reduced, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than \$100.00.

RESTATEMENT, New 1956, p. 537, Act 218, Eff. Jan. 1, 1957.

500.2074 Political contributions by insurers prohibited.

Sec. 2074. (1) No insurer doing business in this state shall, directly or indirectly, pay, use, or offer, consent or agree to pay or use any money or property for or in aid of any political parties, committee or organization, or for or in aid of any corporation, union stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office or for nomination for such office, or for the purpose of influencing or affecting the vote on any question submitted to the voters, other than one materially affecting any of the property, business or assets of such insurer, or for any political purpose, whatsoever, or for the reimbursement or indemnification of any person for money or property so used, notwithstanding the provisions of section 14 of chapter 2 of part 5 of Act No. 351 of the Public Acts of 1925, being section 196.14 of the Compiled Laws of 1948.

Violation, penalty, liability for illegal contribution.

2 Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violation and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor and be punished by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both such fine and imprisonment in the discretion of the court; and any officer aiding or abetting in any contribution made in violation of this section shall be liable to the insurer for the amount so contributed.

RESTATEMENT, New 1956, p. 537, Act 218, Eff. Jan. 1, 1957.

500.2075 Fire, marine or inland insurer's contract in restraint of competition prohibited.

Sec. 2075. (1) No fire, fire and marine, or marine and inland insurance insurer not organized under the laws of this state, but doing business therein, shall either directly or indirectly enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with any other insurer, the object or effect of which is to prevent open and free competition between it and said insurer, or between the agents of their respective insurers in the business transacted in this state, or in any part thereof.

Same; agent's participation prohibited.

2 It shall not be lawful for the agent of any fire, fire and marine, or marine and inland insurance insurer not organized under the laws of this state, but doing business therein, to enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with the agent of any other such insurer, the object or effect of which is to prevent free and open competition between the insurers represented by said agents in the business transacted in this state, or in any part thereof.

Same; cooperation by others prohibited.

3 No person or persons as agent, solicitor, broker, surveyor, or in any other capacity shall transact or aid in any manner, directly or indirectly, in transacting or solicit-

ing within this state, business for any fire, fire and marine or marine and inland insurance company or association not incorporated by the laws of this state, or in any other capacity to procure or assist to procure a fire or inland marine policy or policies of insurance in any company or association which is violating the provisions of this section, or whose agent or agents are violating the provisions of subsection (2) hereof.

HISTORY: New 1956, p. 538, Act 218, Eff. Jan. 1, 1957.

500.2077 Creditors; favoritism of insurer prohibited; construction of section, violation, penalty.

Sec. 2077. (1) No person shall require, as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person, to whom such money or credit is extended or whose obligation the creditor is to acquire or finance, negotiate any policy or contract of insurance through a particular insurance agent or with a particular insurer. No person engaged in the business of financing real or personal property other than motor vehicles or of lending money or extending credit, shall directly or indirectly require that the borrower pay a consideration of any kind to substitute the insurance policy of 1 insurer for that of another.

(2) If an instrument requires that a purchaser, mortgagor or borrower furnish insurance of any kind on real property being conveyed or which is collateral security to a loan, the vendor, mortgagee or lender shall refrain from using or disclosing any such information to his own advantage or to the detriment of the purchaser, mortgagor, borrower, insurance company or agency complying with such requirement.

(3) This section shall not be construed as forbidding the vendor or creditor from exercising a reasonable right to approve or disapprove the insurance selected by the debtor for protection of the property securing the credit or lien, but the vendor or creditor shall not disapprove a policy which contains coverages in excess of the basic coverage required by the vendor or creditor.

(4) Nothing in this section shall forbid any insurer from requiring as a condition precedent for the lending of its own funds that the debtor insure his own life for a reasonable amount with such insurer.

(5) Each violation of this section shall be a misdemeanor, punishable by a fine of not more than \$100.00.

HISTORY: New 1956, p. 538, Act 218, Eff. Jan. 1, 1957;—Am. 1961, p. 219, Act 153, Eff. Sep. 8;—Am. 1962, p. 78, Act 89, Eff. Mar. 28, 1963.

500.2078 Agreements as to placements of insurance; regulations.

Sec. 2078. Except as contained in the policy and the usual agreement for other insurance, no insurance company, insurer, corporation, partnership, or individual shall make any contract or agreement with any person insured or to be insured that the whole or any part of any insurance which is subject to the provisions of chapter 26 of this code (fire and inland marine rates), shall be placed by any particular corporation, partnership, or individual, or be written by any particular company, insurer, agent or any group of companies, insurers or agents. Any contracts made in contravention of this section, shall be null and void.

HISTORY: New 1956, p. 538, Act 218, Eff. Jan. 1, 1957.

500.2080 Funeral establishments; ownership by life or accident insurers prohibited.

Sec. 2080. (1) It shall be unlawful for any life or accident insurer authorized to do business in this state to own, manage, supervise, operate or maintain a mortuary or undertaking establishment, or to permit its officers, agents or employees to own or maintain any such funeral or undertaking establishment.

Life, sick or funeral benefit insurer, contracts as to insured's funeral prohibited.

2: It shall be unlawful for any life insurance, sick or funeral benefit company, or any company, corporation or association engaged in a similar business to contract or agree with any funeral director, undertaker or mortuary to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such company, corporation or association.

Licenses as insurance agent, solicitor or salesman not held by funeral directors, undertakers, or morticians or officers or employees.

3: It shall be unlawful for any funeral director, undertaker, or mortuary, or any agent, officer or employee thereof to be licensed as agent, solicitor or salesman for any life insurance company, corporation or association doing business in this state.

Funeral establishment personnel not to be beneficiaries in life or accident policies in return for services.

4: It shall be unlawful to designate any funeral establishment, funeral director or any person interested in or connected with any funeral establishment or director as the beneficiary in any policy of life or accident insurance whereby the said beneficiary shall, in return for all or a part of the proceeds of such policy of insurance, furnish funeral services or merchandise in connection therewith.

Payments to insured under policy to be in money.

5: It shall be unlawful for any life or accident, or sick or funeral benefit company, or any person, company, corporation or association, to offer or furnish goods or services or anything but money to its insureds or to his or her heirs, representatives, attorneys, relatives, associates or assigns in any connection with, or by way of encumbrance, assignment, payment, settlement, satisfaction, discharge or release of any insurance policy: Provided, That this subsection shall not prohibit any company, corporation or association from furnishing medical, surgical or hospital service.

Violation, penalty.

6: Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and each violation thereof shall be a separate offense and upon conviction shall be punished by a fine not exceeding \$1,000.00 or by imprisonment for not more than 6 months, or both such fine and imprisonment within the discretion of the courts.

HISTORY. New 1956, p. 539, Act 218, Eff. Jan. 1, 1957.

500.2082 Racial discrimination by life insurers prohibited.

Sec. 2082. (1) No life insurer doing business in this state shall make any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; nor shall any such insurer demand or require a greater premium from such colored persons than is at that time required by such insurer from white persons of the same age, sex, general condition of health and prospect of longevity; nor make or require any rebate, diminution or discount upon the amount to be paid on such policy in case of death of such colored person insured; nor insert in the policy any condition, nor make any stipulation whereby such person insured shall bind himself or his heirs, executors, administrators and assigns to accept any sum less than the full amount or value of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed on white persons in similar cases; and any such stipulations or conditions so made or inserted shall be void.

Violation, penalty on insurer, officer or agent.

(2) Any insurer which violates any of the provisions of this section shall forfeit to the state the sum of \$500.00 for each violation, to be recovered by the attorney general by appropriate action in any court of competent jurisdiction, and any judgment therefor may be collected in the same manner as is herein provided for collecting judgments rendered in favor of policyholders. And any officer or agent who violates any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding 1 year, or by a fine of not less than \$50.00, and not exceeding \$500.00, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 539, Act 218, Eff. Jan. 1, 1957.

500.2086 False report by physician as to life or casualty insurance applicant; penalty, civil liability to insurer.

Sec. 2086. Any physician who, as medical examiner for any life or casualty insurer, or as the reference of, or medical examiner for any person seeking insurance therein, shall knowingly make any false statement or report to the insurer, or any officer thereof, concerning the bodily health or condition of any applicant for insurance, or concerning any other matter or thing which might affect the propriety or prudence of granting such insurance, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding \$1,000.00, or to imprisonment in the county jail not exceeding 3 months, in the discretion of the court. And such physician shall also be liable to the insurer in an action on the case for the full amount of any insurance obtained from such insurer by means or through the assistance of such false statement or report.

HISTORY: New 1956, p. 540, Act 218, Eff. Jan. 1, 1957.

500.2088 False report by physician; claim for death, sickness or disability benefits, penalty.

Sec. 2088. Any agent, collector, physician, insured or other person who shall make, present or cause to be presented to any insurer any false, dishonest or fraudulent certificate or report of death, sickness or disability of any kind or nature, or any false, dishonest or fraudulent claim for any death, sickness or disability benefit, or claim for payment to or against any such insurer, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding \$1,000.00, or to imprisonment in the county jail not exceeding 3 months, in the discretion of the court.

HISTORY: New 1956, p. 540, Act 218, Eff. Jan. 1, 1957.

500.2091 Unlawful advertising; notice to supervisory official.

Sec. 2091. No unauthorized foreign or alien insurer shall make, issue, circulate or cause to be made, issued or circulated to residents of this state any estimate, illustration, circular, pamphlet or letter, or cause to be made in any newspaper, magazine or other publication, or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of sections 2001 to 2050 of this act, and whenever the commissioner has reason to believe that any such insurer is engaging in unlawful advertising, he shall give notice of such fact by certified mail to the insurer and to the insurance supervisory official of the domiciliary state of the insurer. For the purpose of this section, the domiciliary state of an alien insurer is the state of entry or the state of the principal office in the United States.

HISTORY: Add. 1961, p. 21, Act 20, Eff. Sep. 8.

500.2092 Unlawful advertising; failure to cease and desist, procedure.

Sec. 2092. If after 30 days following the giving of the notice mentioned in section 2091 the insurer has failed to cease making, issuing or circulating such false misrepresentations or causing the same to be made, issued or circulated in this state, and if the commissioner has reason to believe that a proceeding by him in respect to such matters would be to the interest of the public, and that the insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in section 2093, he shall take action against the insurer under the provisions of sections 2001 to 2050 of this act.

HISTORY: Add. 1961, p. 22, Act 20, Eff. Sep. 8.

500.2093 Enforcement of act against foreign or alien insurer; procedure.

Sec. 2093. (a) Any of the following acts in this state, effected by mail or otherwise, by any unauthorized foreign or alien insurer: (1) the issuance or delivery of contracts of insurance to residents of this state, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of insurance business, is equivalent to and shall constitute an appointment by the insurer of the commissioner to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth in section 2091 under the provisions of sections 2001 to 2050, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices or process is of the same legal force and validity as personal service of the statement of charges, notices or process in this state, upon the insurer.

b. Service of a statement of charges and notices under sections 2001 to 2050 shall be made by any deputy or employee of the department delivering to and leaving with the commissioner, or some person in apparent charge of his office, 2 copies thereof. Service of process issued by any court in any action, suit or proceeding to collect any penalty provided under sections 2001 to 2050, shall be made by delivering and leaving with the commissioner, or some person in apparent charge of his office, 2 copies thereof. The commissioner shall forthwith cause to be mailed by certified mail 1 of the copies of the statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statement of charges, notices and process so served. The service of statement of charges, notices or process shall be sufficient if they have been so mailed and the defendant's receipt, or receipt issued by the post office with which the letter is certified, or showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the letter showing a compliance herewith are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which the action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.

c. Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in subsection (b) of this section be valid if served upon any person within this state who on behalf of such insurer is:

1. Soliciting insurance, or
2. Making, issuing or delivering any contract of insurance, or
3. Collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices or process is sent within 10 days thereafter by certified mail by or on behalf of the commissioner to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt is-

sued by the post office with which the letter is certified, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

(d) No cease or desist order or judgment by default or a judgment pro confesso under this section shall be entered until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(e) Service of process and notice under the provisions of this act shall be in addition to all other methods of service provided by law, and nothing in this section shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law.

HISTORY: Add. 1961, p. 22, Act 20, Eff. Sep. 8.

CHAPTER 22.

THE INSURANCE CONTRACT.

500.2205 Minors' contracts for insurance; authorization.

Sec. 2205. All contracts for life or disability insurance made by any person between the ages of 16 and 21 years for the benefit of such minor, or for the benefit of his father, mother, husband, wife, child, brother or sister, or for the surrender of such insurance, or for the discharge of any money payable or benefit accruing thereunder, shall be allowed to be good and of the same force and effect as though said minor had attained his majority at the time of making such contract: Provided, That this section shall not have the effect of making a promissory note or other evidence of indebtedness given by such minor in payment of premium or premiums on such contracts for insurance valid, either in the hands of the original owner or subsequent purchaser thereof.

HISTORY: New 1956, p. 540, Act 218, Eff. Jan. 1, 1957.

500.2206 Minors capacity to receive insurance benefits; limitations.

Sec. 2206. Any minor domiciled in this state who has attained the age of 18 years shall be deemed competent to receive, and to give a full acquittance and discharge for, a single payment in an amount not exceeding \$2,000.00, or periodical payments in an amount not exceeding \$2,000.00 in any one year, made by a life insurance company or fraternal benefit society as benefits payable upon the death of the insured or maturity of an endowment benefit in compliance with the provisions of a life insurance contract or settlement agreement, if the contract or agreement specifically provides for payments direct to the minor; but no minor shall be deemed competent to alienate the right to the payments or to anticipate the same.

HISTORY: Add. 1957, p. 102, Act 91, Eff. Sep. 27;—Am. 1964, p. 116, Act 118, Eff. Aug. 28.

500.2207 Insurable interest; personal insurance; rights of beneficiaries, creditors.

Sec. 2207. (1) It shall be lawful for any husband to insure his life for the benefit of his wife, and for any father to insure his life for the benefit of his children, or of any one or more of them; and in case that any money shall become payable under the insurance, the same shall be payable to the person or persons for whose benefit the insurance was procured, his, her or their representatives or assigns, for his, her or their own use and benefit, free from all claims of the representatives of such husband or father, or of any of his creditors; and any married woman, either in her own name or in the name of any third person as her trustee, may cause to be insured the life of her

husband, or of any other person, for any definite period, or for the term of life, and the moneys that may become payable on the contract of insurance, shall be payable to her, her representatives or assigns, free from the claims of the representatives of the husband, or of such other person insured, or of any of his creditors; and in any contract of insurance, it shall be lawful to provide that on the decease of the person or persons for whose benefit it is obtained, before the sum insured shall become payable, the benefit thereof shall accrue to any other person or persons designated; and such other person or persons shall, on the happening of such contingency, succeed to all the rights and benefits of the deceased beneficiary or beneficiaries of the policy of insurance, notwithstanding he, she or they may not at the time have any such insurable interest as would have enabled him, her or them to obtain a new insurance; and the proceeds of any policy of life or endowment insurance, which is payable to the wife, husband or children of the insured or to a trustee for the benefit of the wife, husband or children of the insured, including the cash value thereof, shall be exempt from execution or liability to any creditor of the insured; and said exemption shall apply to insurance heretofore or hereafter issued; and shall apply to insurance payable to the above enumerated persons or classes of persons, whether they shall have become entitled thereto as originally designated beneficiaries, by beneficiary designation subsequent to the issuance of the policy, or by assignment (except in case of transfer with intent to defraud creditors).

2. If a policy of insurance, or contract of annuity (whether heretofore or hereafter issued) is effected by any person on his own life or on another life in favor of a person other than himself, or (except in cases of transfer with intent to defraud creditors) if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof (other than the insured or the person so effecting such insurance, or his executors or administrators) shall be entitled to the proceeds and avails (including the cash value thereof) against the creditors and representatives of the insured and of the person effecting the same, (whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable in the event that the beneficiary or assignee shall predecease such person, to the person whose life is insured or the person effecting the insurance): Provided, That, subject to the statute of limitations, the amount of any premiums for said insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy: Provided further, That proof that such transfer was made and a particular debt or claim existed at the time of such transfer shall be prima facie evidence of intent to defraud said creditor as to said debt or claim; but the company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the company shall have written notice at its home office, by or in behalf of a creditor of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specification of the amount claimed.

HISTORY. New 1956, p. 540, Act 218, Eff. Jan. 1, 1957.

500.2209 Insurable interest; married woman; right to proceeds, devise.

Sec. 2209. (1) It shall be lawful for any married woman, by herself, and in her name or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband or the life of any other person, in any life insurance company of any nature whatever, located in either of the states of the United States of America or in Great Britain, for any definite period, or for the term of his natural life; and in case of her surviving her husband, or such other person insured in her behalf, the sum or net amount of the policy of insurance due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the

claims of the representatives of her husband, or of such other person insured, or of any of his creditors, but such exemption shall not apply where the amount of premium annually paid shall exceed the sum of \$300.00.

(2) In case of the death of the wife before the decease of her husband, or of such other person insured, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament.

HISTORY: New 1956, p. 541, Act 218, Eff. Jan. 1, 1957.

500.2214 Disability insurance; application, use as evidence.

Sec. 2214. The insured shall not be bound by any statement made in an application for a disability insurance policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make a written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

HISTORY: New 1956, p. 542, Act 218, Eff. Jan. 1, 1957.

500.2216 Life or disability insurance; alteration of application.

Sec. 2216. No alteration of any written application for any life or disability insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

HISTORY: New 1956, p. 542, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 102, Act 91, Eff. Sep. 27.

500.2218 Disability insurance; false statement in application.

Sec. 2218. The falsity of any statement in the application for any disability insurance policy covered by chapter 34 of this code may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

Material misrepresentation; refusal to insure.

(1) No misrepresentation shall avoid any contract of insurance or defeat recovery thereunder unless the misrepresentation was material. No misrepresentation shall be deemed material unless knowledge by the insurer of the facts misrepresented would have led to a refusal by the insurer to make the contract.

Definitions, representation, misrepresentation.

(2) A representation is a statement as to past or present fact, made to the insurer by or by the authority of the applicant for insurance or the prospective insured, at or before the making of the insurance contract as an inducement to the making thereof. A misrepresentation is a false representation, and the facts misrepresented are those facts which make the representation false.

Materiality, evidence, practice of insurer.

(3) In determining the question of materiality, evidence of the practice of the insurer which made the contract with respect to the acceptance or rejection of similar risks shall be admissible.

Misrepresentation by applicant for life, accident or health insurance as to previous treatment or care.

(4) A misrepresentation that an applicant for life, accident or health insurance has not had previous medical treatment, consultation or observation, or has not had previous treatment or care in a hospital or other like institution, shall be deemed, for the purpose of determining its materiality, a misrepresentation that the applicant has not had the disease, ailment or other medical impairment for which such treatment or care was given or which was discovered by any licensed medical practitioner as a result of such consultation or observation. If in any action to rescind any contract or to recover thereon, any misrepresentation is proved by the insurer, and the insured or any other person having or claiming a right under the contract, shall prevent full disclosure and proof of the nature of the medical impairment, the misrepresentation shall be presumed to have been material.

HISTORY. New 1956, p. 542, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 102, Act 91, Eff. Sep. 27.

500.2220 Life insurance; solicitor as agent of insurer.

Sec. 2220. Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, be regarded as the agent of the insurer and not the agent of the insured.

HISTORY. New 1956, p. 542, Act 218, Eff. Jan. 1, 1957.

500.2226 Life insurance; content of policy, benefits, manner of payment, premiums.

Sec. 2226. (1) No life insurer shall make with or issue to any citizen or resident of this state, any contract of life insurance which shall not distinctly state therein the amount of such life benefits, the manner of payment, the period of the continuance thereof, and the amount of the annual, semi-annual or quarterly premium, or by which the payment of the life benefit assured shall be contingent upon the payment of assessments made upon surviving members; nor except in accordance with, and under the conditions and restrictions of, the statutes now or hereafter regulating the business of life insurance.

Entire policy.

(2) Every policy of life insurance hereafter issued or delivered within this state by any life insurer doing business within this state shall contain the entire contract between the parties. And nothing shall be incorporated therein by reference to any constitution, bylaws, rules, application or other writing unless the same are endorsed upon or attached to the policy when issued.

Standard provisions.

(3) For standard provisions required in life insurance contracts see chapters 40 (life and annuities), 42 (industrial life), and 44 (group life).

HISTORY. New 1956, p. 542, Act 218, Eff. Jan. 1, 1957.

500.2228 Automobile insurance; contents of policy.

Sec. 2228. (1) No policy of insurance against fire, theft, property damage, collision, and/or liability in connection with automobile coverage shall be issued, unless the premium and amount of coverage is stated in the policy.

(2) For other provisions required in such policies, see chapter 30 of this code (casualty insurance contracts).

HISTORY. New 1956, p. 543, Act 218, Eff. Jan. 1, 1957.

500.2230 Mutual insurers other than life; contents of policy.

Sec. 2230. Mutual insurers, other than life insurers, may insert in any form of policy prescribed by the law of this state any provisions or conditions required by its plan of

insurance, which are not inconsistent or in conflict with any law of this state. Such policy, in lieu of conforming to the language and form prescribed by such law, may conform thereto in substance, if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law, and a copy of such policy and endorsement, if any, shall have been first filed with and shall not have been disapproved by the commissioner.

HISTORY: New 1956, p. 543, Act 218, Eff. Jan. 1, 1957.

500.2232 Reciprocal insurers; contents of policy.

Sec. 2232. A reciprocal insurer may insert in any form of policy prescribed by the law of this state any provisions or conditions required by its plan of insurance which are not inconsistent or in conflict with the law of this state. Such policy, in lieu of conforming to the language and form prescribed by such law, shall be held to conform thereto in substance if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law.

HISTORY: New 1956, p. 543, Act 218, Eff. Jan. 1, 1957.

500.2236 Form filing; approval by commissioner, type size.

Sec. 2236. (1) No basic insurance policy form or annuity contract form shall be issued or delivered to any person in this state, and no application form where a written application is required and is to be made a part of such policy or contract, no printed rider or indorsement form or form of renewal certificate, and no group certificate in connection with any such policy or contract, shall be issued or delivered to any person in this state, until a copy of the form thereof is filed with the department of insurance and approved by the commissioner as conforming with the requirements of this code and not inconsistent with the law. Failure of the commissioner to act within 30 days after submittal shall constitute approval. All such forms, except policies of disability insurance as defined in section 3400 shall be plainly printed with type size not less than 8-point unless the commissioner determines that such portions of any such form printed with type less than 8-point is not deceptive or misleading.

(2) An insurer may satisfy its obligations to make form filings by becoming a member of, or a subscriber to, a rating organization, licensed under section 2436 or 2630, which makes such filings and by filing with the commissioner a copy of its authorization of the rating organization to make the filings on its behalf. Every member of or subscriber to a rating organization shall adhere to the form filings made on its behalf by the organization except that any insurer may file with the commissioner a substitute form, and thereafter if a subsequent form filing by the rating organization affects the use of the substitute form, the insurer shall review its use and notify the commissioner to withdraw its substitute form.

(3) Upon written notice to the insurer, the commissioner may disapprove, withdraw approval or prohibit the issuance, advertising or delivery of any form to any person in this state if it violates any provisions of this code, or contains inconsistent, ambiguous or misleading clauses, or contains exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policy. The notice shall specify the objectionable provisions or conditions and state the reasons for the commissioner's decision. If the form is legally in use by the insurer in this state, the notice shall give the effective date of the commissioner's disapproval, which shall not be less than 30 days subsequent to the mailing or delivery of such notice to the insurer. If the form is not legally in use, then disapproval shall be effective forthwith.

(4) Whenever a form is disapproved, or approval is withdrawn under the provisions of this code, the insurer shall be entitled upon demand to a hearing before the commissioner or a deputy commissioner within 30 days of notice of disapproval or of with-

drawal of approval; and after the hearing, the commissioner shall make findings of fact and law, and either affirm, modify or withdraw his original order or decision.

5) Any issuance, use or delivery by an insurer of any form without the prior approval of the commissioner as required by subsection (1) or after withdrawal of approval as provided by subsection (3) constitutes a separate violation for which the commissioner may order the imposition of a civil penalty of \$25.00 for each offense, but not to exceed the maximum penalty of \$500.00 for any 1 series of offenses relating to any 1 basic policy form, which penalty may be recovered by the attorney general as provided in section 230.

6) The filing requirements of this section shall not apply to:

- (a) Insurance against loss of or damage to:
 - i) Imports, exports or domestic shipments.
 - ii) Bridges, tunnels or other instrumentalities of transportation and communication.
 - iii) Aircraft and attached equipment.
 - iv) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.
- b) Insurance against loss resulting from liability, other than workmen's compensation or employers' liability arising out of the ownership, maintenance or use of:
 - i) Imports, exports or domestic shipments.
 - ii) Aircraft and attached equipment.
 - iii) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.
- (c) Surety bonds other than fidelity bonds.
- (d) Policies, riders, indorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder or certificate holder. The commissioner by order may exempt from the filing requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in the order to which this section practically may not be applied, or the filing and approval of which are not desirable or necessary for the protection of the public.

7) Every order made by the commissioner under the provisions of this section shall be subject to court review as provided in section 244.

HISTORY: New 1956, p. 543, Act 216, Eff. Jan. 1, 1957;—Am. 1963, p. 57, Act 53, Eff. Sep. 6;—Am. 1970, p. 537, Act 180, Imd. Eff. Aug. 3.

500.2237 Group disability insurance policy; prohibited restriction of liability.

Sec. 2237. No policy of insurance issued under the provisions of chapters 34 and 36 of this act, to take effect after June 30, 1962, shall contain any provision restricting the liability of the insurer with respect to expenses, for which payment would be legally required in the absence of insurance, on the ground that such expenses were incurred while the person insured is in a hospital, institution or other facility operated by the state or a political subdivision thereof.

HISTORY: Add. 1961, p. 170, Act 133, Eff. Sep. 8.

500.2238 Repealed. 1970, p. 542, Act 180, Imd. Eff. Aug. 3.

Section related to basic form of policy of insurance of personal property.

500.2242 Group disability policy; approval of form.

Sec. 2242. (1) No group disability policy may be issued or delivered in this state unless a copy of the form has been filed with the commissioner and approved by him.

Grounds for disapproval.

(2) The commissioner may within 30 days after the filing of any disability insurance policy form applicable to individual or family expense coverage, disapprove such form: (a), if the benefits provided therein are unreasonable in relation to the premium charged, or (b), if it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy, or (c), if it does not comply with other provisions of law; subject to the requirements as to notice, hearing and appeal set forth in sections 2236 and 244.

Withdrawal of approval, notice, hearing, appeal.

(3) The commissioner may at any time withdraw his approval of any such individual or family expense policy form on any of the grounds stated in subsection (2) above, subject to the requirements as to notice, hearing, and appeal set forth in sections 2236 and 244. It shall be unlawful for the insurer to issue such form after the effective date of such withdrawal of approval.

HISTORY: New 1956, p. 544, Act 218, Eff. Jan. 1, 1957.

500.2243 Group policies; optometric service, coverage.

Sec. 2243. (1) Notwithstanding any provision of a policy or contract of group accident, group health or group accident and health insurance, executed subsequently to the effective date of this provision, whenever such policy or contract provides for reimbursement for any optometric service which is within the lawful scope of practice of a duly licensed optometrist, a subscriber to such group accident, group health or group accident and group health insurance policy or contract shall be entitled to reimbursement for such service, whether the said service is performed by a physician or a duly licensed optometrist. Unless such policy or contract of group accident, or group health or group accident and health insurance shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, spectacles, eyeglasses or appurtenances.

(2) Whenever a subscriber contract shall provide for an offer optometric services, the subscriber shall have freedom of choice to select either a physician or an optometrist to render such services. Unless such subscriber contract shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, spectacles, eyeglasses or appurtenances.

HISTORY: Add. 1965, p. 691, Act 349, Imd. Eff. Jul. 23.

500.2248 Automobile insurance; delivery of policy to insured.

Sec. 2248. No policy of insurance against fire, theft, property damage, collision, and/or liability in connection with automobile coverage shall be issued unless the policy, or an exact copy thereof, be delivered to the insured.

HISTORY: New 1956, p. 544, Act 218, Eff. Jan. 1, 1957.

500.2254 Action against domestic insurer by member or beneficiary; conditions.

Sec. 2254. Suits at law may be prosecuted and maintained by any member against a domestic insurance corporation for claims which may have accrued if payments are withheld more than 60 days after such claims shall have become due. No article, bylaw, resolution or policy provision adopted by any life, disability, surety, or casualty insurance company doing business in this state prohibiting a member or beneficiary from commencing and maintaining suits at law or in equity against such company shall be valid and no such article, bylaw, provision or resolution shall hereafter be a bar to any suit in any court in this state: Provided, however, That any reasonable remedy for adjudicating claims established by such company or companies shall first be exhausted by the claimant before commencing suit: Provided further, however, That the company shall finally pass upon any claim submitted to it within a period of 6 months from

and after final proofs of loss or death shall have been furnished any such company by the claimant.

HISTORY: New 1956, p. 544, Act 218, Eff. Jan. 1, 1957.

500.2260 Life or disability insurance; acts not constituting waiver of defenses.

Sec. 2260. The acknowledgement by any insurer of the receipt of notice given under any life or disability insurance policy or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

HISTORY: New 1956, p. 544, Act 218, Eff. Jan. 1, 1957.

500.2264 Termination of dependent coverage at specified age; exception.

Sec. 2264. Any contract or insurance policy hereinafter delivered in this state providing for hospital care or reimbursement for such care of the policyholders and dependents which provides for termination of dependent coverage at a specified age shall not apply to an unmarried child of the policyholder who is incapable of self-support due to mental retardation or physical handicap, and who is dependent upon such policyholder for support and maintenance, if the policyholder submits satisfactory proof of such dependent's incapacity to the insurance carrier not later than 31 days after the attainment of the age limit by such dependent child.

HISTORY: Add. 1966, p. 397, Act 274, Imd. Eff. Jul. 19.

CHAPTER 24.

CASUALTY INSURANCE RATES.

500.2400 Purpose of chapter; construction.

Sec. 2400. The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate co-operative action among insurers in rate making and in other matters within the scope of the insurance code. Nothing in this chapter is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

HISTORY: New 1956, p. 545, Act 218, Eff. Jan. 1, 1957.

500.2401 Scope of chapter.

Sec. 2401. (1) This chapter applies to the following kinds of insurance or coverages or risks or operations in this state:

- a. Casualty insurance, as defined in section 624, except as to livestock insurance.
- b. Surety and fidelity.
- c. Automobile insurance, as defined or included under the following sections:
 - i. 624 (general definition of casualty insurance);
 - ii. 6006 (insuring powers of domestic special automobile insurers (stock));
 - iii. 6014 (insuring powers of domestic special automobile insurers (mutual));
 - iv. 5814 (insuring powers of domestic general mutual insurers);
 - v. 7202 (insuring powers of reciprocal insurers);
 - vi. 620 (automobile insurance (limited) defined);
 - vii. 614 (marine insurance defined);
 - viii. 5814, subdivision (1) (definition of "fire insurance" in insuring powers of domestic general mutual insurers).

(d) When transacted by general mutual insurers, to the following insurances as defined in section 5814:

- (i) Liability;
- (ii) Steam boiler;
- (iii) Use and occupancy;
- (iv) Miscellaneous.

(e) To all insurances transacted by a reciprocal insurer pursuant to section 7202 (insuring powers of reciprocal insurers).

(f) Personal property floaters.

(g) Title insurance.

(2) Except, that this chapter shall not apply to:

(a) Reinsurance, other than joint reinsurance to the extent stated in section 2464;

(b) Disability insurance;

(c) Insurance against loss of or damage to aircraft or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft.

(3) The provisions of this chapter shall apply to all classes of insurers admitted to do business in this state, including stock, mutual, reciprocal and interinsurers authorized to write any of the kinds of insurance to which this chapter applies under any section of this insurance code.

(4) If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this chapter, is also subject to regulation by another rate regulatory chapter of this code, an insurer to which both chapter 24 and chapter 26 are otherwise applicable shall file with the commissioner, a designation as to which rate regulatory chapter shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

HISTORY: New 1956, p. 545, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 262, Act 221, Imd. Eff. Jul. 11.

500.2403 Casualty insurance rates; factors, standards, uniformity.

Sec. 2403. (1) All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, to underwriting practice, judgment, and to all other relevant factors within and outside this state.

(b) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which measure variations in hazards or expense provisions, or both. Such rating plans may measure any differences among risks that may have a probable effect upon losses or expenses as provided for in subdivision (a).

(d) Rates shall not be excessive, inadequate or unfairly discriminatory. A rate shall not be held to be excessive unless the rate is unreasonably high for the insurance coverage provided and a reasonable degree of competition does not exist with respect to the classification, kind or type of risks to which the rate is applicable. A rate shall not

be held to be inadequate unless the rate is unreasonably low for the insurance coverage provided and the continued use of the rate endangers the solvency of the insurer; or unless the rate is unreasonably low for the insurance provided and the use of the rate has or will have the effect of destroying competition among insurers, creating a monopoly or causing a kind of insurance to be unavailable to a significant number of applicants who are in good faith entitled to procure such insurance through ordinary methods.

(2) Except to the extent necessary to meet the provisions of subdivision (d) of subsection (1), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

HISTORY: New 1956, p. 546, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 784, Act 346, Eff. Apr. 1, 1970.

500.2406 Filing of classifications, rules and rates; supporting information; public inspection.

Sec. 2406. (1) Every insurer shall file with the commissioner every manual of classification, every manual of rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, he shall within 10 days of such filing give written notice to such insurer to furnish the information upon which it supports such filing. The information furnished in support of a filing may include (a) the experience or judgment of the insurer or rating organization making the filing, (b) its interpretation of any statistical data it relies upon, (c) the experience of other insurers or rating organizations, or (d) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(2) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by filing with the commissioner a copy of its authorization of the rating organization to make such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

HISTORY: New 1956, p. 546, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 538, Act 180, Imd. Eff. Aug. 3.

500.2408 Casualty insurance rates; review of filing by insurance commissioner.

Sec. 2408. (1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

Same; waiting period.

(2) Subject to the exception specified in subsection (3) of this section, each filing whether or not accompanied by supporting information shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the commissioner for 1 additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before expiration of the waiting period or any extension thereof. A filing whether or not accompanied by supporting information shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or extension thereof: Provided,

That where a filing is not accompanied by supporting information and such information is required by the commissioner under subsection (1) of section 2406, such filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within 15 days after such information is furnished.

Special filing.

(3) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

HISTORY: New 1956, p. 546, Act 218, Eff. Jan. 1, 1957.

500.2410 Filing requirements; modification or suspension by insurance commissioner.

Sec. 2410. Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in section 2403 (1) (d) (rate standards).

HISTORY: New 1956, p. 547, Act 218, Eff. Jan. 1, 1957.

500.2412 Filing requirements; adherence by insurer.

Sec. 2412. No insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in this chapter or in accordance with sections 2410 or 2414.

HISTORY: New 1956, p. 547, Act 218, Eff. Jan. 1, 1957.

500.2414 Filing requirements; excess rates on specific risks.

Sec. 2414. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

HISTORY: New 1956, p. 547, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 539, Act 180, Imd. Eff. Aug. 3.

500.2416 Disapproval of filing; notice; waiting period.

Sec. 2416. (1) If within the waiting period or any extension thereof as provided in subsection (2) of section 2408, the commissioner finds that a filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein what respects he finds such filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.

Same; special filing.

(2) If within 30 days after a special surety or guaranty filing subject to subsection (3) of section 2408 has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

HISTORY: New 1956, p. 547, Act 218, Eff. Jan. 1, 1957.

500.2418 Disapproval of filing after approval; hearing, notice, procedure.

Sec. 2418. If at any time subsequent to approval of any filing, either by act or order of the commissioner or by operation of law, the commissioner finds that a filing does not meet the requirements of this chapter, he shall, after a hearing held upon not less than 10 days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

HISTORY: New 1956, p. 547, Act 218, Eff. Jan. 1, 1957.

500.2420 Disapproval of filing after approval; complaint of aggrieved person, organization, application for hearing, notice.

Sec. 2420. (1) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon: Provided, however, That the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

Order rendering filing ineffective.

2. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

HISTORY: New 1956, p. 548, Act 218, Eff. Jan. 1, 1957.

500.2426 Manual of classifications, rules and rating plans; rates meeting standards.

Sec. 2426. No manual of classifications, rule, rating plan, or any modification of any of the foregoing which measures variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of this chapter shall be disapproved if the rates thereby produced meet the requirements of section 2403 (1) (d) (rate standards).

HISTORY: New 1956, p. 548, Act 218, Eff. Jan. 1, 1957.

500.2430 Manual of classifications, rules and rating plans; alternative filing, effective date.

Sec. 2430. (1) In lieu of the filing requirements of this chapter and as an alternative method of filing, any insurer or rating organization may file with the commissioner any manual of classification, rules or rates, any rating plan and every modification of any of the foregoing which it proposes to use, the filing to indicate the character and extent of the coverage contemplated. Every such filing under this section shall state the effective date thereof, shall take effect on said date, shall not be subject to any waiting period requirements, and shall be deemed to meet the requirements of section 2403

(1) (d) (rate standards). A filing and any supporting information shall be open to public inspection, if the filing is not disapproved.

Disapproval; hearing, order.

(2) At any time within 15 days from and after the date of any such filing, the commissioner may give written notice to the insurer or rating organization making such filing, specifying in what respect and to what extent he contends such filing fails to comply with the requirements of section 2403 (1) (d) and fixing a date for hearing not less than 10 days from the date of mailing of such notice. At such hearing the factors specified in section 2406 (1) shall be considered. If the commissioner after hearing finds that the filing does not comply with the provisions of this chapter, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such filing shall no longer be effective. Any order of disapproval under this section must be entered within 30 days of the date of the filing affected.

Same; adjustment of premium, review of filing.

(3) In the event that no notice of hearing shall be issued within 15 days from the date of any such filing, the filing shall be deemed to be approved. If such filing shall be disapproved, the insuring provisions of any contract or policy issued prior to the time the order becomes effective shall not be affected. But if the commissioner disapproves such filing as not being in compliance with section 2403 (1) (d) (rate standards), he may order an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium, if the amount is substantial and equals or exceeds the cost of making the adjustment. The commissioner may thereafter review any such filing in the manner provided in sections 2418 and 2420, but if so reviewed, no adjustment of premium may be ordered. Sections 2406 (2) (filing may be made by rating organization), 2408 (1) (commissioner shall review filing as soon as reasonably possible), and 2412 (insurer must adhere to filing) shall be applicable to filings made under this section.

HISTORY: New 1956, p. 548, Act 218, Eff. Jan. 1, 1957.

500.2431 Workmen's compensation and group rated automobile insurance; alternative filing, inapplicability.

Sec. 2431. The provisions of section 2430 shall not apply to workmen's compensation insurance and group rated automobile insurance.

HISTORY: Add. 1969, p. 785, Act 346, Eff. Apr. 1, 1970.

500.2436 Rating organization; license application, contents.

Sec. 2436. (1) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization to make rates and insurance contract forms for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith:

- (a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws and rules governing the conduct of its business.
- (b) A list of its members and subscribers.
- (c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served.
- (d) A statement of its qualifications as a rating organization.

(2) If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws and rules governing the conduct of its business conform to the requirements of law, he shall issue a

license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every application shall be granted or denied in whole or in part by the commissioner within 60 days of the date of its filing with him.

3) The fee for the license shall be \$25.00 which shall be in lieu of all other fees, licenses or taxes imposed by the state or any political subdivision thereof.

4) Licenses issued pursuant to this section shall remain in force for 3 years from date of issuance unless suspended or revoked by the commissioner, after hearing upon notice, in accordance with the provisions of section 2478, in the event the rating organization ceases to meet the requirements of this section.

5) Every rating organization shall notify the commissioner promptly of every change in (a) its constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws and rules governing the conduct of its business, (b) its list of members and subscribers and (c) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

HISTORY: New 1956, p. 549, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 539, Act 180, Imd. Eff. Aug. 3.

500.2438 Rating organizations; subscribers; notice of changes in rules, furnishing of service without discrimination.

Sec. 2438. (1) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers.

Subscribers; application of rules, admission, appeal.

2) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers.

Same; admission, review.

3) If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

HISTORY: New 1956, p. 550, Act 218, Eff. Jan. 1, 1957.

500.2440 Rating organizations; rules affecting payment of dividends, savings or unabsorbed premium.

Sec. 2440. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

HISTORY: New 1956, p. 550, Act 218, Eff. Jan. 1, 1957.

500.2446 Rating organizations; cooperation with other rating organizations and insurers, discontinuance.

Sec. 2446. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

HISTORY: New 1956, p. 550, Act 218, Eff. Jan. 1, 1957.

500.2450 Rating organizations; deviation from filings, procedure, termination of deviation.

Sec. 2450. (1) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. In considering the application to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making provided in section 2403. The commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the deviation applied for does not meet the requirements of this chapter.

(2) Each deviation permitted to be filed shall remain in effect for a period of not less than 1 year from the effective date unless sooner withdrawn by the insurer with the approval of the commissioner or until terminated in accordance with the provisions of sections 2418 or 2420.

HISTORY: New 1956, p. 550, Act 218, Eff. Jan. 1, 1957;—Am. 1964, p. 138, Act 146, Eff. Aug. 28.

500.2452 Rating organizations; alternative deviation, without waiting period, procedure, termination of deviation.

Sec. 2452. (1) In lieu of the requirements of section 2450 for deviation and as an alternative method for deviation every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make application to the commissioner to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. Every such application shall become effective immediately as of the date filed with the commissioner. In considering the application to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making provided in section 2403. The commissioner shall issue an order approving of the deviation as filed if he finds it meets the requirements of section 2403. If the commissioner finds that the deviation does not comply with the requirements of this chapter, he may issue an order determining wherein and to what extent such proposal is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such deviation shall no longer be effective. Any order of disapproval under this section must be entered within 30 days of the date the application for the deviation af-

ected is filed with the commissioner. If such deviation shall be disapproved, the insuring provisions of any contract or policy issued prior to the time the order becomes effective shall not be affected. But if the commissioner disapproves such deviation as not being in compliance with section 2403, he may order an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium, if the amount is substantial and equals or exceeds the cost of making the adjustment.

2: Each deviation filed and so approved shall remain in effect for a period of not less than 1 year from the effective date unless sooner withdrawn by the insurer with the approval of the commissioner or until terminated in accordance with the provisions of sections 2418 or 2420.

HISTORY. New 1956, p. 551, Act 218, Eff. Jan. 1, 1957;—Am. 1964, p. 139, Act 146, Eff. Aug. 28.

500.2456 Rating organizations; subscriber appeal to insurance commissioner from action by organization.

Sec. 2456. (1) Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filing, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

2: If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section 2403 (1) (b) from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 2403.

HISTORY. New 1956, p. 551, Act 218, Eff. Jan. 1, 1957.

500.2458 Rating organizations; rating information to insured, appeal to insurance commissioner.

Sec. 2458. Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such in-

suror on such request may, within 30 days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

HISTORY: New 1956, p. 552, Act 218, Eff. Jan. 1, 1957.

500.2462 Advisory organizations; definition.

Sec. 2462. (1) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

Information filed.

(2) Every advisory organization shall file with the commissioner:

(a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities,

(b) A list of its members,

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served, and

(d) An agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 2468.

Discontinuance of unfair or unreasonable practices.

(3) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such act or practice.

Rate filings supported by violator advisory organization.

(4) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (3) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

HISTORY: New 1956, p. 552, Act 218, Eff. Jan. 1, 1957.

500.2464 Joint underwriting or reinsurance; unfair activities.

Sec. 2464. (1) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter and, with respect to joint reinsurance, to sections 2468 (examination), 2478 (penalties), and 2482 (appeals).

(2) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

HISTORY: New 1956, p. 553, Act 218, Eff. Jan. 1, 1957.

500.2468 Quinquennial examination of rating and advisory organizations, joint underwriters and reinsurers; costs.

Sec. 2468. (1) The commissioner shall, at least once in 5 years, make or cause to be made an examination of each rating organization licensed in this state as provided in section 2436 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 2462 and of each group, association or other organization referred to in section 2464. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. Any such examination shall be subject to the procedure provided for in section 222, relating to examinations of insurance companies.

Report of examination by insurance supervisory official of another state.

2: In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

HISTORY: New 1956, p. 553, Act 218, I.H. Jan. 1, 1957.

500.2472 Statistical plans; exchange of data, consultation.

Sec. 2472. (1) The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter to the extent applicable to its particular rating system or systems, by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 2403. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it and no insurer shall be required to record or report its loss or expense experience on any basis or statistical plan that differs from that which is regularly employed and maintained in the usual course of such insurer's business, or to any rating organization or agency of which it is not a member or subscriber. The commissioner may designate 1 or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

2: Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

3: In order to further uniform administration of rate regulatory laws, the commis-

sioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

HISTORY: New 1956, p. 553, Act 218, Eff. Jan. 1, 1957.

500.2474 Withholding information; false or misleading information.

Sec. 2474. No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this chapter. A violation of this section shall subject the person or organization guilty of such violation to the penalties provided in section 2478.

HISTORY: New 1956, p. 554, Act 218, Eff. Jan. 1, 1957.

500.2476 Assigned risks; rate modifications.

Sec. 2476. Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

HISTORY: New 1956, p. 554, Act 218, Eff. Jan. 1, 1957.

500.2478 Violations of chapter; penalties, license suspension or revocation.

Sec. 2478. (1) The commissioner may, if he finds that any person or organization has violated the provisions of this chapter, previous to the date of his finding, impose a penalty of not to exceed \$25.00 for such violations and if such violations be wilful he may impose a penalty of not more than \$500.00. No penalty shall be imposed for an offense that was committed more than 12 months prior to the date of the commissioner's findings.

(2) The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant but such suspension shall not affect the validity or continued effectiveness of rates theretofore filed and effective. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

(3) No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than 10 days' written notice to such person or organization specifying the alleged violation.

HISTORY: New 1956, p. 554, Act 218, Eff. Jan. 1, 1957.

500.2482 Insurer or rating organization aggrieved by order without hearing; hearing, court review.

Sec. 2482. (1) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing, may within 30 days after notice of the order to the insurer or organization, make written request to the commissioner for a

hearing thereon. The commissioner shall hear such party or parties within 20 days after receipt of such request and shall give not less than 10 days' written notice of the time and place of the hearing. Within 15 days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

2. Any order or decision of the commissioner shall be subject to review in accordance with the provisions of section 244, but no order or decision appealed from as herein provided shall become effective or be enforced pending final disposition of such appeal.

HISTORY: New 1956, p. 554, Act 218, Eff. Jan. 1, 1957.

500.2484 Insurance commissioner; regulatory powers.

Sec. 2484. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this chapter.

HISTORY: New 1956, p. 555, Act 218, Eff. Jan. 1, 1957.

CHAPTER 26.

FIRE AND INLAND MARINE RATES.

500.2600 Purpose of chapter; construction.

Sec. 2600. The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of the insurance code. Nothing in this chapter is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. Conformity with this chapter shall not be deemed to be a violation of section 2075 (compacts to restrain competition prohibited). This chapter shall be liberally interpreted to carry into effect the provisions of this section.

HISTORY: New 1956, p. 555, Act 218, Eff. Jan. 1, 1957.

500.2601 Scope of chapter.

Sec. 2601. (1) This chapter applies to the following kinds of insurance as written on risks located in this state by any companies, associations or other carriers, including reciprocals:

- a. Property insurance, as defined in section 610.
- b. Marine insurance, as defined in section 614.
- c. Inland navigation and transportation insurance, as defined in section 616.
- d. Automobile insurance (limited), as defined in section 620.
2. "Inland marine insurance" shall be deemed to include:
 - a. Insurance against loss of or damage to domestic shipments, bridges, tunnels and other inland instrumentalities of transportation or communication, excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage.
 - b. Insurance defined by ruling of the commissioner as inland marine insurance.
3. This chapter shall not apply:
 - a. To reinsurance, other than joint reinsurance to the extent stated in section 2658.
 - b. To insurance against loss of or damage to:
 - i. Imports, exports or domestic shipments.
 - ii. Bridges, tunnels or other instrumentalities of transportation and communication.
 - iii. Aircraft and attached equipment.

(iv) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(c) To insurance against loss resulting from liability arising out of the ownership, maintenance or use of:

(i) Imports, exports or domestic shipments.

(ii) Aircraft and attached equipment.

(iii) Vessels and watercraft which are under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(d) To motor vehicle insurance, nor to insurance against liability arising out of the ownership, maintenance or use of motor vehicles.

(e) To companies organized and doing business under chapter 68.

(4) If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this chapter, is also subject to regulation by another rate regulatory chapter of this insurance code, an insurer to which both chapters are otherwise applicable shall file with the commissioner, a designation as to which rate regulatory chapter shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

HISTORY: New 1956, p. 555, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 539, Act 180, Imd. Eff. Aug. 3.

500.2603 Rate-making factors; standards, uniformity.

Sec. 2603. (1) All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

(b) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which measure variations in hazards or expense provisions or both. Such rating plans may measure any differences among risks that may have a probable effect upon losses or expenses as provided for in subdivision (a).

(d) Rates shall not be excessive, inadequate or unfairly discriminatory. A rate shall not be held to be excessive unless the rate is unreasonably high for the insurance coverage provided and a reasonable degree of competition does not exist with respect to the classification, kind or type of risks to which the rate is applicable. A rate shall not be held to be inadequate unless the rate is unreasonably low for the insurance coverage provided and the continued use of the rate endangers the solvency of the insurer; or unless the rate is unreasonably low for the insurance provided and the use of the rate has or will have the effect of destroying competition among insurers, creating a monopoly or causing a kind of insurance to be unavailable to a significant number of applicants who are in good faith entitled to procure such insurance through ordinary methods.

(2) Except to the extent necessary to meet the provisions of subdivision (d) of subsection (1), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

HISTORY: New 1956, p. 556, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 785, Act 346, Eff. Apr. 1, 1970.

500.2606 Rate filings; effective date.

Sec. 2606. (1) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

(2) When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include (a) the experience or judgment of the insurer or rating organization making the filing, (b) its interpretation of any statistical data it relies upon, (c) the experience of other insurers or rating organizations, or (d) any other relevant factors.

(3) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(4) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(5) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by filing with the commissioner a copy of its authorization of the rating organization to make such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

HISTORY: New 1956, p. 556, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 540, Act 180, Imd. Eff. Aug. 3.

500.2608 Rate filings; review by insurance commissioner.

Sec. 2608. (1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

Same; waiting period.

(2) Subject to the exception specified in subsection (3) of this section, each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Same; specific inland marine risks.

(3) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

HISTORY: New 1956, p. 557, Act 218, Eff. Jan. 1, 1957.

500.2610 Filing requirements; modification or suspension by insurance commissioner.

Sec. 2610. Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision (b) of subsection (1) of section 2603 (rate standards).

HISTORY: New 1956, p. 557, Act 218, Eff. Jan. 1, 1957.

500.2612 Rate filings; adherence by insurer.

Sec. 2612. No insurer shall make or issue a contract except in accordance with the filings which are in effect for said insurer as provided in this chapter or in accordance with sections 2610 or 2614. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

HISTORY: New 1956, p. 557, Act 218, Eff. Jan. 1, 1957.

500.2614 Rate organization; excess rates on specific risks.

Sec. 2614. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

HISTORY: New 1956, p. 557, Act 218, Eff. Jan. 1, 1957.

500.2616 Disapproval of filing by insurance commissioner; notice, waiting period.

Sec. 2616. (1) If within the waiting period or any extension thereof as provided in section 2608 (2), the commissioner finds that a filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.

Same; specific inland marine rate.

(2) If within 30 days after a specific inland marine rate on a risk specially rated by a rating organization, subject to section 2608 (3) has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

HISTORY: New 1956, p. 557, Act 218, Eff. Jan. 1, 1957.

500.2618 Disapproval of filing; after approval, procedure.

Sec. 2618. If at any time subsequent to the applicable review period provided for in section 2616, the commissioner finds that a filing does not meet the requirements of this chapter, he shall, after a hearing held upon not less than 10 days' written notice,

specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not effect any contract or policy made or issued prior to the expiration of the period set forth in said order.

HISTORY. New 1956, p. 556, Act 218, Eff. Jan. 1, 1957.

500.2620 Disapproval of filing; complaint of aggrieved person or organization.

Sec. 2620. (1) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon: Provided, however, That the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant.

Same; hearing, notice.

2. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

Order rendering filing ineffective.

3. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

HISTORY. New 1956, p. 556, Act 218, Eff. Jan. 1, 1957.

500.2626 Manual, minimum, class rate, rating schedule, rating plan or rule; rates meeting standards.

Sec. 2626. No manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing which has been filed pursuant to the requirements of sections 2606 through 2614 shall be disapproved if the rates thereby produced meet the requirements of this chapter.

HISTORY. New 1956, p. 556, Act 218, Eff. Jan. 1, 1957.

500.2628 Rates; alternative method of filing.

Sec. 2628. (1) In lieu of the filing requirements of this chapter and as an alternative method of filing, any insurer or rating organization may file with the commissioner any manual of classification, rules or rates, any rating plan and every modification of any of the foregoing which it proposes to use, the filing to indicate the character and extent of the coverage contemplated. Every such filing under this section shall state the effective date thereof, shall take effect on said date, shall not be subject to any waiting period requirements, and shall be deemed to meet the requirements of subdivision (d) of subsection (1) of section 2603 (rate standards). A filing and any supporting information shall be open to public inspection, if the filing is not disapproved.

Disapproval; hearing; order.

2. At any time within 15 days from and after the date of any such filing, the commissioner may give written notice to the insurer or rating organization making such fil-

ing specifying in what respect and to what extent he contends such filing fails to comply with the requirements of subdivision (d) of subsection (1) of section 2603 and fixing a date for hearing not less than 10 days from the date of mailing of such notice. At such hearing the factors specified in subsection (2) of section 2606 shall be considered. If the commissioner after hearing finds that the filing does not comply with the provisions of this chapter, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such filing shall no longer be effective. Any order of disapproval under this section must be entered within 30 days of the date of the filing affected.

Approval; adjustment of premium; review.

(3) In the event that no notice of hearing shall be issued within 15 days from the date of any such filing, the filing shall be deemed to be approved. If such filing shall be disapproved, the insuring provisions of any contract or policy issued prior to the time the order becomes effective shall not be affected. But if the commissioner disapproves such filing as not being in compliance with subdivision (d) of subsection (1) of section 2603 (rate standards), he may order an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium, if the amount is substantial and equals or exceeds the cost of making the adjustment. The commissioner may thereafter review any such filing in the manner provided in sections 2618 and 2620, but if so reviewed, no adjustment of premium may be ordered. Subsection (5) of section 2606 (filing may be made by rating organization), subsection (1) of section 2608 (commissioner shall review filing as soon as reasonably possible), and 2612 (insurer must adhere to filing) shall be applicable to filings made under this section.

HISTORY: Add. 1969, p. 785, Act 346, Eff. Apr. 1, 1970.

500.2630 Rating organization; license application, contents.

Sec. 2630. (1) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization to make rates and insurance contract forms for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith:

- (a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws and rules governing the conduct of its business.
- (b) A list of its members and subscribers.
- (c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served.
- (d) A statement of its qualifications as a rating organization.

(2) If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws and rules governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within 60 days of the date of its filing with him.

(3) Licenses issued pursuant to this section shall remain in effect for 3 years unless sooner suspended or revoked by the commissioner.

(4) The fee for the license shall be \$25.00.

(5) Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

6) Every rating organization shall notify the commissioner promptly of every change in (a) its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws and rules governing the conduct of its business, (b) its list of members and subscribers and (c) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

HISTORY. New 1956, p. 558, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 541, Act 180, Imd. Eff. Aug. 3.

500.2636 Rating organizations; subscribers; notice of changes in rules and regulations.

Sec. 2636. (1) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers.

Subscribers; application of rules, admission, appeal.

(2) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers.

Same; admission, review.

(3) If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

HISTORY. New 1956, p. 559, Act 218, Eff. Jan. 1, 1957.

500.2638 Rating organizations; rules affecting payment of dividends, savings or unabsorbed premiums.

Sec. 2638. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

HISTORY. New 1956, p. 560, Act 218, Eff. Jan. 1, 1957.

500.2640 Rating organizations; cooperation with other rating organizations and insurers, discontinuance.

Sec. 2640. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsis-

tent with the provisions of this chapter, he may issue a written order specifying in what respect such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

HISTORY: New 1956, p. 560, Act 218, Eff. Jan. 1, 1957.

500.2642 Rating organizations; submission of policies for examination.

Sec. 2642. (1) Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision for the notification of the insurer and the agent involved of any error or omission in the matters examined, and shall also contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

Actuarial, technical or other services, availability to members and subscribers.

(2) Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

HISTORY: New 1956, p. 560, Act 218, Eff. Jan. 1, 1957.

500.2646 Rating organizations; deviation, procedure, termination of deviation.

Sec. 2646. (1) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. In considering the application to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making provided in section 2603. The commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the deviation applied for does not meet the requirements of this chapter.

(2) Each deviation permitted to be filed shall remain in effect for a period of not less than 1 year from the effective date unless sooner withdrawn by the insurer with the approval of the commissioner or until terminated in accordance with the provisions of sections 2618 or 2620.

HISTORY: New 1956, p. 560, Act 218, Eff. Jan. 1, 1957;—Am. 1964, p. 139, Act 146, Eff. Aug. 28.

500.2648 Rating organizations; alternative methods for deviation.

Sec. 2648. (1) In lieu of the requirements of section 2646 for deviation and as an alternative method for deviation every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make application to the commissioner to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. Every such application shall become effective immediately as of the date filed with the commissioner. In considering the application to file such deviation the

commissioner shall give consideration to the available statistics and the principles for rate making provided in section 2603. The commissioner shall issue an order approving of the deviation as filed if he finds it meets the requirements of section 2603. If the commissioner finds that the deviation does not comply with the requirements of this chapter, he may issue an order determining wherein and to what extent such proposal is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such deviation shall no longer be effective. Any order of disapproval under this section must be entered within 30 days of the date the application for the deviation affected is filed with the commissioner. If such deviation shall be disapproved, the insuring provisions of any contract or policy issued prior to the time the order becomes effective shall not be affected. But if the commissioner disapproves such deviation as not being in compliance with section 2603, he may order an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium, if the amount is substantial and equals or exceeds the cost of making the adjustment.

2) Each deviation filed and so approved shall remain in effect for a period of not less than 1 year from the effective date unless sooner withdrawn by the insurer with the approval of the commissioner or until terminated in accordance with the provisions of sections 2618 or 2620.

HISTORY: Add. 1969, p. 796, Act 340, Eff. Apr. 1, 1970.

500.2650 Rating organizations; member or subscriber, appeal to insurance commissioner.

Sec. 2650. Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization. The commissioner shall, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

HISTORY: New 1956, p. 561, Act 218, Eff. Jan. 1, 1957.

500.2652 Rating organizations; rating information to insured, appeal to insurance commissioner.

Sec. 2652. Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within 30 days after written notice of such action, appeal

to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

HISTORY: New 1956, p. 561, Act 218, Eff. Jan. 1, 1957.

500.2654 Advisory organizations; definition.

Sec. 2654. (1) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

Information filed.

(2) Every advisory organization shall file with the commissioner:

(a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities,

(b) A list of its members,

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served, and

(d) An agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 2662.

Discontinuance of unfair or unreasonable practices.

(3) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such act or practice.

Rate filings supported by violator advisory organization.

(4) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (3) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

HISTORY: New 1956, p. 561, Act 218, Eff. Jan. 1, 1957.

500.2658 Joint underwriting or reinsurance; unfair activities.

Sec. 2658. (1) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter and, with respect to joint reinsurance, to section 2662 (examination), 2670 (penalties), and 2672 (appeals).

(2) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

HISTORY: New 1956, p. 562, Act 218, Eff. Jan. 1, 1957.

500.2662 Quinquennial examination; rating, advisory organizations, joint underwriters and reinsurers, costs.

Sec. 2662. (1) The commissioner shall, at least once in 5 years, make or cause to be made an examination of each rating organization licensed in this state as provided in section 2630, and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 2654, and of each group, association or other organization referred to in section 2658. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation of a detailed account of such costs. The officers, managers, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. Any such examination shall be subject to the procedure provided for in section 222 relating to examinations of insurance companies.

Report of examination by insurance supervisory official of another state.

2 In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

HISTORY. New 1956, p. 562, Act 216, Eff. Jan. 1, 1957.

500.2664 Statistical plans; exchange of data, consultation.

Sec. 2664. (1) The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 2603. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate for more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

2 Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

3 In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

HISTORY. New 1956, p. 562, Act 216, Eff. Jan. 1, 1957.

500.2666 Withholding information, false or misleading information; penalties.

Sec. 2666. No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this chapter. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 2670.

HISTORY: New 1956, p. 563, Act 218, Eff. Jan. 1, 1957.

500.2670 Violation of chapter; penalties, license suspension or revocation.

Sec. 2670. (1) The commissioner may, if he finds that any person or organization has violated any provision of this chapter, impose a penalty of not more than \$50.00 for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than \$500.00 for each such violation. Such penalties may be in addition to any other penalty provided by law.

(2) The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

(3) No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than 10 days' written notice to such person or organization specifying the alleged violation.

HISTORY: New 1956, p. 563, Act 218, Eff. Jan. 1, 1957.

500.2672 Insurer or rating organization aggrieved by order without hearing; hearing, court review.

Sec. 2672. (1) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing, may, within 30 days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within 20 days after receipt of such request and shall give not less than 10 days' written notice of the time and place of the hearing. Within 15 days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(2) Any order or decision of the commissioner shall be subject to review in accordance with the provisions of section 244.

HISTORY: New 1956, p. 563, Act 218, Eff. Jan. 1, 1957.

500.2674 Insurance commissioner; regulatory powers.

Sec. 2674. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this chapter.

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

CHAPTER 28.

FIRE INSURANCE CONTRACTS.

500.2804 Fire insurance contracts on property herein deemed made in Michigan.

Sec. 2804. All contracts of fire insurance upon property real or personal located in this state shall be held and deemed to be made and consummated within this state.

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.2806 Standard fire policy required.

Sec. 2806. (1) The printed form of a policy of fire insurance, as set forth in section 2832, shall be known and designated as the "Michigan standard policy."

(2) No policy or contract of fire insurance shall be made, issued or delivered by any insurer or by any agent or representative thereof, on any property in this state, unless it shall conform as to all provisions, stipulations, agreements and conditions, with such form of policy.

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.2807 Standard fire policy; requirements, exemptions.

Sec. 2807. The standard fire policy shall not be required for:

1. Motor vehicle insurance;
2. Aircraft insurance;
3. Inland marine insurance;
4. Ocean marine insurance;
5. Effecting reinsurance between insurers;
6. Policies issued by mutual fire insurers organized or doing business under the provisions of chapter 68 (farmers' mutual, etc. insurers).

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.2808 Standard fire policy; format.

Sec. 2808. (1) The standard fire policy shall when issued by an insurer be plainly printed, and no provision or endorsement thereon shall be in type smaller than 8 point.

(2) There shall be printed at the head of said policy the name of the insurer or insurers issuing the policy; the location of the home office thereof; a statement whether said insurer or insurers are stock or mutual corporations or are reciprocal insurers: Provided, however, That any insurer organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state; and subject to the approval of the commissioner, there may be added thereto such device or devices as the insurer or insurers issuing said policy shall desire.

(3) There shall not appear on the face of the policy, or on its filing back, anything that would indicate that it is the obligation of any other than the insurer responsible for the payment of losses under the policy, though it will be permissible to stamp or print on the bottom of the filing back the name or names of the department or general agency issuing the same.

(4) The first page of the policy may, in form approved by the commissioner, be rearranged to provide space for the listing of amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverage or perils insured under riders or endorsements attached, and such other data as may be conveniently included for duplication on daily reports for office records.

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.2810 Standard fire policy; special conditions applying to mutual, cooperative or reciprocal insurers.

Sec. 2810. If the standard fire policy is issued by a mutual, cooperative or reciprocal insurer having special regulations with respect to the payment by the policyholder of assessments such regulations shall be printed upon the policy, and any such insurer may print upon the policy such regulations as may be required by its home state, or appropriate to its form of organization.

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.2812 Standard fire policy; combination policy by two or more insurers.

Sec. 2812. Two or more insurers authorized to transact fire insurance in this state may, with the approval of the commissioner, issue a combination standard form of policy which shall contain the following provisions:

(1) A provision substantially to the effect that the insurers executing such policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of such insurance under such policy.

(2) A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957.

500.2816 Standard fire policy; binders, temporary insurance regulations.

Sec. 2816. Binders or other contracts for temporary insurance may be made orally for 5 days or in writing for any further reasonable period, and shall be deemed to include all the terms of the Michigan standard policy and all such applicable endorsements, approved by the commissioner, as may be designated in such contract of temporary insurance; except that the cancellation clause of such Michigan standard policy, and the clause thereof specifying the hours of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957.

500.2820 Standard fire policy; riders for additional coverage.

Sec. 2820. After approval of form and coverage by the commissioner, any fire insurance company authorized to insure against any other form or forms of damage direct or indirect to property, may include such additional coverage or combination of coverages in the form of riders or endorsements to be attached to such standard fire policy which riders or endorsements shall contain, in addition to the usual provision of coverage, a statement of such premium as applies to such additional form or forms of coverage.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957.

500.2824 Standard fire policy; riders for business suspension, form, and approval.

Sec. 2824. Riders and endorsements may be added to the applicable standard fire insurance policy, providing indemnities payable as business suspension insurance, if the form of the same has been filed with and received the approval of the commissioner.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 57, Act 71, Eff. Mar. 28, 1963.

500.2826 Standard fire policy; rider for depreciation or replacement.

Sec. 2826. Riders and endorsements may, in consideration of adequate premium deposit, be added to the standard fire insurance policy, insuring proper depreciation whereby the insurer agrees to reimburse and indemnify the insured for the difference between the actual value of the insured property at the time any loss or damages occur.

ers, and the amount actually expended to repair, rebuild or replace with new materials of like size, kind and quality, but not to exceed the amount of liability covered by the riders or endorsements, such property as has been damaged or destroyed by fire or other perils insured against, except that there shall be no liability by the insurer under the terms of said riders or endorsements to pay the amount specified in the riders or endorsements unless the property damaged is actually repaired, rebuilt or replaced at the same or another site.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957.

500.2828 Standard fire policy; coverage of damage from nuclear reaction, radiation or contamination.

Sec. 2828. Insurers issuing the standard policy pursuant to section 2806 are authorized to affix thereto or include therein a written statement that the policy does not cover the loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy. This section shall not be construed to prohibit the attachment to any policy of an indorsement specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.

HISTORY: Add. 1959, p. 61, Act 61, Eff. Mar. 19, 1960.

500.2832 Standard fire policy; standard policy form.

Sec. 2832. (1) The form of the standard policy (with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer) shall be as follows:

(First Page of Standard Policy)
MICHIGAN STANDARD POLICY

No.

[Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.]

[Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.]

In Consideration of the Provisions and Stipulations Herein or Added Hereto

and of Dollars Premium
this Company, for the term of
from the day of 19 at noon, Standard Time, at
to the day of 19 {location of property involved,

to an amount not exceeding Dollars

does insure

..... and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at

Secretary.

President.

Countersigned

this day of 19 Agent.

(Second Page of Standard Policy)

1 Concealment, This entire policy shall be void if, whether
2 fraud. before or after a loss, the insured has wil-
3 fully concealed or misrepresented any ma-
4 terial fact or circumstance concerning this insurance or the
5 subject thereof, or the interest of the insured therein, or in case
6 of any fraud or false swearing by the insured relating thereto.
7 Uninsurable. This policy shall not cover accounts, bills,
8 and currency, deeds, evidences of debt, money
9 or Securities; nor, unless specifically named
10 hereon in writing, bullion or manuscripts.
11 Perils not This Company shall not be liable for loss by
12 included. fire or other perils insured against in this
13 policy caused, directly or indirectly, by: (a)
14 enemy attack by armed forces, including action taken by mili-
15 tary, naval or air forces in resisting an actual or an immediately
16 impending enemy attack; (b) invasion; (c) insurrection; (d)
17 rebellion; (e) revolution; (f) civil war; (g) usurped power; (h)
18 order of any civil authority except acts of destruction at the time
19 of and for the purpose of preventing the spread of fire, provided
20 that such fire did not originate from any of the perils excluded
21 by this policy; (i) neglect of the insured to use all reasonable
22 means to save and preserve the property at and after a loss, or
23 when the property is endangered by fire in neighboring prem-
24 ises; (j) nor shall this Company be liable for loss by theft.
25 Other Insurance. Other insurance may be prohibited or the
26 amount of insurance may be limited by en-
27 dorsement attached hereto.
28 Conditions suspending or restricting insurance. Unless other-
29 wise provided in writing added hereto this Company shall not
30 be liable for loss occurring
31 (a) while the hazard is increased by any means within the con-
32 trol or knowledge of the insured; or
33 (b) while a described building, whether intended for occupancy
34 by owner or tenant, is vacant or unoccupied beyond a period of
35 sixty consecutive days; or
36 (c) as a result of explosion or riot, unless fire ensue, and in that
37 event for loss by fire only.
38 Other perils Any other peril to be insured against or sub-

84 relating to the interests and obligations of such mortgagee may
85 be added hereto by agreement in writing.
86 Pro rata liability. This company shall not be liable for a greater
87 proportion of any loss than the amount
88 hereby insured shall bear to the whole insurance covering the
89 property against the peril involved, whether collectible or not.
90 Requirements in The insured shall give immediate written
91 case loss occurs. notice to this Company of any loss, protect
92 the property from further damage, forthwith
93 separate the damaged and undamaged personal property, put
94 it in the best possible order, furnish a complete inventory of
95 the destroyed, damaged and undamaged property, showing in
96 detail quantities, costs, actual cash value and amount of loss
97 claimed; and within sixty days after the loss unless such time
98 is extended in writing by this Company, the insured shall render
99 to this Company a proof of loss, signed and sworn to by the
100 insured, stating the knowledge and belief of the insured as to
101 the following: the time and origin of the loss, the interest of the
102 insured and of all others in the property, the actual cash value of
103 each item thereof and the amount of loss thereto, all encum-
104 brances thereon, all other contracts of insurance, whether valid
105 or not, covering any of said property, any changes in the title,
106 use, occupation, location, possession or exposures of said prop-
107 erty since the issuing of this policy, by whom and for what
108 purpose any building herein described and the several parts
109 thereof were occupied at the time of loss and whether or not is
110 then stood on leased ground, and shall furnish a copy of all the
111 descriptions and schedules in all policies and, if required, verified
112 plans and specifications of any building, fixtures or machinery
113 destroyed or damaged. The insured, as often as may be reason-
114 ably required, shall exhibit to any person designated by this
115 Company all that remains of any property herein described, and
116 submit to examinations under oath by any person named by this
117 Company, and subscribe the same; and, as often as may be
118 reasonably required, shall produce for examination all books of
119 account, bills, invoices and other vouchers, or certified copies
120 thereof if originals be lost, at such reasonable time and place as
121 may be designated by this Company or its representative, and

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five day's written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten day's written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions

the amount of loss from the retention of amount of value shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

MICHIGAN STANDARD POLICY

Expires

Property

Amount \$ Total Premium \$

Insured

SEE INSIDE OF POLICY FOR PERILS COVERED

No.

(Third Page of Standard Policy)

ATTACH FORM BELOW THIS LINE

(Back of Standard Policy)

It is important that the written portion of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

2) Language in parenthesis in the form provided in subsection (1) of this section is explanatory only and is not to be printed as a part of such form.

HISTORY: New 1956, p. 565, Act 218, Eff. Jan. 1, 1957.

500.2836 Standard fire policy; losses; breach of warranty or condition as defense.

Sec. 2836. (1) No insurer may base a defense under the terms of the Michigan standard policy or any other fire insurance policy permitted to be used in this state, upon a breach of warranty or condition occurring prior to loss, unless such breach exists at the time of the loss or contributes to the loss, or to the amount thereof.

Same; payment.

2 All losses under any fire insurance policy shall be paid within 30 days, the provisions of any contract or statute to the contrary notwithstanding.

Appraisal, umpire.

3) Whenever, under any appraisal clause in any fire insurance policy, it shall be provided that an umpire shall be selected by a judge of a court of record, this shall be construed to mean a judge of the circuit court of the county in which the loss occurred or property is located.

Subrogation.

4) Whenever an insurer shall be entitled, by the terms of the Michigan standard policy, to subrogation against a third party, this shall be deemed to include contractual as well as tort rights of action, to the extent only of the loss. An action may be maintained by either the insured or insurer, or by both of them jointly, to recover their respective portions of such loss.

HISTORY: New 1956, p. 571, Act 218, Eff. Jan. 1, 1957.

500.2840 Coinsurance clause; approval of form, signature.

Sec. 2840. (1) Any person may obtain from any insurer authorized to do business within the state of Michigan, a coinsurance clause to be attached to or included in any policy issued by such insurer insuring the interest of the insured in any real or tangible or intangible personal property against direct, indirect or consequential loss or damage, and the insurer shall have the right to issue such coinsurance clause, providing the form of the same has first been approved by the commissioner.

2 Any such insurance policy or the coinsurance indorsement attached thereto shall be signed by the insurer or its authorized agent.

HISTORY: New 1956, p. 571, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 57, Act 71, Eff. Mar. 28, 1963.

500.2842 Average or pro rata clause; form, approval.

Sec. 2842. (1) Any insurer authorized to do business within the state of Michigan may attach to any existing policy or to one to be issued by such insurer an average or pro rata clause.

2) Such clause shall be made substantially in the following form:

"It is hereby agreed, in case of loss, this policy shall attach in or on each building, division or location in such proportion as the values in or on such buildings, division or location bear to the aggregate value of the property insured."

3 It shall not be necessary for all average or pro rata rider clauses to be in the exact language used in subsection (2) of this section, but no such clause shall be attached to any policy unless the form thereof shall have been filed with and received the approval of the commissioner.

HISTORY: New 1956, p. 571, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 58, Act 71, Eff. Mar. 28, 1963.

500.2850 Repealed. 1962, p. 58, Act 71, Eff. Mar. 28, 1963.

Which prohibited limitation of liability for failure to insure property for certain amount.

500.2860 Noncomplying provisions void.

Sec. 2860. Any provision of any policy, or any contract or agreement contrary to the provisions of sections 2824 (business suspension insurance) or 2826 (depreciation or replacement insurance) shall be absolutely void, and any insurer issuing any policy of insurance containing any such provision shall be liable to the insured under such policy in the same manner and to the same extent as if such provision were not therein contained.

HISTORY: New 1956, p. 572, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 58, Act 71, Eff. Mar. 28, 1963.

500.2866 Violation of chapter; penalty.

Sec. 2866. (1) Any person that shall, either as principal or agent, wilfully issue or cause to be issued, any policy or contract of fire insurance on property situated within this state, contrary to the provisions of this chapter, shall forfeit the sum of \$250.00 for each policy or contract so issued.

Revocation of insurer's authority to do business; reinstatement.

(2) Any insurer violating the provisions of this chapter, upon notice and satisfactory proof thereof being made to the commissioner, shall have its authority to transact business in the state of Michigan revoked for a period of not less than 90 days; and any insurer whose license to do business in Michigan may be so revoked by the commissioner, shall not again be permitted to do business in Michigan until all penalties due hereunder shall be paid, together with any expenses that may be due under the provisions of this chapter to the commissioner.

HISTORY: New 1956, p. 572, Act 218, Eff. Jan. 1, 1957.

CHAPTER 29

BASIC PROPERTY INSURANCE

500.2901 Basic property insurance; definitions.

Sec. 2901. As used in this chapter:

(a) "Basic property insurance" means insurance against direct loss to any property caused by perils as defined and limited in the standard fire policy and extended coverage indorsement, as approved by the commissioner.

(b) "Inspection bureau" means any organization designated by the commissioner to act as the inspection bureau.

(c) "Qualified property" means all real and tangible personal property at fixed locations whether or not subject to exposure from an external hazard located on property not owned or controlled by the prospective insured, and whether or not subject to exposure from riot hazard, which

(i) Is not used for farm purposes; and

(ii) Complies with applicable state and local building codes and ordinances to the extent conditions on the property reasonably related to the perils insured against cannot be the subject of, or provide the basis for, a corrective administrative or judicial order, a criminal prosecution, or a civil fine or penalty; for purposes of this chapter, Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.519 of the Compiled Laws of 1948 shall be deemed to constitute, without regard to the population limitations set forth therein, the basic minimum applicable standard for qualified property and may be applied for purposes of determining conformity with this section as if it were enforceable against all property in the state; and

(iii) Is not commonly owned or controlled, or combinable for rating purposes, with property insured for similar coverages elsewhere; and

(iv) Is not owned or controlled by any person or group of persons who own or control property within the state with an aggregate insurable value in excess of 5% of the

aggregate premiums written by all authorized insurers in the preceding calendar year in basic property insurance plus the basic property insurance component of multiple peril policies, excluding premiums attributable to the operation of the pool established by this chapter; and

(v) Has characteristics of occupancy disclosed by inspection which do not violate any public policy as expressed or necessarily implied in the laws or local ordinances of the state.

d "Premiums written" means gross direct premiums charged on all policies less all premiums and dividends returned to policyholders.

HISTORY: Add. 1966, p. 451, Act 262, Eff. Aug. 1.

500.2910 Inspection of property; requests; operation of inspection bureau.

Sec. 2910. (1) Any person having an insurable interest in real and tangible personal property at fixed locations shall be entitled upon request to an inspection of the property by representatives of the inspection bureau. Such request shall be upon forms approved by the commissioner.

2 The plan of operation of the inspection bureau, the manner and scope of the inspection and the form of the inspection report shall be prescribed by the inspection bureau in written report subject to approval by the commissioner.

(3) A copy of the inspection report shall be made available to the applicant or his agent or the insurer upon request.

HISTORY: Add. 1966, p. 451, Act 262, Eff. Aug. 1.

500.2912 Coverage at excess rates; insured's rights waiver, false affidavit.

Sec. 2912. (1) No person shall be issued basic property insurance coverage at a rate requiring consent under sections 2414 or 2614 until filing with the inspection bureau a sworn statement acknowledging his rights under this chapter and waiving those rights. The person's agent shall make a sworn statement that the person has been fully advised of his rights under this chapter and has been furnished a written description of those rights.

2 A false affidavit by an agent constitutes cause within the meaning of section 1445.

3 No person shall employ the services of a surplus lines agent in obtaining basic property insurance until he has filed with the commissioner a sworn statement acknowledging and waiving his rights under this chapter. The person's surplus lines agent shall make a sworn statement that the person has been fully advised of his rights under this chapter and has been furnished a written description of those rights.

4 A false affidavit by a surplus lines agent constitutes a failure to maintain the standards of section 1424 within the meaning of section 1843.

(5) The commissioner shall prescribe the forms of sworn statements and written descriptions of rights used in connection with this section.

HISTORY: Add. 1966, p. 452, Act 262, Eff. Aug. 1.

500.2920 Michigan basic property insurance association or pool; establishment, members, plan of operation; servicing facilities.

Sec. 2920. (1) To implement the provisions of this chapter, there shall be maintained within this state, by all insurers authorized to provide basic property insurance in this state, other than insurers transacting insurance exclusively under chapter 68, an administrative agency of such insurers to be known as the "Michigan basic property insurance association", hereafter referred to as the "pool". Every such insurer shall be a member of the pool, as a condition of its authority to continue to transact insurance in this state.

(2) The pool shall adopt a plan of operation and any amendments thereof, not inconsistent with the provisions of this chapter, necessary to assure the fair, reasonable, equitable and nondiscriminatory manner of administering the pool, and to provide for such other matters, including agents and commissions, as are necessary or advisable to implement the provisions of this chapter. The plan of operation and any amendments thereof shall be subject to prior written approval by the commissioner. Any losses incurred by an agent relative to any policies written under the provisions of this chapter shall not be used by an insurer in determining the loss ratio of any of its agents.

(3) In accordance with its plan of operation the pool may designate 1 or more of its members as servicing facilities. Each facility shall be reimbursed for its expenses and shall have the authority to issue policies and to perform any functions of the pool that the governors lawfully may delegate to it. The designation of facilities shall be subject to the approval of the commissioner.

(4) If for any reason the pool fails to adopt a suitable plan of operation within 90 days following the effective date of this chapter, the commissioner shall adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter which rules shall continue in force until modified by the commissioner or superseded by a plan of operation adopted by the pool and approved by the commissioner.

(5) The pool, either in its own name or through servicing facilities, may be sued and may use the courts to assert or defend any rights it may have under any policy of insurance or reinsurance issued in its name or by virtue of this chapter as reasonably necessary fully to effectuate the provisions thereof. No judgment against the pool shall create any liabilities in the individual members thereof except those provided in this chapter.

HISTORY: Add. 1968, p. 452, Act 262, Eff. Aug. 1.

500.2921 Basic property insurance association or pool; board of governors, term, election, vacancies.

Sec. 2921. (1) The pool shall be managed by a board, composed of 9 governors, each of whom shall serve for terms of 1 year and each of whom shall be elected by the insurers participating in the pool. The election shall be held within 15 days of the annual determination of participation in the pool. Each insurer shall be allotted votes bearing the same ratio to the total number of votes to be cast as its degree of participation in the pool bears to the total participation. Each insurer may divide its allotted votes among not more than 3 candidates' seats on the board. At least 3 members of the board of governors shall be from participating domestic insurers and shall be representative of all classifications of insurers to the degree possible.

(2) Any vacancy on the board shall be filled by a vote of the remaining governors.

(3) If at any time the participating insurers fail to elect the required number of governors within the time prescribed or a vacancy remains unfilled for more than 15 days the commissioner may appoint the governors necessary to constitute a full board.

HISTORY: Add. 1968, p. 453, Act 262, Eff. Aug. 1.

500.2924 Basic property insurance association or pool; adoption of standards of risks.

Sec. 2924. (1) The pool shall adopt and promulgate, subject to the prior approval of the commissioner, standards to be employed by the pool in determining whether or not a risk is acceptable for insurance by the pool including reasonable limitations on the amount of insurance that may be provided with respect to any one risk. The standards shall be relevant to the perils insured against and shall be consistent with the definition of qualified property contained in section 2901.

(2) If for any reason the pool fails to adopt suitable standards for determining whether or not a risk is acceptable for insurance by the pool within 90 days following the effective date of this chapter, the commissioner shall adopt and promulgate such reasonable standards as are consistent with the requirements of this chapter which standards shall continue in force until modified by the commissioner or superseded by standards adopted by the pool and approved by the commissioner.

HISTORY: Add. 1968, p. 453, Act 262, Eff. Aug. 1.

500.2925 Basic property insurance; application to pool, form; insurance issuance, rejection; term of policy, renewal, binders.

Sec. 2925. (1) Any person who has an insurable interest in real or tangible personal property at fixed locations may apply to the pool for basic property insurance. The form of the application shall be prescribed by the commissioner.

(2) If the pool finds that: (a) the property has been inspected by the inspection bureau within the preceding 6 months, (b) after such inspection the applicant made a good faith, diligent effort to obtain basic property insurance through established channels in the insurance market provided by authorized insurers in this state appropriate to the nature, character and value of the property (for dwellings, such effort will be deemed to have been made if the property, after inspection, has been rejected by 2 or more insurers authorized to provide basic property insurance within the state), (c) there is no unpaid premium with respect to prior insurance on the property and (d) the property constitutes qualified property and is an acceptable risk under the standards of the pool, then the pool in its own name or a servicing facility, upon receipt of the premium, shall issue a policy for basic property insurance. Policies issued in the name of a servicing facility may be reinsured by the pool.

(3) If the pool finds that the property is not an acceptable risk, the applicant shall be entitled to a written statement setting forth the features of the property or conditions which prevent it from constituting an acceptable risk and the measures which must be taken in order to make the property an acceptable risk.

(4) Policies issued by the pool or a servicing facility shall have a term of 1 year.

(5) Such policies may be renewed upon property otherwise meeting the conditions of this chapter for 2 consecutive successive terms without additional inspection, if the pool waives such inspection.

(6) The pool, upon receipt of an appropriate premium, may cause the issuance of binders for basic property insurance for a period not exceeding 60 days upon property which at the time of such issuance has not complied with all the applicable conditions of this chapter.

HISTORY: Add. 1968, p. 453, Act 262, Eff. Aug. 1.

500.2926 Basic property insurance; definitions; determination of participation ratios and liability limits.

Sec. 2926. (1) For the purposes of this chapter:

(a) "Participation ratio" means the proportion that the aggregate premiums written by each member for basic property insurance plus the basic property insurance component of multiple peril policies, excluding premiums attributable to the operation of the pool and excluding premiums on farm property, in this state during the preceding calendar year bears to the aggregate premiums written for such insurance in the state by all participating members of the pool, as determined annually on the basis of premiums written during the immediately preceding calendar year as disclosed in the annual statements and other experience reports filed by the members with the commissioner.

(b) "Participating member" means any member of the pool who in any given calendar year has a participation ratio greater than zero in the pool for that year.

(c) "Liability limit" means an amount equal to 1% of the member's surplus as regards policyholders as determined from the same annual statement used to determine the participation ratios for the same calendar year.

(d) "Pool's net income" means the amount shown in the pool's annual statement as filed on forms prescribed by the commissioner and determined in a manner consistent with the principles used in determining net income of fire and casualty insurers on the annual statement form prescribed by the commissioner for such insurers.

(2) The determination of participation ratios and liability limits for the remainder of the calendar year in which this act becomes effective shall be made on or before the beginning of the pool's operation in that year. Thereafter such determinations shall be made as soon as the information necessary therefor is available and shall be applicable for the entire calendar year in which they are made.

HISTORY: Add. 1968, p. 454, Act 262, Eff. Aug. 1.

500.2927 Pool members; liabilities, interim assessments, limitations.

Sec. 2927. (1) All participating members of the pool shall participate in the premiums, expenses, losses and profits of the pool in accordance with their respective participation ratios on each and every basic property insurance policy issued or reinsured by the pool.

(2) The governors of the pool may make interim assessments of participating members, during any calendar year's operation, in accordance with participation ratios, if such assessments are necessary to pay claims or expenses of the pool's operations.

(3) No member shall be required to pay into the pool with respect to any one calendar year's operation over and above its participation ratio share of premium and other income of the pool an amount exceeding its liability limit for such year.

HISTORY: Add. 1968, p. 454, Act 262, Eff. Aug. 1.

500.2928 Pool members; contributions, determination of amounts.

Sec. 2928. In determining amounts to be contributed by or credited to members of the pool in respect to any one calendar year's operation, the following process shall be used:

(a) The pool's net income shall first be determined.

(b) Any net income, if a gain, shall be credited to each member according to the member's participation ratio for that year.

(c) Any net income, if a deficit, shall be assessed among the participating members according to each member's participation ratio. Each member shall be given credit against this assessment for any amounts already assessed against and paid by the member in respect to the calendar year's operation. If the assessment exceeds a member's liability limit, the member shall pay only the liability limit.

(d) The amount by which any member's assessment under subdivision (c) exceeds that member's liability limit shall then be distributed as an additional assessment among all members of the pool whose liability limits have not been reached, in proportion to the participation ratios for that year, and this process shall be repeated as necessary until the entire net income deficit assessment under subdivision (c) has been retired or until all participating members have been assessed up to their liability limits for that calendar year.

(e) If an unretired deficit still remains, the commissioner shall proceed under applicable provisions of chapter 78, as amended, to assure equitable distribution of the pool's available funds among claimants.

HISTORY: Add. 1968, p. 454, Act 262, Eff. Aug. 1.

500.2929 Pool members; insolvency or withdrawal, effect.

Sec. 2929. A determination by the commissioner that a participating member of the pool is insolvent, a revocation or approved withdrawal of a member's certificate of authority shall cause the participation ratios defined and computed under section 2926 to be immediately recalculated for the calendar year in which the event takes place, excluding such insurer, however, from participation so that its participation ratio share for such year is, in effect, assumed and redistributed among the remaining participating members of the pool. As soon as possible thereafter an accounting shall be made up as of the date of the determination of insolvency, approved withdrawal or revocation to determine the net liability of the member to the pool. The pool, through its management may proceed as a general creditor against such member or its estate, in any manner provided by law, including action in its own name for the full amount of the net liability. Any sums recovered thereby shall be credited by the pool among its members in the calendar year in which they are actually received.

HISTORY: Add. 1968, p. 455, Act 262, Eff. Aug. 1.

500.2930 Premiums; rate, surcharge, rate-making procedures, experience.

Sec. 2930. (1) The premium for insurance of any risk by the pool shall be equal to the rate for such insurance as established by the principal rate-making organization for such insurance within the state plus a uniform surcharge approved by the commissioner.

2 Any deficits or profits from the operation of the pool shall be recognized in the rate-making procedures and included in the rate for the types of insurance used as the basis for determining participation in the pool, in the same manner that expenses and premium taxes are recognized. The classification experience of the pool shall be included in determining the classification relativities or adjustments for voluntary business.

HISTORY: Add. 1968, p. 455, Act 262, Eff. Aug. 1.

500.2931 Premiums; limitations, ratio of premiums in each county.

Sec. 2931. At no time shall the annual premiums directly written by the pool or on its behalf by servicing facilities exceed 10% of the aggregate premiums used as the basis for determining participation ratios in the pool.

In order to assure that property in areas of the state receives an equitable opportunity to utilize the pool up to its premium capacity, it shall be the operating principle of the pool to maintain a ratio of the total premiums written by or on behalf of the pool in any one county in the state in any one calendar year to the total authorized premiums for the pool in that same year to the same ratio that the aggregate assessed valuation of all taxable non-farm property situated in such county, assessed at state equalized value, bears to the aggregate assessed valuation of all taxable non-farm property in the state, assessed at state equalized value, according to the most recent available official assessed valuation figure. Pool premium writings in one or more counties may exceed the ratios for such counties, if it is determined by the commissioner that there is and will be authorized premium capacity in the pool which will not be required or utilized to meet basic property insurance needs in other counties in the state during the calendar year, but in no case shall the premiums written by or on behalf of the pool in any one county exceed 50% of the authorized premiums for the pool in one calendar year.

HISTORY: Add. 1968, p. 455, Act 262, Eff. Aug. 1.

500.2939 Reinsurance permitted.

Sec. 2939. Nothing in this chapter shall preclude the pool from acting as a reinsuring facility or from seeking reinsurance of all or a part of its risks with any reinsurer

approved by the commissioner or with any agency of state or federal government having the power to issue such reinsurance.

HISTORY: Add. 1968, p. 455, Act 262, Eff. Aug. 1.

500.2940 Insurance commissioner; regulatory powers.

Sec. 2940. The commissioner may adopt rules necessary to implement the provisions of this chapter. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 456, Act 262, Eff. Aug. 1.

500.2941 Pool; supervision, regulation and examination.

Sec. 2941. The operation of the pool shall at all times be subject to the supervision and regulation of the commissioner. The commissioner, or any deputy or examiner, or any person whom he shall appoint, shall have the power of visitation and examination into the affairs of the pool and free access to all the books, papers and documents that relate to the business of the pool, may summon and qualify witnesses under oath, and may examine officers, agents or employees or any other person having knowledge of the affairs, transactions or conditions of the pool.

HISTORY: Add. 1968, p. 456, Act 262, Eff. Aug. 1.

500.2942 Inspection reports; immunity for contents, confidentiality.

Sec. 2942. There shall be no liability on the part of, and no cause of action of any nature shall arise against, insurers, the inspection bureau, the pool or their agents or employees, or the commissioner or his authorized representatives, for any statements made by them in any reports concerning the property to be insured, or at the time of the hearings conducted in connection therewith, or in the findings required by the provisions of this chapter. The reports of the inspection bureau and the pool shall not be considered public documents.

HISTORY: Add. 1968, p. 456, Act 262, Eff. Aug. 1.

500.2943 Appeals to insurance commissioner; procedure.

Sec. 2943. Any person aggrieved by any action or decision of the inspection bureau or the pool may appeal to the commissioner within 30 days from the action or decision. After a hearing held upon not less than 10 days' written notice to the aggrieved person and the inspection bureau or the pool, the commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the inspection bureau or the pool to give further consideration to the matter. Proceedings under this chapter are subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 456, Act 262, Eff. Aug. 1.

500.2950 Voluntary plan; effect, reinstatement of pool.

Sec. 2950. (1) If there has been filed with the commissioner a voluntary plan of operation by authorized insurers creating a market operation which meets the purposes of this chapter so that basic property insurance is generally available for qualified property under conditions substantially similar to those contemplated by the provisions of this chapter, the commissioner may postpone the implementation of sections 2920 to 2931.

(2) If, after having postponed the implementation of sections 2920 to 2931, the commissioner finds that the voluntary plan of operation by authorized insurers is not creating a market operation which meets the purposes of this chapter so that basic property insurance is generally available for qualified property under conditions substantially similar to those contemplated by the provisions of this chapter, then the commissioner may order the implementation of sections 2920 to 2931. The order of the commis-

sooner implementing sections 2920 to 2931 may be reviewed in accordance with section 244; nevertheless, sections 2920 to 2931 shall be implemented pending the final determination of the review under section 244.

HISTORY: Add. 1966, p. 456, Act 262, Eff. Aug. 1.

500.2952 Federal riot reinsurance reimbursement fund; contents, assessments, reimbursements, retroactive effect.

Sec. 2952. (1) There is created a fund to be known as the federal riot reinsurance reimbursement fund, hereinafter referred to as the fund, which shall be operated under the joint control of the state treasurer and the commissioner of insurance. The fund shall consist of all payments made to the fund by insurers in accordance with the provisions of this section. The state treasurer shall enforce the collection of the assessments provided hereunder as any other obligation due the state.

(2) The fund shall reimburse the secretary of the department of housing and urban development, hereinafter referred to as the secretary, in an amount up to 5% of the aggregate property insurance premiums earned in this state during the calendar year immediately preceding the calendar year, with respect to which the secretary paid losses on lines of insurance reinsured by him in this state during that year and for which he claims reimbursement from the fund in accordance with section 1223 of the housing and urban development act of 1968, Public Law 90-448, 90th congress, August 1, 1968, hereinafter referred to as the act.

(3) Whenever the secretary, in accordance with the act, shall present to the state a request for reimbursement under the act, the fund shall immediately assess all insurers which, during the calendar year with respect to which reimbursement is requested by the secretary, were reinsured under the act. The amount of each insurer's assessment shall be calculated by multiplying the amount of the reimbursement requested by the secretary by a fraction the numerator of which is the insurer's premiums actually reinsured in this state with the secretary in that calendar year and the denominator of which is the aggregate of such reinsured premiums for all insurers.

(4) The fund shall reimburse the secretary, up to amounts actually collected by it, upon drafts or vouchers duly authorized by the state treasurer with the approval of the commissioner of insurance.

(5) If any insurer fails, by reason of insolvency, to pay any assessment, the fund shall cause the reimbursement ratios, computed under subsection (3) to be immediately recalculated, excluding therefrom the insolvent insurer, so that, its assessment is in effect, assumed and redistributed among the remaining insurers.

(6) If the secretary determines that the provisions of this section are not sufficient to meet the requirements of section 1223 of the act, the fund shall assess, with respect to the calendar year in which the determination is made and for each calendar year thereafter, against each insurer, which during the applicable calendar year obtained reinsurance with the secretary on premiums earned in this state, an amount equal to the maximum for which the fund would be liable to the secretary for that calendar year multiplied by a fraction the numerator of which is the insurer's premiums actually reinsured in the state with the secretary during that calendar year and the denominator of which is the aggregate of such reinsured premiums for all insurers. As soon as practicable after the close of a calendar year, the fund, in accordance with the formula provided in subsection (3), shall calculate the actual liability of each insurer for reimbursement to the secretary for that calendar year. The difference between the actual liability so calculated and the amount previously assessed and paid with respect to that calendar year under this section shall be credited by the fund toward the assessment against each such insurer for the subsequent calendar year.

(7) In the event that the provisions of this section and the assessments made thereunder are no longer needed in order to effectuate the program for which they were intended, the amounts remaining in the fund shall be returned to the insurers in proportion to the amount which they paid.

(8) This section shall be retroactive to August 1, 1968.

HISTORY: Add. 1969, p. 280, Act 135, Imd. Eff. Jul. 31.

CHAPTER 30.

CASUALTY INSURANCE CONTRACTS.

500.3004 Liability insurance policies; contents required.

Sec. 3004. No policy of insurance against loss or damage resulting from accident to or injury suffered by an employee or other person and for which the person insured is liable, or against loss or damage to property caused by draft animals or by any vehicle drawn, propelled or operated by any motive power, and for which loss or damage the person insured is liable, shall be issued or delivered in this state by any insurer authorized to do business in this state, unless there shall be contained within such policy the provisions required under sections 3006 and 3008.

HISTORY: New 1956, p. 572, Act 218, Eff. Jan. 1, 1957.

500.3006 Liability insurance policies; insolvency or bankruptcy of insured.

Sec. 3006. In such liability insurance policies there shall be a provision that the insolvency or bankruptcy of the person insured shall not release the insurer from the payment of damages for injury sustained or loss occasioned during the life of such policy, and stating that in case execution against the insured is returned unsatisfied in an action brought by the injured person, or his or her personal representative in case death results from the accident, because of such insolvency or bankruptcy, then an action in the nature of a writ of garnishment may be maintained by the injured person, or his or her personal representative, against such insurer under the terms of the policy for the amount of the judgment in the said action not exceeding the amount of the policy.

HISTORY: New 1956, p. 572, Act 218, Eff. Jan. 1, 1957.

500.3008 Liability insurance policies; notice to insurer.

Sec. 3008. In such liability insurance policies there shall be a provision that notice given by or on behalf of the insured to any authorized agent of the insurer within this state, with particulars sufficient to identify the insured shall be deemed to be notice to the insurer; and also a provision that failure to give any notice required to be given by such policy within the time specified therein shall not invalidate any claim made by the insured if it shall be shown not to have been reasonably possible to give such notice within the prescribed time and that notice was given as soon as was reasonably possible.

HISTORY: New 1956, p. 572, Act 218, Eff. Jan. 1, 1957.

500.3010 Uninsured motorist coverage; rejection, notice.

Sec. 3010. No automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto in limits for bodily injury or death set forth in section 504 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.504 of the Compiled Laws of 1948, under provisions approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles, including owners or operators insured by an

insolvent insurer, because of bodily injury, sickness or disease, including death, resulting therefrom, unless the named insured rejects such coverage in writing as provided herein. All such policies shall contain a notice, displayed prominently on the front page of the policy, in at least 8-point type that such protection coverage was explained to him and that he can reject such coverage by notice in writing. Unless the named insured requests such coverage in writing, it need not be provided in or supplemental to a renewal policy where the named insured has rejected the coverage in connection with a policy previously issued to him by the same insurer.

HISTORY: Add. 1965, p. 783, Act 388, Eff. Jan. 1, 1966.

500.3011 Uninsured motorist coverage; recovery against insolvent insurer.

Sec. 3011. Whenever an insurer shall make payment under a policy of insurance issued pursuant to the provisions of section 3010, which payment is occasioned by the insolvency of an insurer, such insurer's rights of recovery or reimbursement shall not include any rights against the insured of said insolvent insurer, but such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had, if the insured of the insolvent insurer had made the payment.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1.

500.3012 Liability insurance policy; noncomplying forms, defenses of insurer.

Sec. 3012. Such a liability insurance policy issued in violation of sections 3004 through 3012 shall, nevertheless, be held valid but be deemed to include the provisions required by such sections, and when any provision in such policy or rider is in conflict with the provisions required to be contained by such sections, the rights, duties and obligations of the insured, the policyholder and the injured person shall be governed by the provisions of such sections: Provided, however, That the insurer shall have all the defenses in any action brought under the provisions of such sections that it originally had against its insured under the terms of the policy providing the policy is not in conflict with the provisions of such sections.

HISTORY: New 1966, p. 573, Act 218, Eff. Jan. 1, 1967.

500.3020 Liability insurance policy; cancellation of policy, refund of excess premium, notice, statement.

Sec. 3020. No policy of casualty insurance, excepting workmen's compensation, but including all classes of motor vehicle coverage, shall be issued or delivered in this state by any insurer authorized to do business in this state for which a premium or advance assessment is charged, unless there shall be contained within such policy a provision whereby the policy may be cancelled at any time at the request of the insured, in which case the insurer shall, upon demand and surrender of the policy, refund the excess of paid premium or assessment above the customary short rates for the expired time; and whereby the policy may be cancelled at any time by the insurer by mailing to the insured at his address last known to the insurer or its authorized agent, with postage fully prepaid, a 10 days' written notice of cancellation with or without tender of the excess of paid premium or assessment above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand and the notice of cancellation shall state that the excess premium (if not tendered) will be refunded on demand. The cancellation shall be without prejudice to any claim originating prior thereto. The mailing of notice shall be prima facie proof of notice. Delivery of such written notice shall be equivalent to mailing. A notice of cancellation of a motor vehicle liability policy shall be accompanied by a statement that the insured must not operate or permit the operation of the motor vehicle to which notice of cancellation is

applicable, or operate any uninsured motor vehicle, without first obtaining liability insurance or paying the \$35.00 uninsured motor vehicle fee, as required by the Michigan motor vehicle accident claims act.

HISTORY: New 1956, p. 573, Act 218, Eff. Jan. 1, 1957;—Am. 1967, p. 275, Act 202, Eff. Aug. 1.

The bill was presented to the governor on June 21, 1967, at 2:37 p.m., and not having been returned by him to the house in which it originated became law on July 5, 1967, at 2:37 p.m., the legislature having continued in session. (See 1967 House Journal, p. 3254).

500.3021 Liability insurance policy; prohibits age discrimination, conditions.

Sec. 3021. No policy including any class of motor vehicle coverage shall be cancelled by the insurer, nor shall the insurer refuse to issue a renewal policy, nor shall the premium for any such policy be increased solely because an insured has reached the age of 65 years, if the insured still has a valid Michigan motor vehicle operator's license.

HISTORY: Add. 1965, p. 396, Act 231, Imd. Eff. Jul. 19.

500.3030 Liability insurance policy; insurer not party defendant in original action; no reference to insurance permitted at trial.

Sec. 3030. In the original action brought by the injured person, or his or her personal representative in case death results from the accident, as mentioned in section 3006, the insurer shall not be made or joined as a party defendant, nor shall any reference whatever be made to such insurer or to the question of carrying of such insurance during the course of trial.

HISTORY: New 1956, p. 573, Act 218, Eff. Jan. 1, 1957.

500.3036 Liability insurance policy; use of policy in lieu of bond on appeal.

Sec. 3036. Whenever an appeal is taken from any judgment in any case wherein it shall appear to the court that all or a part of the particular liability of the appellant thereunder is insured against, in and by any surety company or insurance carrier, authorized to do such business in Michigan, and the court is satisfied of the applicable coverage of such policy or suretyship, it shall not be required of the appellant to provide any appeal bond or bond to stay execution pending such appeal, but such insurance carrier or surety company may be required by the court and is hereby given authority to execute its written recognizance to the opposite party or parties for the payment of the taxable costs of such appeal: Provided, Such surety company or insurance carrier shall deposit with said court a copy of said insurance policy or bond and shall admit its liability thereunder, and agree to pay such judgment against its insured, if any, as shall be affirmed by said appellate court, but not exceeding the amount of the liability under said policy or bond; and in such case the court having jurisdiction thereof, on its own motion, may enter judgment against said surety company or carrier to such extent without further proceedings.

HISTORY: New 1956, p. 573, Act 218, Eff. Jan. 1, 1957.

CHAPTER 32

CANCELLATION OF AUTOMOBILE LIABILITY POLICIES

500.3204 Refusal to renew policy as cancellation; requisites.

Sec. 3204. (1) No insurer shall cancel a policy of automobile liability insurance issued after November 1, 1966, in pursuance of their certificate of authority by the department unless the cancellation is effected pursuant to the applicable provisions of this chapter.

(2) Refusal to renew any policy of automobile liability insurance shall not constitute

a cancellation unless the insurer fails to mail, 20 days prior to the termination date of the policy, by first class mail, a notice to the insured that the policy will not be renewed.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1.

500.3206 Policy of automobile insurance; definition.

Sec. 3206. As used in this chapter, "policy of automobile insurance" means a policy insuring private passenger automobiles, including those used in a car pool, or that portion of a combination policy which insures private passenger automobiles.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1.

500.3208 Inapplicability of chapter; termination of coverage at end of policy period.

Sec. 3208. This chapter shall not be applicable with respect to termination of coverage at the end of any policy period or at any annual anniversary date of any policy which specifies no term, nor shall it be applicable with respect to any cancellation for failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums for the policy, or any installment thereof, whether payable directly to the insurer or his agent indirectly under any premium finance plan.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1.

500.3212 Inapplicability of chapter; nonpayment of premiums.

Sec. 3212. The provisions of this chapter are not applicable to cancellations occasioned by nonpayment of premiums and no hearings on appeals or other statutory provisions within this chapter are to be binding on any policy of insurance coverage that lapses due to nonpayment of premium.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1.

500.3220 Cancellation; reasons.

Sec. 3220. Subject to the following provisions no insurer licensed to write automobile liability coverage, after a policy has been in effect 55 days or if the policy is a renewal, effective immediately, shall cancel a policy of automobile liability insurance except for any 1 or more of the following reasons:

a. That during the 55 days following the date of original issue thereof the risk is unacceptable to the insurer.

b. That the named insured or any other operator, either resident of the same household or who customarily operates an automobile insured under the policy has had his operator's license suspended during the policy period and the revocation or suspension has become final.

HISTORY: Add. 1966, p. 638, Act 342, Eff. Nov. 1;—Am. 1970, p. 507, Act 161, Imd. Eff. Aug. 2.

500.3224 Denial of coverage; notice of cancellation.

Sec. 3224. (1) The cancellation of a policy of insurance within the 55-day period enumerated in subdivision (a) of section 3220 shall not be subject to appeal by the insured. Failure to disclose the cancellation by any insured upon any application for insurance shall not be grounds to deny coverage on the basis of fraud by an insurer who may have accepted the risk thereafter.

2. For the provisions of this chapter only, no cancellation shall be effective unless a written notice of cancellation is mailed by certified mail, return receipt requested, to the insured at the last address known to the insurer either through its records, the personal records of the agent who wrote the policy, or as supplied by the insured.

3. The notice shall be mailed at least 20 days prior to the effective date of cancellation. For the purpose of this chapter only, delivery of such written notice by the insurer shall be the equivalent of mailing. The notice shall contain the reasons for the cancellation and shall state in bold type that the insured has the statutory right within

7 days from the date of mailing to appeal to the department. The commissioner shall approve the form of the cancellation notice.

HISTORY: Add. 1966, p. 639, Act 342, Eff. Nov. 1.

500.3230 Validity of cancellation; request for hearing.

Sec. 3230. Any insured who wishes to contest the grounds of cancellation, within 7 days after the date of postmark indicating mailing of the notice of cancellation, which date shall be impressed upon the notice, shall file a written request for hearing directed to the department and shall pay a filing fee of \$15.00 to defray the cost engendered by the hearing.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3234 Validity of cancellation; appeal, hearing by insurance commissioner, notice.

Sec. 3234. Within 10 days after receiving the notice of appeal from the insured, the commissioner or his officially appointed designees shall hold a hearing to determine the validity of the cancellation. The notice of the hearing shall be mailed to the insured and the insurer at least 4 days prior to the date of the hearing. Each insurer licensed to do business in this state shall file with the commissioner, immediately upon the effective date of this chapter, a statement containing the name and address of the person authorized to receive such notice on behalf of the insurer.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3240 Validity of cancellation; conduct of hearing, determination.

Sec. 3240. At the hearing both parties shall have an opportunity to be heard and to be represented by counsel of their own choosing if they desire. The commissioner or his duly designated representative shall make his determination in writing stating his disposition of the matter.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3244 Validity of cancellation; order for reinstatement or upholding cancellation; stay of cancellation; appeal.

Sec. 3244. The commissioner or his designated representative shall either order the policy reinstated or he may uphold the cancellation. The commissioner may stay the cancellation of the policy pending his determination in writing stating his disposition of the matter. Any person who considers himself aggrieved by any final determination of the commissioner or his designated representative may appeal such decision to the circuit court under the terms and provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3250 Statements in cancellation notice; liability.

Sec. 3250. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer or authorized representative, or its agents or employees, or the commissioner or his authorized representative for any statements made by them in any written notice of cancellation or at the time of the hearings conducted in connection therewith or in the findings required by the provisions of this chapter.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3254 Filing fee; return to insured; disposition of funds.

Sec. 3254. If the insured prevails in his appeal, the filing fee paid by the insured shall be returned to him by the insurer. All moneys collected under the provisions of this act shall be deposited to the credit of the general fund of the state.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3260 Insurance commissioner; regulatory powers.

Sec. 3260. The commissioner may make rules and regulations necessary for administration of this chapter. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended.

HISTORY: Add. 1966, p. 640, Act 342, Eff. Nov. 1.

500.3262 Private automobiles of peace officers and firemen; cancellation of insurance.

Sec. 3262. No insurer shall cancel, or refuse to renew a policy of insurance of any peace officer or fireman on his private automobile due to accident rate statistics compiled by the peace officer or fireman while driving police vehicles or fire department vehicles in the pursuit of his duties as a peace officer or fireman.

HISTORY: Add. 1967, p. 275, Act 202, Eff. Aug. 1;—Am. 1968, p. 149, Act 95, Imd. Eff. Jun. 4.

CHAPTER 35

AUTOMOBILE INSURANCE PLACEMENT FACILITY

500.3301 Michigan automobile insurance placement facility; participation, purpose.

Sec. 3301. (1) Every insurer authorized to write and writing automobile bodily injury liability and property damage liability insurance in this state shall participate in an organization for the purpose of:

- a. Providing the guarantee that automobile insurance coverage will be available to any person who is unable to procure such insurance through ordinary methods.
- b. Preserving to the public the benefits of price competition by encouraging maximum use of the normal private insurance system.

2. The organization created under this chapter shall be called the "Michigan automobile insurance placement facility".

HISTORY: Add. 1969, p. 787, Act 346, Eff. Apr. 1, 1970.

500.3303 Automobile insurance placement facility; definitions.

Sec. 3303. As used in this chapter:

- a. "Qualified applicant" means a person who meets all of the following:
 - i. Is a resident of the state.
 - ii. Owns a motor vehicle registered in accordance with the laws of this state or who has a valid driver's license or who is required to file proof of financial responsibility with the secretary of state in accordance with the terms and conditions of section 504 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.504 of the Compiled Laws of 1948.
 - iii. Has no unpaid premiums with respect to prior automobile insurance.
- b. "Facility" means the automobile insurance placement facility created pursuant to the provisions of this chapter.
- c. "Participating member" means an insurer who is required by the provisions of this chapter to be a member of the facility and who in any given calendar year has a participation ratio greater than zero in the facility for that year.
- d. "Participation ratio" means the ratio of the participating member's Michigan premiums or exposure units to the comparable statewide totals for all participating members.
 - i. For private passenger nonfleet automobile insurance the ratio shall be based on voluntary net direct bodily injury liability car years written in the state for the calen-

dar year ending December 31 of the second prior year as reported to the statistical agent of each participating member as private passenger nonfleet exposures.

(ii) For all other automobile insurance, including insurance for fleets, commercial vehicles, public vehicles and garages, the ratio shall be based on the total Michigan automobile liability gross direct premiums written including policy and membership fees, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, reduced by the amount of such premiums reported as private passenger nonfleet for the calendar year ending December 31 of the second prior year.

(iii) For expenses, assessments and voting rights, the ratio shall be based on the total Michigan automobile liability gross direct premiums written, including policy and membership fees, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded for the calendar year ending December 31 of the second prior year.

(e) "Private passenger nonfleet automobile" means motorized vehicles designed for transporting passengers or goods, subject to specific contemporary definitions for insurance purposes as provided in the plan of operation.

HISTORY: Add. 1969, p. 787, Act 346, Eff. Apr. 1, 1970.

500.3310 Automobile insurance placement facility; committee, election; board of governors; plan of operation.

Sec. 3310. (1) Within 15 days after the effective date of this chapter the commissioner shall mail a ballot, returnable within 15 days from the date of mailing, to every participating member for the election of a 7-member facility committee. Ballots shall be tabulated by the commissioner on a weighted basis in the same ratio as provided for determining the participation ratio. Votes on a ballot may be divided among not more than 3 candidates. At least 3 members of the facility committee shall be elected from among representatives of domestic insurers.

(2) The facility committee shall become the initial board of governors of the facility effective with the adoption and approval of the plan of operation. Thereafter the board of governors of the facility shall be elected to serve annual terms commencing within 45 days after the annual determination of participation ratios. Vacancies shall be filled as provided for in the plan of operation.

(3) The facility committee shall adopt a plan of operation by majority vote of the committee and shall submit it to the commissioner for his approval. If the commissioner finds that the plan meets the requirements of this chapter he shall approve it. If he finds that the plan fails to meet the requirements of this chapter he shall state wherein the plan is deficient and afford the facility committee 10 days within which to correct the deficiency. If the commissioner and the facility committee fail to agree that the provisions of the plan so submitted meet the requirements of this chapter, either party to the controversy may submit the issue to the circuit court of Ingham county for a determination. If the commissioner fails to render a written decision on the plan of operation within 30 days after receipt thereof, such plan shall be deemed approved.

(4) If the facility committee fails to submit a plan of operation within 120 days after the effective date of this chapter the commissioner shall prepare and promulgate a plan of operation in accordance with the requirements of this chapter, which shall continue in force until superseded by a plan of operation made effective in accordance with the provisions of this section, excepting the time limitations thereof.

(5) Amendments to the plan of operation shall be subject to majority approval by the board of governors and ratified by majority of the membership vote. Such mem-

bership vote shall be determined as defined in section 3303. Said amendments shall be subject to the approval of the commissioner, as provided in section 3310 (3).

6) Every insurer authorized to write and writing automobile bodily injury liability and property damage liability insurance in this state shall adhere to the plan of operation.

HISTORY: Add. 1969, p. 788, Act 346, Eff. Apr. 1, 1970.

500.3320 Private passenger nonfleet automobiles; facility, duties.

Sec. 3320. The facility, with respect to private passenger nonfleet automobiles, shall provide for:

a. The equitable distribution of applicants to participating members in accordance with the participation ratios defined in section 3303.

b. Issuance of policies of insurance by participating members affording:

i. Bodily injury liability and property damage liability coverage in minimum amounts specified in section 504 of Act No. 300 of the Public Acts of 1949, as amended, and uninsured motorists coverage as required by section 3010 of this act unless rejected in writing by the applicant; and

ii. At the option of the insured, the following:

a. A reasonable selection of additional limits of liability, and

b. Excess medical payments coverage with a reasonable selection of limits, and

c. Automobile physical damage coverage, including loss by collision, subject to a deductible or optional deductibles of not less than \$100.00 for each loss.

No coverage made available under paragraph (ii) shall be available to an applicant unless coverage provided for in paragraph (i) of this subsection shall also be provided; and coverage made available under this section shall be equivalent to the standard automobile policy—fifth revision as approved by the commissioner with such changes, additions and amendments as are adopted by the board of governors and approved by the commissioner.

HISTORY: Add. 1969, p. 788, Act 346, Eff. Apr. 1, 1970.

500.3321 Other automobiles; facility, duties.

Sec. 3321. The facility shall provide, with respect to all automobiles not included in section 3320:

a. Only the insurance required by law.

b. The equitable distribution of applicants to participating members in accordance with the participation ratios defined in section 3303.

HISTORY: Add. 1969, p. 789, Act 346, Eff. Apr. 1, 1970.

500.3330 Board of governors; duties.

Sec. 3330. The board of governors shall have all power to direct the operation of the facility, including but not limited to the following:

a. To sue and be sued in the name of the facility. No judgment against the facility shall create any liabilities in the individual participating members thereof.

b. To delegate ministerial duties, to hire a manager and to contract for goods and services from others.

c. To assess [sic] participating members on the basis of participation ratios to cover anticipated costs of operation and administration of the facility.

d. To impose limitations on cancellation or nonrenewal by participating members of facility-placed business, in addition to the limitations imposed by chapter 32.

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

500.3340 Manuals; filing; rates, standards; applicable laws.

Sec. 3340. (1) As agent for participating members, the facility shall file with the commissioner every manual of classification, every manual of rules and rates, every rating plan and every modification of any of the foregoing proposed for use for private passenger nonfleet automobile insurance placed through the facility. The facility may incorporate by reference in its filings other material on file with the commissioner. The classifications, rules and rates and any amendments thereof shall be subject to prior written approval by the commissioner. Rates filed by the facility shall not be excessive, inadequate, or unfairly discriminatory.

(2) Every participating member shall be authorized to use the rates and rules approved by the commissioner for use by the facility on business placed through the facility and shall use no other rates on private passenger nonfleet automobiles placed through the facility.

(3) Laws relating to rating organizations or advisory organizations shall not apply to functions provided for under this section.

HISTORY: Add. 1969, p. 789, Act 346, Eff. Apr. 1, 1970.

500.3350 Deferred payment plans; exclusionary indorsements; publicity; statements, reinsurance.

Sec. 3350. The facility shall provide:

(a) Optional deferred premium payment plan or plans which shall include sufficient advance payment at least equal to the pro rata earned premium at all times and shall include additional charges for such deferred payments.

(b) That policies issued on facility placed business may be indorsed to exclude coverage for any named person who is operating a motor vehicle after his driver's license has been refused, revoked or suspended by governmental authority.

(c) For publicizing and developing public understanding of the facility.

(d) For the rendering of an annual financial statement to all participating members and the commissioner.

(e) For the reinsurance of facility placed risks including, if desired, a pool for reinsuring liability coverages with limits in excess of those required by statute, or such other underwriting arrangements as may be necessary to enable participating members to offer said limits of liability insurance.

HISTORY: Add. 1969, p. 789, Act 346, Eff. Apr. 1, 1970.

500.3355 Agents; duties, commission.

Sec. 3355. Every agent who is authorized to solicit, negotiate or effect automobile insurance on behalf of any participating member shall:

(a) Offer to place coverage through the facility for any qualified applicant who is ineligible or unacceptable for coverage in the insurer or insurers for whom the agent is authorized to solicit, negotiate or effect automobile insurance.

(b) If the qualified applicant accepts the offer in subdivision (a), forward the application and any deposit premium required in accordance with the plan of operation, rules and procedures of the facility.

(c) Be entitled to receive, and any participating member be entitled to pay, a commission for placing insurance through the facility at the uniform rates of commission as provided in the plan of operation.

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

500.3360 Participating member and agent; relationship.

Sec. 3360. A participating member may not include the premiums and losses incurred from risks insured through the facility in determining the loss ratio of any of its

agents, or otherwise use the experience from such risks as cause for altering the relationship between the participating member and its agent.

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

500.3365 Insured; eligibility for placement of coverage through facility; termination; review.

Sec. 3365. (1) Any qualified applicant who has been rejected, cancelled or refused renewal with respect to automobile liability insurance by a participating member shall be eligible for insurance as provided by this chapter through the facility.

(2) Eligibility for placement through the facility will terminate if an insured is offered equivalent coverage in the voluntary market at a rate lower than the facility rate. If the participating member that is required to provide coverage by the facility makes such an offer after giving 30 days' advance written notice to the agent of record before making the offer, the participating member shall have no further obligation to the agent of record.

(3) Every participating member at least annually shall review every applicant which it insures through the facility and determine whether or not such applicant is acceptable for voluntary insurance at a rate lower than the facility rate. If such applicant is acceptable, the participating member shall make an offer as defined in subsection (2).

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

500.3370 Assistance to public by facility.

Sec. 3370. If the commissioner shall find, after hearing, that a large number of persons are failing to gain the benefits of the facility, the facility shall provide service to assist the public in making application to the facility for placement.

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

500.3380 Violation of plan; hearings, rulings, appeal.

Sec. 3380. (1) Any participating member, applicant or person insured under a policy placed through the facility may request a formal hearing and ruling by the board of governors of the facility on any alleged violation of the plan of operation or any alleged improper act or ruling of the facility directly affecting its assessment, premium or coverage furnished. But such right to hearing shall not apply to any claim arising out of insurance provided by any participating member. Such request for hearing must be filed within 30 days after the date of the alleged act or decision.

(2) The plan of operation shall provide for prompt and fair hearings.

(3) Any formal ruling by the board of governors may be appealed to the commissioner by filing notice of appeal with the facility and commissioner within 30 days after issuance of the ruling.

(4) The commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the board of governors to reconsider the ruling.

HISTORY: Add. 1969, p. 790, Act 346, Eff. Apr. 1, 1970.

CHAPTER 34.

DISABILITY INSURANCE POLICIES.

500.3400 Policy of disability insurance; scope of chapter, exemptions, exceptions.

Sec. 3400. (1) The term "policy of disability insurance" as used in this chapter includes any policy or contract of insurance against loss resulting from sickness or from bodily injury or death by accident, or both, including also the granting of specific hospital benefits and medical, surgical and sick-care benefits to any person, family or group, subject to the exclusions set forth or referred to in this section.

(2) Nothing in this chapter shall apply to or affect:

(a) Any policy of liability or workmen's compensation insurance, with or without supplementary expense coverage therein;

(b) Any policy or contract of reinsurance; or

(c) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as (i) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (ii) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract; all of which supplemental contracts shall be issuable under authority of section 602.

(3) The provisions of this chapter contained in sections 3407 (entire contract; changes), 3411 (reinstatement), and 3420 (physical examinations and autopsy), may be omitted from ticket policies sold only to passengers by common carriers.

(4) Section 3475 of this chapter shall apply to group, blanket or family expense disability insurance contracts and the remaining provisions of this chapter shall apply to such contracts only as provided in chapter 36.

HISTORY: New 1956, p. 574, Act 218, Eff. Jan. 1, 1957;—Am. 1963, p. 64, Act 56, Eff. Sep. 6.

500.3401 Purpose of chapter; short title, uniform disability insurance policy provisions law.

Sec. 3401. (1) The purpose of this chapter is to provide for a new set of standard provisions applicable to disability insurance policies, which it is proposed shall become substantially uniform throughout the various states; to provide that adoption of their use by insurers shall be optional before January 1, 1956; and upon that date shall be mandatory; which date of adoption in either instance is referred to herein as the operative date of this chapter.

(2) This chapter shall be known and may be cited as the uniform disability insurance policy provisions law.

HISTORY: New 1956, p. 574, Act 218, Eff. Jan. 1, 1957.

500.3402 Disability insurance policy; provisions required.

Sec. 3402. No policy of disability insurance, as defined in section 3400 (1), shall be delivered or issued for delivery to any person in this state unless:

(1) The entire money and other considerations therefor are expressed therein; and

(2) The time at which the insurance takes effect and terminates is expressed therein; and

(3) It purports to insure only 1 person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder; and

(4) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point with a lower-case unspaced alphabet length, not less than 120-point in length of line (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and sub-captions); and

5. The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 3406 through 3454, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS", or "EXCEPTIONS AND REDUCTIONS": Provided, That if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

6. Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

7. It contains no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

HISTORY. New 1956, p. 574, Act 218, Eff. Jan. 1, 1957.

500.3404 Disability insurance policies issued for delivery to nonresident.

Sec. 3404. If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in section 3402 and in sections 3406 through 3466.

HISTORY. New 1956, p. 575, Act 218, Eff. Jan. 1, 1957.

500.3406 Disability insurance policy; provisions required, captions, omissions, substitutions.

Sec. 3406. (1) Except as provided in subsection (2) of this section, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in sections 3407 through 3424 in the words in which the same appear in such sections: Provided, however, That the insurer may, at its option, substitute for 1 or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in the pertinent section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

2. If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

HISTORY. New 1956, p. 575, Act 218, Eff. Jan. 1, 1957.

500.3407 Entire contract; changes.

Sec. 3407. There shall be a provision as follows:

ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

HISTORY. New 1956, p. 575, Act 218, Eff. Jan. 1, 1957.

500.3408 Time limit on certain defenses; incontestability.

Sec. 3408. There shall be a provision as follows:

TIME LIMIT ON CERTAIN DEFENSES: (a) After 3 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such 3-year period.

(The foregoing policy provisions shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial 3-year period, nor to limit the application of sections 3432 (change of occupation), 3434 (misstatement of age), 3436 (other insurance—same insurer), 3438 (insurance with other insurers—provision of service or expense incurred basis), and 3440 (insurance with other insurers) in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least 5 years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of 3 years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after 3 years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(For the purpose of permitting insurers to use a uniform policy in several states, the insurer is permitted to print in the policy form in required provisions (a) and (b) above the term of "3 years". Nevertheless, the provisions of the contract and text of the statute to the contrary notwithstanding, the time limits for said defenses under any contract delivered or issued for delivery to any person in this state shall not exceed 2 years.)

HISTORY: New 1956, p. 575, Act 218, Eff. Jan. 1, 1957.

500.3410 Grace period; provision required.

Sec. 3410. There shall be a provision as follows:

GRACE PERIOD: A grace period of (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

(A policy which contains a cancellation provision may add, at the end of the above provision, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof." A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, "unless not less than 5 days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted,").

HISTORY: New 1956, p. 576, Act 218, Eff. Jan. 1, 1957.

500.3411 Reinstatement; provision required.

Sec. 3411. There shall be a provision as follows:

REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy: Provided, however, That if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least 5 years from its date of issue.)

HISTORY: New 1956, p. 576, Act 218, Eff. Jan. 1, 1957.

500.3412 Notice of claim; provision required.

Sec. 3412. There shall be a provision as follows:

NOTICE OF CLAIM: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

In a policy providing a loss-of-time benefit which may be payable for at least 2 years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least 2 years, he shall, at least once in every 6 months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of 6 months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of 6 months preceding the date on which such notice is actually given.)

HISTORY: New 1956, p. 577, Act 218, Eff. Jan. 1, 1957.

500.3413 Claim forms; provision required.

Sec. 3413. There shall be a provision as follows:

CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms

are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

HISTORY: New 1956, p. 577, Act 218, Eff. Jan. 1, 1957.

500.3414 Proofs of loss; provision required.

Sec. 3414. There shall be a provision as follows:

PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than 1 year from the time proof is otherwise required.

HISTORY: New 1956, p. 577, Act 218, Eff. Jan. 1, 1957.

500.3416 Time of payment of claims; provision required.

Sec. 3416. There shall be a provision as follows:

TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

HISTORY: New 1956, p. 577, Act 218, Eff. Jan. 1, 1957.

500.3418 Payment of claims; provision required.

Sec. 3418. There shall be a provision as follows:

PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$..... (insert an amount which shall not exceed \$1,000.00), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured re-

quests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

HISTORY: New 1956, p. 578, Act 215, Eff. Jan. 1, 1957.

500.3420 Physical examinations and autopsy; provision required.

Sec. 3420. There shall be a provision as follows:

PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

HISTORY: New 1956, p. 578, Act 215, Eff. Jan. 1, 1957.

500.3422 Legal actions; provision required.

Sec. 3422. There shall be a provision as follows:

LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

HISTORY: New 1956, p. 578, Act 215, Eff. Jan. 1, 1957.

500.3424 Change of beneficiary; provision required.

Sec. 3424. There shall be a provision as follows:

CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

HISTORY: New 1956, p. 578, Act 215, Eff. Jan. 1, 1957.

500.3430 Optional policy provisions; insurance commissioner's approval.

Sec. 3430. Except as provided in subsection (2) of section 3406 (inapplicable or inconsistent provisions), no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth in sections 3432 through 3454 unless such provisions are in the words in which the same appear in such sections: Provided, however, That the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in the pertinent section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

HISTORY: New 1956, p. 578, Act 215, Eff. Jan. 1, 1957.

500.3432 Change of occupation; optional provision.

Sec. 3432. There may be a provision as follows:

CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to any occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured

changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

HISTORY: New 1956, p. 579, Act 218, Eff. Jan. 1, 1957.

500.3434 Misstatement of age; optional provision.

Sec. 3434. There may be a provision as follows:

MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

HISTORY: New 1956, p. 579, Act 218, Eff. Jan. 1, 1957.

500.3436 Other insurance with same insurer; optional provision.

Sec. 3436. There may be a provision as follows:

OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for (insert type of coverage or coverages) in excess of \$..... (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

Or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

HISTORY: New 1956, p. 579, Act 218, Eff. Jan. 1, 1957.

500.3438 Insurance with other insurers; optional provision.

Sec. 3438. There may be a provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 3440 there shall be added to the caption of the foregoing provision the phrase “—EXPENSE INCURRED BENEFITS”. The insurer may, at its option, include in this provision a definition of “other valid coverage”, approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen’s compensation or employer’s liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage”.)

HISTORY: New 1956, p. 579, Act 218, Eff. Jan. 1, 1957.

500.3440 Insurance with other insurers; other benefits; optional provision.

Sec. 3440. There may be a provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined. (If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 3438 there shall be added to the caption of the foregoing provision the phrase “—OTHER BENEFITS”. The insurer may, at its option, include in this provision a definition of “other valid coverage”, approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen’s compensation or employer’s liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage”.)

HISTORY: New 1956, p. 580, Act 218, Eff. Jan. 1, 1957.

500.3444 Relation of earnings to insurance; optional provision.

Sec. 3444. There may be a provision as follows:

RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss and time benefits promised for the same loss under all valid loss of time coverage upon

the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of 2 years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such 2 years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200.00 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time. (The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50, or (2) in the case of a policy issued after age 44, for at least 5 years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

HISTORY: New 1956, p. 580, Act 218, Eff. Jan. 1, 1957.

500.3446 Unpaid premium; optional provision.

Sec. 3446. There may be a provision as follows:

UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

HISTORY: New 1956, p. 581, Act 218, Eff. Jan. 1, 1957.

500.3448 Cancellation; optional provision.

Sec. 3448. There may be a provision as follows:

CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to the insured, stating when, not less than 5 days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

HISTORY: New 1956, p. 581, Act 218, Eff. Jan. 1, 1957.

500.3450 Conformity with state statutes; optional provision.

Sec. 3450. There may be a provision as follows:

CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

HISTORY: New 1956, p. 581, Act 218, Eff. Jan. 1, 1957.

500.3452 Illegal occupation; optional provision.

Sec. 3452. There may be a provision as follows:

ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

HISTORY: New 1956, p. 581, Act 218, Eff. Jan. 1, 1957.

500.3454 Intoxicants and narcotics; optional provision.

Sec. 3454. There may be a provision as follows:

INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3460 Order of certain policy provisions.

Sec. 3460. The provisions which are the subject of sections 3406 through 3454, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3462 Third party ownership of policy.

Sec. 3462. The word "insured", as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3464 Foreign or alien insurers; provision required by other state law.

Sec. 3464. (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state under which the insurer is organized.

Requirements of other jurisdiction, domestic insurer.

2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3466 Filing procedure; insurance commissioner, regulatory powers.

Sec. 3466. The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3468 Provisions violating code, or not subject to chapter; conformity.

Sec. 3468. (1) No policy provision which is not subject to sections 3406 through 3454 shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

Construction of noncomplying policies and provisions.

(2) A policy delivered or issued for delivery to any person in this state in violation of this insurance code shall be held valid but shall be construed as provided in this code. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3470 Age of insured; provision regulations.

Sec. 3470. If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

HISTORY: New 1956, p. 582, Act 218, Eff. Jan. 1, 1957.

500.3474 Risk classification; rates; filing requirements.

Sec. 3474. No policy of insurance against loss or expense from the sickness, or from the bodily injury or death from accident of the insured, nor any application, rider or endorsement to be used in connection therewith, shall be delivered or issued for delivery to any person in this state, until the classification of risks and any premium rates pertaining thereto have been filed with the department of insurance.

HISTORY: New 1956, p. 583, Act 218, Eff. Jan. 1, 1957.

500.3475 Reimbursement for services by chiropractor, podiatrist or consulting psychologist.

Sec. 3475. Notwithstanding any provision of any policy of insurance or certificate, whenever such insurance policy or certificate provides for reimbursement for any service which may be legally performed by a person certified as a "certified consulting psychologist" under the provisions of Act No. 257 of the Public Acts of 1959, as amended, being sections 338.1001 to 338.1019 of the Compiled Laws of 1948, or by a person licensed in this state for the practice of chiropractic or podiatry, reimbursement under such insurance policy or certificate shall not be denied if such service is rendered by a person certified as a "certified consulting psychologist" under the provisions of Act No. 257 of the Public Acts of 1959, as amended, or by a person licensed to practice chiropractic or podiatry within the statutory provisions provided in his indi-

individual practice act. This section shall not be construed as requiring the coverage for such certified consulting psychologist in any insurance policy.

HISTORY: Add. 1963, p. 64, Act 56, Eff. Sep. 6;—Am. 1966, p. 114, Act 92, Imd. Eff. Jan. 15;—Am. 1966, p. 272, Act 182, Eff. Nov. 15.

500.3480 Repealed. 1963, p. 181, Act 127, Eff. Sep. 6.

Section imposed penalties for violation of disability insurance provisions.

CHAPTER 36.

GROUP AND BLANKET DISABILITY INSURANCE.

500.3600 Scope of chapter.

Sec. 3600. (1) This chapter shall apply only to group, blanket, and family expense disability insurance policies.

2 Nothing in this chapter shall apply to or affect:

a Any policy of liability or workmen's compensation insurance, with or without supplementary expense coverage therein;

b Any policy or contract of reinsurance; or

c Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as (i) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (ii) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

HISTORY: New 1956, p. 583, Act 218, Eff. Jan. 1, 1957.

500.3601 Group disability insurance; definition.

Sec. 3601. Group disability insurance is hereby declared to be that form of voluntary disability insurance covering not less than 5 employees or members, with or without their eligible dependents, written under a master policy issued to any governmental corporation, unit, agency, or department thereof, or to any corporation, copartnership, individual employer, or any association, upon application of any executive officer or trustee of such association having a constitution or bylaws, and formed in good faith for purposes other than that of obtaining insurance where officers, members, employees, or classes or departments thereof may be insured for their individual benefit. The benefits for such dependents shall not include indemnities for loss of time from any cause.

HISTORY: New 1956, p. 583, Act 218, Eff. Jan. 1, 1957.

500.3602 Exemption as to workmen's compensation insurance.

Sec. 3602. Nothing in this chapter shall be construed to apply to group insurance covering accidental injuries or accidental death arising out of and in the course of employment written under a policy issued to any governmental corporation, unit, agency or department thereof, or to any corporation, copartnership, individual employer, or any association upon application of any executive officer, board, or trustee of such association having a constitution or bylaws, and formed in good faith for purposes other than that of obtaining insurance where officers, members, or employees thereof are insured for their individual benefit.

HISTORY: New 1956, p. 583, Act 218, Eff. Jan. 1, 1957.

500.3606 Group disability insurance policy; filing, approval.

Sec. 3606. (1) Any insurer authorized to write disability insurance in this state shall have the power to issue group disability insurance policies.

2 No such group policy may be issued or delivered in this state unless a copy of the form shall have been filed with the commissioner and approved by him.

(3) Such policies shall also be subject to section 3474 (filing of risk classifications and rates).

HISTORY: New 1956, p. 584, Act 218, Eff. Jan. 1, 1957.

500.3608 Group disability insurance policy; provisions required.

Sec. 3608. Every policy of group disability insurance shall contain the following provisions:

(1) A provision that the policy, application of the employer, or executive officer or trustee of any association, and the individual applications, if any, of the employees or members insured, shall constitute the entire contract between the parties, and that all statements made by the employer, or the executive officer or trustee, or by the individual employees or members, shall, in the absence of fraud, be deemed representations and not warranties, and that no such statements shall be used in defense of a claim under the policy, unless it is contained in a written application.

(2) A provision that the insurer will issue to the employer, or to the executive officer or trustee of the association, for delivery to the employee or member, who is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled and to whom payable.

(3) A provision that to the group or class thereof originally insured shall be added from time to time all new employees of the employer, or members of the association eligible to, and applying for insurance in such group or class.

(4) The applicable provisions of sections 3406 through 3466 (required and optional provisions for individual disability insurance policies).

HISTORY: New 1956, p. 584, Act 218, Eff. Jan. 1, 1957.

500.3620 Family expense insurance; definition.

Sec. 3620. (1) Family expense insurance is that form of accident and health or hospitalization, medical, surgical and sick-care insurance which is written under 1 policy issued to the head of a family who may be either spouse, and insuring such head and 1 or more dependents, and may include a non-dependent spouse. Benefits under such policy, except as applied to the head of the family, shall not include indemnities for loss of time from any cause.

Authority to issue.

(2) Any insurer authorized to write accident and health or hospitalization, medical, surgical and sick-care insurance in this state is authorized to issue family expense insurance policies.

Approval of form.

(3) No such policy may be issued or delivered in this state unless a copy of the form thereof shall have been filed with the commissioner and approved by him.

Required and optional provisions.

(4) Every policy of family expense insurance shall contain the applicable provisions of sections 3406 through 3466 (required and optional provisions for individual disability insurance policies), and shall contain the following provisions in substance:

(a) A provision that the policy and the application signed by the husband or wife acting as the head of the family for the purpose of this insurance shall constitute the entire contract between the parties, and that all statements made by the head of the family shall, in the absence of fraud, be deemed representations and not warranties, and that no statement shall be used in defense of a claim under the policy unless it is contained in a written application.

(b) A provision that to the family group originally insured may be added, from time to time, on application of the head of the family, any new members of the family eligible for insurance in such family group.

Risk classification and rates, filing.

5 Such policies shall be subject to section 3474 (filing of risk classifications and rates).

HISTORY: New 1956, p. 564, Act 218, Eff. Jan. 1, 1957.

500.3630 Hospital, medical, surgical, sick-care benefits; payment.

Sec. 3630. In any disability group policy or family expense policy providing for hospital, medical, surgical and/or sick-care benefits, all benefits accruing under such policy for or on account of any member of a family included therein shall be payable to the insured, if living, or to such other person as the policy may provide for in the case of the insured's death, but it may be provided in the policy, with the consent of the insured, that the said benefits in any case may be paid directly to any corporation furnishing hospital, and to any person legally furnishing medical, surgical, or sick-care services to the insured or to the members of his or her family covered in the policy, within such limits as the policy may provide, but without other preferences as to such creditors: Provided, That in the case of family insurance, one of the parents, or the person who stands in the place of parent, shall be the contracting party for such insurance, and may receive, receipt and give acquittance for all benefits accruing to any member of such family so insured.

HISTORY: New 1956, p. 585, Act 218, Eff. Jan. 1, 1957.

500.3636 Blanket disability insurance; definition.

Sec. 3636. Blanket disability insurance is hereby declared to be that form of disability insurance covering special groups of persons as enumerated in the following subdivisions: (1) to (7) inclusive:

1 Under a policy or contract issued to any common carrier, which shall be deemed the policyholder, covering a group defined as all persons who may become passengers on such common carrier.

2 Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering all employees or any group of employees defined by reference to exceptional hazards incident to such employment.

3 Under a policy or contract issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or teachers.

4 Under a policy or contract issued in the name of any volunteer fire department, first aid or other such volunteer group, which shall be deemed the policyholder, covering all of the members of such department or group.

5 Under a policy or contract issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditors.

6 Under a policy or contract issued to a sports team or to a camp, which team or camp sponsor shall be deemed the policyholder, covering members or campers.

7 Under a policy or contract issued to any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a blanket disability policy or contract.

HISTORY: New 1956, p. 585, Act 218, Eff. Jan. 1, 1957.

500.3638 Blanket disability insurance; insurer, power to issue; filing, approval, classifications, rates.

Sec. 3638. (1) Any insurer authorized to write disability insurance in this state shall have the power to issue blanket disability insurance policies.

(2) No such blanket policy may be issued or delivered in this state unless a copy of the form shall have been filed with the commissioner and approved by him.

(3) Such policies shall also be subject to section 3474 (filing of risk classifications and rates).

HISTORY: New 1956, p. 585, Act 218, Eff. Jan. 1, 1957.

500.3640 Blanket disability insurance policy; provisions required.

Sec. 3640. Every policy of blanket disability insurance shall contain the following provisions:

(1) A provision that the policy and the application of the policyholder shall constitute the entire contract between the parties, and that all statements made by the policyholder shall, in the absence of fraud, be deemed representations and not warranties, and that no such statements shall be used in defense of a claim under the policy, unless it is contained in a written application.

(2) A provision that to the group or class thereof originally insured shall be added from time to time all new persons or individuals eligible for coverage.

(3) The applicable provisions of sections 3406 through 3466 (required and optional provisions for individual disability insurance policies).

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.3650 Blanket disability insurance; application, certificate; payment of benefits; liability of policyholder.

Sec. 3650. (1) An individual application shall not be required from a person covered under a blanket disability policy or contract. The commissioner may require the insurer to furnish a certificate to each person insured under a blanket disability policy or contract.

Payment of benefits.

(2) All benefits under any blanket disability policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured be a minor or mental incompetent, such benefits may be made payable to his parent, guardian or other person actually supporting him. The policy may provide, with the consent of the insured, that the benefits in any case may be paid directly to any corporation furnishing hospital, and to any person legally furnishing medical, surgical or sick-care services to the insured, within such limits as the policy may provide, but without other preference as to such creditors.

Liability of policyholders.

(3) Nothing contained in sections 3636 through 3650 shall be deemed to affect the legal liability of policyholders for the death of or injury to, any such member of such group.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957;—Am. 1963, p. 180, Act 127, Eff. Sep. 6.

CHAPTER 37.

GROUP HEALTH INSURANCE FOR PERSONS 65 OR OVER

500.3701 Purpose of chapter.

Sec. 3701. It is the purpose of this chapter to provide a means of more adequately meeting the needs of persons who are 65 years of age or older and their spouses for insurance coverage against financial loss from accident or sickness through the combined resources and experience of a number of insurance companies; to make possible the fullest extension of such coverage by encouraging insurance companies to combine their resources and experience and to exercise their collective efforts in the development and offering of policies of health insurance to all such applicants; and to regulate

the joint activities herein authorized in accordance with the intent of congress as expressed in the act of congress of March 9, 1945, Public Law 15, 79th congress, as amended.

HISTORY: Add. 1964, p. 214, Act 167, Imd. Eff. May 19.

500.3702 Definitions.

Sec. 3702. As used in this chapter:

a "Association" means a voluntary unincorporated association formed for the purpose of enabling cooperative action to provide health insurance in accordance with this chapter in this or any other state having legislation enabling the issuance of insurance of the type authorized by this act.

b "Insurer" means any insurance company authorized to transact health insurance in this state.

c "Health insurance" means hospital, surgical and medical expense insurance provided by a policy issued as authorized by this chapter.

HISTORY: Add. 1964, p. 214, Act 167, Imd. Eff. May 19.

500.3704 Joinder of insurers; group or individual insurance.

Sec. 3704. Notwithstanding any other provision of this act or any other statute, 2 or more insurers may join together, on a uniform basis with respect to premium rates, policy provisions, commissions and other matters within the scope of this act to offer, sell, issue and administer hospital, surgical and medical expense insurance plans under policies of health insurance covering residents of this state, or of another state if permitted by the laws of such other state, who are 65 years of age or older and their spouses, on which policies each insurer shall be severally liable. The insurance may be offered, issued and administered jointly by 2 or more insurers by a group or individual policy issued to a policyholder through a voluntary unincorporated association, other organization or trust formed by such insurers solely for the purpose of offering, issuing and administering such insurance. The policyholder may be an association, a trustee or any other person. Membership in the association, other organization or trust shall be open to any insurer authorized to do the business of health insurance in this state.

HISTORY: Add. 1964, p. 214, Act 167, Imd. Eff. May 19.

500.3706 Multi-state regional plan.

Sec. 3706. If disability or health insurance plans similar to the plan described in this chapter exist or hereafter come into existence in another state under similar legislation, insurers of this state may jointly participate with insurance companies licensed in the other state in forming or becoming members of a multi-state regional plan to promote or carry out the purposes of this act. An association offering and operating a regional plan shall not be required to be licensed as an insurer or otherwise, but only insurers licensed in this state may participate in any plan of insurance offered by the association to residents of this state.

HISTORY: Add. 1964, p. 215, Act 167, Imd. Eff. May 19.

500.3708 Coverages offerable.

Sec. 3708. (1) The insurance coverage shall be offered to all residents of this state who are 65 years of age or over, or to such residents of any other state if coverage hereunder is approved by the insurance commissioner of the other state under a regional plan, and their spouses, subject to such reasonable underwriting restrictions that the association, other organization or trust shall determine. The insurance coverage may consist of 1 or more of the following types:

- a. Basic hospital coverage.
- b. Basic surgical coverage.

- (c) Basic medical coverage.
- (d) Major medical coverage.
- (e) Any combination of these types.

(2) The coverage of any person insured under a form of policy issued pursuant to this chapter shall not be cancellable except for nonpayment of premiums, unless the coverage of all persons in any class insured under such a form of policy is also cancelled. The policy may provide that the benefits payable thereunder are subject to reduction if the person insured has any other coverage providing hospital, surgical or medical benefits, whether on an indemnity basis or on a service basis.

HISTORY: Add. 1964, p. 215, Act 167, Imd. Eff. May 19.

500.3710 Federal or state program for hospital, surgical or medical benefits.

Sec. 3710. When a program of hospital, surgical or medical benefits is enacted by the federal government or the state, the health insurance benefits provided in conformity with this act may be adjusted by the association, other organization or trust to avoid any duplication of benefits offered by the federal or state programs, and the premium rates applicable thereto shall be adjusted to conform with the adjusted benefits.

HISTORY: Add. 1964, p. 215, Act 167, Imd. Eff. May 19.

500.3712 Articles, policies, applications, certificates or evidences of insurance coverage; filing, approval by commissioner.

Sec. 3712. A true copy of any contract or articles of association or organization or trust agreement entered into by such companies pursuant to this chapter and the forms of the policies, applications, certificates or other evidence of insurance coverage, commission schedules and applicable premium rates shall be filed with the commissioner by or on behalf of the companies participating. The commissioner may require additional information. If the commissioner finds within 30 days after the date of filing that any forms for the insurance are unjust, unfair, inequitable, misleading or deceptive, or that the premium rates charged are excessive in relation to the benefits provided, inadequate or unfairly discriminatory or that any activity or practice under this chapter of the insurance companies or of the association, organization or trust is unfair, unreasonable or contrary to the public policy, he shall disapprove such forms or premium rates or require the discontinuance of the activity or practice after at least 20 days' notice and hearing. In determining whether the premium rates are excessive, inadequate or unfairly discriminatory, the commissioner shall give due consideration to past and prospective claim experience within and outside this state and to fluctuations in claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses both within and outside this state, and to all other relevant factors within and outside this state, including any differing operating methods of the insurance companies joining in the issue of the policy or the plan offered. Any disapproval shall be effective after the expiration of a period, not less than 90 days after the giving of notice of disapproval, as the commissioner prescribes in the notice. In exercising the powers conferred upon him by this chapter, the commissioner shall not be bound by any other requirement of this act with respect to standard, required or optional provisions to be included in health insurance policies or forms as specified in chapters 34 or 36.

HISTORY: Add. 1964, p. 215, Act 167, Imd. Eff. May 19.

500.3714 Summary statement.

Sec. 3714. A summary statement concerning any health insurance written under the authority of this chapter shall be furnished annually by the association, other organiza-

and or trust to the commissioner in such form as he may prescribe.

HISTORY: Add. 1964, p. 216, Act 167, Imd. Eff. May 19.

500.3716 Insurance agent; commission or allowance.

Sec. 3716. An insurance agent or solicitor licensed to sell health insurance in this state may solicit the sale of health insurance issued pursuant to this chapter without any additional license or authority. No policy or plan or certificate of coverage or application therefore need be countersigned by a resident agent. No commission, compensation or other fee or allowance in connection with the insurance shall be paid to the insurance agent or solicitor except in accordance with commission schedules, if any, filed pursuant to this chapter.

HISTORY: Add. 1964, p. 216, Act 167, Imd. Eff. May 19.

500.3718 Association; articles, powers, service of process.

Sec. 3718. An association formed for the purposes of this chapter shall adopt articles of association for the organization, administration and regulation of its affairs, which articles of association and any amendments thereto shall be filed within 30 days after their adoption with the commissioner. The association may establish requirements for membership of insurers, hold title to property, incur expenses for advertising, soliciting and administering the insurance including payment of salary or compensation to persons employed by it, enter into contracts, and limit the liability of and among its members to their respective pro rata shares. The association is not subject to statutory provisions otherwise applicable to voluntary associations. The association may sue and be sued in its association name and for such purposes only shall be treated as a domestic corporation. Service of process against the association, made upon its managing agent, any member thereof or any agent authorized by appointment to receive service of process, has the same force and effect as if such service had been made upon all members of the association.

HISTORY: Add. 1964, p. 216, Act 167, Imd. Eff. May 19.

500.3720 Mutual insurers.

Sec. 3720. For the purpose of implementing joint action of insurers providing health insurance coverage in accordance with the intent of this chapter, insurers operating on a mutual plan, or on any other membership basis, may participate in such a plan, and the persons insured through the plan shall not be entitled to membership in any such insurer nor shall they be entitled to any dividend rights, voting rights, or any other rights peculiar to mutual insurance policyholders and participants in membership insurance plans.

HISTORY: Add. 1964, p. 216, Act 167, Imd. Eff. May 19.

500.3722 Designation of resident agent for service of process.

Sec. 3722. The association shall file in writing with the commissioner a designation of a resident of this state as agent for the service of process, and a list of insurance companies who are members of the association and all supplements thereto shall be filed with the commissioner but shall not be subject to statutory provisions otherwise applicable to voluntary associations.

HISTORY: Add. 1964, p. 216, Act 167, Imd. Eff. May 19.

500.3724 Immunity from liability under other laws.

Sec. 3724. No act done, action taken or agreement made pursuant to the authority conferred by this chapter shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this state enacted before or after the effective date of this chapter which does not specifically refer to insurance.

HISTORY: Add. 1964, p. 217, Act 167, Imd. Eff. May 19.

500.3726 Premiums; tax exemption.

Sec. 3726. Premiums for policies issued pursuant to this chapter shall not be included in "premiums" for premium tax purposes under sections 440 to 470 of this act or any other laws of this state relating to premium taxes, nor shall this chapter be construed as subjecting the premiums for such policies to "premium" taxation; but any association formed under this act shall be treated as a domestic corporation for purposes of taxation and shall be subject to the privilege fee provided in section 448. The privilege fee as applied to an association under this chapter shall be 5 mills upon each dollar of any excess accumulation in the association's fund, as shown in its annual statement as of December 31 each calendar year to be filed with the commissioner pursuant to section 3714, remaining after payment of all claims, all proper expenses, and after providing for necessary or required reserves, including a fund, amortized in equal installments over a 5-year period, for retirement of any sums contributed by member companies for development, promotion and initial operating expenses or any like assessments thereafter. The privilege fee shall be in lieu of all other privilege or franchise taxes, or any other taxes or fees imposed by any other law of this state, county, municipality or township, except taxes on real property.

HISTORY: Add. 1964, p. 217, Act 167, Imd. Eff. May 19.

500.3728 Insurance commissioner; action subject to review.

Sec. 3728. Any action taken by the commissioner under this chapter is subject to review by the courts of this state in accordance with statutory provisions applicable to like reviews under the laws of this state.

HISTORY: Add. 1964, p. 217, Act 167, Imd. Eff. May 19.

CHAPTER 40.

LIFE INSURANCE POLICIES AND ANNUITY CONTRACT.

(Other than Industrial or Group.)

500.4000 Scope of chapter.

Sec. 4000. (1) This chapter applies to life insurance policies, other than reinsurance, group life insurance, group annuities, and industrial life insurance; except that sections 4004 (policy must contain entire contract), 4040 (supplementary benefits), 4048 (provisions required by laws of other states, countries), 4052 (preliminary term insurance), 4054 (insurer may hold proceeds; exemption from creditors), 4060 (standard nonforfeiture law), 4062 (loan value; deferment), and 4064 (computation of loan indebtedness) shall apply also to industrial life insurance policies.

(2) This chapter applies to annuity contracts only to the extent provided in section 4070.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4004 Entire contract.

Sec. 4004. Every policy of life insurance hereafter issued or delivered within this state by any life insurer doing business within this state shall contain the entire contract between the parties. And nothing shall be incorporated therein by reference to any constitution, bylaws, rules, application or other writing unless the same are endorsed upon or attached to the policy when issued.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4008 Life insurance; provisions required.

Sec. 4008. (1) No policy of life insurance shall be issued in this state unless it contains the provisions set forth in sections 4010 through 4036.

Single premium policies.

2. Any of such provisions or portion thereof relating to premiums not applicable to single premium policies, shall to that extent not be incorporated therein.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4010 Premiums; payment, provision required.

Sec. 4010. There shall be a provision that all premiums shall be payable in advance, either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by 1 or more of the officers who shall be named in the policy.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4012 Premiums; grace period payment, provision required.

Sec. 4012. There shall be a provision for a grace of 1 month for the payment of every premium after the first year, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace the overdue premium will be deducted in any settlement under the policy.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4014 Entire contract; incontestability, exceptions.

Sec. 4014. There shall be a provision that the policy, together with the application therefor, a copy of which application shall be endorsed upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the lifetime of the insured for 2 years from its date, except for non-payment of premiums and except for violations of the policy relating to naval and military services in time of war, and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4016 Statements deemed representations; provision required.

Sec. 4016. There shall be a provision that all statements made by the insured, shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to the policy when issued.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4018 Understatement of age; provision required.

Sec. 4018. There shall be a provision that if the age of the insured has been understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4020 Participation in surplus; provision required.

Sec. 4020. There shall be a provision that the policy shall participate in the surplus of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus accruing

on the policy, and that the owner of the policy shall have the right to have the current dividend arising from such participation paid in cash, and that at periods of not more than 5 years such accounting and payment at the option of the policyholder shall be had. This provision shall not be required in non-participating policies.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4022 Loans; provision required.

Sec. 4022. There shall be a provision that after 3 full year premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the owner of the policy, less than the amount required by section 4062 under the conditions specified thereby; and that the company will deduct from such loan value any indebtedness not already deducted in determining such loan value and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. It shall be further stipulated in the policy that failure to pay any such advance or to pay interest shall not void the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure nor until 1 month after notice shall have been mailed by the company to the last known address of the insured and of the assignee if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurances.

HISTORY: New 1956, p. 587, Act 218, Eff. Jan. 1, 1957.

500.4024 Nonforfeiture benefits; cash surrender values; provision required.

Sec. 4024. There shall be a provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of section 4058 or section 4060.

HISTORY: New 1956, p. 588, Act 218, Eff. Jan. 1, 1957.

500.4026 Table of loan values, options; provision required.

Sec. 4026. There shall be a table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first 20 years of the policy.

HISTORY: New 1956, p. 588, Act 218, Eff. Jan. 1, 1957.

500.4028 Default in premium payments; reinstatement; provision required.

Sec. 4028. There shall be a provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within 3 years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

HISTORY: New 1956, p. 588, Act 218, Eff. Jan. 1, 1957.

500.4030 Settlement of claim upon death of insured; provision required.

Sec. 4030. There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than 2 months after receipt of such proof.

HISTORY: New 1956, p. 588, Act 218, Eff. Jan. 1, 1957.

500.4032 Table of installments; provision required.

Sec. 4032. There shall be a table showing the amounts of installments in which the policy may provide its proceeds may be payable.

HISTORY: New 1956, p. 588, Act 218, Eff. Jan. 1, 1957.

500.4036 Title required.

Sec. 4036. There shall be a title on the face and on the back of the policy correctly describing the same.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4040 Safeguard against lapse; special surrender value; optional provisions.

Sec. 4040. (1) Any life insurer may include in its policy a provision intended to safeguard such life insurance against lapse, or provisions that shall provide a special surrender value therefor in the event that the insured thereunder shall, by reason of accidental bodily injury or disease, be unable to continue the premium payments thereon.

Supplementary benefits, form, approval.

(2) A life insurance policy may also contain, or provide through contracts supplemental thereto, such provisions relating to accident and sickness insurance as are authorized under section 602 (2) (accidental death, dismemberment, or loss of sight; certain benefits in event of total and permanent disability). No such supplemental contract shall be issued or delivered to any person in this state unless and until a copy of the form thereof has been submitted to and approved by the commissioner, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4042 Liability limitation; aviation, military or naval service.

Sec. 4042. Nothing contained in this chapter shall be construed as prohibiting a life insurer from placing in its policies provisions limiting its liability with respect to:

- 1) Death resulting from aviation other than as a fare-paying passenger on a regularly scheduled route between definitely established airports;
- 2) Military or naval service;

Provided, That if the liability of the insurer is limited as herein provided, the liability shall in no event be fixed at an amount less than the reserve on the policy (including the reserve for any dividend additions thereto and excluding the reserve for any additional benefits in the event of death by accident or accidental means or for benefits in event of any type of disability), less any indebtedness on or secured by such policy.

HISTORY: New 1956, p. 586, Act 218, Eff. Jan. 1, 1957.

500.4046 Provisions prohibited.

Sec. 4046. No policy of life insurance other than industrial life insurance shall be issued or delivered in this state if it contain any of the following provisions:

Forfeiture of policy for nonrepayment of loan; nonessential benefits.

1) A provision for the forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contains a stipulation that no such forfeiture shall occur until at least 1 month after notice shall have been mailed by the insurer to the last known address of the insured and of the assignee, if any; or a provision contemplating any proposed benefit not essentially a part of the insurance contract or any connection of the insured with the insurer other than that of policyholder;

Limitation of actions.

(2) A provision limiting the time within which any action at law or in equity may be commenced to less than 6 years after the cause of action shall accrue;

Predating of policy; exchange or conversion of policies.

(3) A provision by which the policy shall purport to be issued or to take effect as of a date more than 6 months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. Nothing contained in this subdivision shall invalidate any contract made in violation of this subdivision. This subdivision shall not be construed to prohibit the exchange, alteration or conversion of policies of life insurance or annuity contracts as of the original date of such policies or contracts if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy or contract would have purchased if the new policy had been originally applied for, whichever is greater; nor to prohibit the exercise of any conversion privilege contained in any policy or contract;

Settlement at maturity for less than full value.

(4) A provision for any mode of settlement at maturity of less value than the amount insured by the policy plus dividend additions, if any, less any indebtedness to the insurer on the policy and less any premium that may by the terms of the policy be deducted, payments to be made in accordance with the terms of the policy. This prohibition shall not apply to substandard policies.

HISTORY: New 1956, p. 589, Act 218, Eff. Jan. 1, 1957.

500.4047 Profit sharing, charter or founders and coupon policies; definitions; prohibitions, violations.

Sec. 4047. (1) As used in this section, "profit sharing policy" means any life insurance policy which by its terms represents that the policyholder will receive preferential treatment in the distribution of earnings or surplus of the insurance company with special advantages not available to persons holding other types of policies.

(2) "Charter policy" or "founders policy" means any life insurance policy which by its terms expressly provides that the policyholder will receive some preferential or discriminatory advantage or benefit not available to persons who purchase insurance from the company at future dates or under other circumstances.

(3) "Coupon policy" means any life insurance policy which includes a series of coupons payable at a specified future date if the insured person is living.

(4) A "series of pure endowments" means any provision in a life insurance policy providing for a series of predetermined benefits maturing at specified dates if the insured is then living, any one of which series of benefits is less than the gross annual policy premium.

(5) No profit sharing, charter, founders or coupon policy or policy containing a series of pure endowments shall be issued or delivered in this state after the effective date of this section. Policies in force prior to the effective date shall not be affected.

(6) No sales material or oral presentations may be used if they represent a life insurance policy to be a profit sharing, charter, founders or coupon policy or a policy containing a series of pure endowments. Any violation hereof shall also constitute a violation of section 2064.

HISTORY: Add. 1969, p. 478, Act 246, Eff. Jan. 1, 1971.

500.4048 Provisions required by laws of other states or counties.

Sec. 4048. The policies of a foreign or alien life insurer, may, if approved by the commissioner, contain any provision which the law of the state, territory, district or country under which the insurer is organized, prescribed shall be in such policies, when issued in this state, and the policies of a domestic life insurer, may when issued or delivered in any other state, territory, district or country, contain any provision re-

quired by the laws of the state, territory, district or country in which the same are issued, anything in this code to the contrary notwithstanding.

HISTORY: New 1956, p. 589, Act 218, Eff. Jan. 1, 1957.

500.4052 Preliminary term insurance on old policies; reserve.

Sec. 4052. Policies may be issued in this state providing for not more than 1 year preliminary term insurance by the incorporation therein of a clause on the face of the policy distinctly specifying that the first year's insurance is term insurance. If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than 20 years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance under 20 pay life preliminary term policies of the same insurer at the same age, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a 20 pay life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period for such 20 pay life preliminary term policy and the full reserve at such time of such a limited payment life or endowment policy: Provided, That this section shall apply to all policies issued subsequent to January 1, 1930, and prior to the operative date of section 4060 (standard nonforfeiture law).

HISTORY: New 1956, p. 590, Act 218, Eff. Jan. 1, 1957.

500.4054 Proceeds of policy; exemption from creditors.

Sec. 4054. (1) Any authorized life insurer shall have power to hold the proceeds of any life or endowment insurance or annuity contract issued by it (a) upon such terms and restrictions as to revocation by the insured and control by beneficiaries; (b) with such exemptions from legal process and the claims of creditors of beneficiaries other than the insured; and (c) upon such other terms and conditions, irrespective of the time and manner of payment of said proceeds, as shall have been agreed to in writing by such insurer and the insured or beneficiary.

(2) Such insurer shall not be required to segregate funds so held but may hold them as a part of its general corporate assets.

(3) Any life or endowment insurance or annuity contract issued by a domestic, foreign or alien insurer may provide that the proceeds thereof or payments thereunder shall not be subject to the claims of creditors of any beneficiary other than the insured or any legal process against any beneficiary other than the insured; and if the said contract so provides, the benefits accruing thereunder to such beneficiary other than the insured shall not be transferable nor subject to commutation or encumbrance, or to process.

HISTORY: New 1956, p. 590, Act 218, Eff. Jan. 1, 1957.

500.4058 Nonforfeiture benefits on old policies.

Sec. 4058. This section shall apply only to policies of life insurance other than industrial life insurance issued prior to the operative date of section 4060 (the standard nonforfeiture law).

The nonforfeiture benefit referred to in section 4024 shall be available to the owner of the policy in event of default in premium payments, after premiums shall have been paid for 3 years and shall be a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves, less a sum not more than 2 ½% of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the insurer on the policy. Such provision shall stipulate that the policy may

be surrendered to the insurer at its home office within 1 month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the insurer may defer payment for not more than 6 months after the application therefor is made. This section shall not be applicable to term insurances of 20 years or less.

HISTORY: New 1956, p. 590, Act 218, Eff. Jan. 1, 1957.

500.4060 Standard nonforfeiture law.

Sec. 4060. (1) This section shall be known as the standard nonforfeiture law.

Substance of required provisions.

(2) In the case of policies issued on and after the operative date of this section, as defined in subsection (8), no policy of life insurance, except as stated in subsection (7), shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date of such value as may be hereinafter specified.

(b) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonfor-

feiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand therefor with surrender of the policy.

Cash surrender value, determination of amount.

(3) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (2), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in subsection (5), corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection 2, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

Paid-up nonforfeiture benefit.

(4) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

Adjusted premiums, calculation.

(5) Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (I) the then present value of the future guaranteed benefits provided for by the policy; (II) 2% of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (III) 40% of the adjusted premium for the first policy year; (IV) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: Provided, however, That in applying the percentages specified in (III) and (IV) above, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and

the benefits under which have the same present value at the date of issue as the benefits under the policy: Provided, however, That in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first 2 paragraphs of this subsection except that, for the purposes of (II), (III) and (IV) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in paragraph 5 of this subsection, all adjusted premiums and present values referred to in this section, for all policies of ordinary insurance, shall be calculated on the basis of the commissioners 1941 standard ordinary mortality table. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. Except as otherwise provided in paragraph 7 of this subsection, such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding 3 ½% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

In the case of ordinary policies issued on or after the operative date of this paragraph as defined in paragraph 6, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest, not exceeding 3 ½% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After May 23, 1960, any company may file with the commissioner a written notice of its election to invoke the provisions of paragraph 5 after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date, which shall be the operative date for such company, paragraph 5 shall become operative with respect to the ordinary policies issued by such company and bearing a date of issue

which is the same as or later than such specified date. If a company makes no election, the operative date of paragraph 5 for such company shall be January 1, 1966.

In the case of industrial policies issued on or after the operative date of this paragraph as defined in paragraph 8, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1961 standard industrial mortality table and the rate of interest, not exceeding 3 ½% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this amendatory act, any company may file with the commissioner a written notice of its election to invoke the provisions of paragraph 7 after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date, which shall be the operative date for such company, paragraph 7 shall become operative with respect to the industrial policies issued by such company and which bear a date of issue the same as or later than such specified date. If a company makes no election, the operative date of paragraph 7 for such company shall be January 1, 1968.

Cash surrender values and paid-up nonforfeiture benefit; calculation.

(6) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (3), (4), and (5) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (3), additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (e) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is 1, and has not become paid-up by reason of the death of a parent of the child, and (f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Policies and contracts excepted.

(7) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (5) is less than the adjusted premium so calculated, on such 15 year term

policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

Operative date; notice of election.

(8) After July 30, 1943, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948. After the filing of such notice, then upon such specified date (which shall be the operative date for such company), this section shall become operative with respect to the policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1948.

HISTORY: New 1956, p. 590, Act 218, Eff. Jan. 1, 1957;—Am. 1960, p. 228, Act 153, Imd. Eff. May 23;—Am. 1961, p. 394, Act 226, Eff. Sep. 8;—Am. 1963, p. 148, Act 110, Eff. Sep. 6.

500.4062 Loan value; deferment.

Sec. 4062. (1) In the case of policies issued prior to the operative date of section 4060 (the standard nonforfeiture law), the loan value referred to in section 4022 shall be the reserve at the end of the current policy year on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve less a sum not more than 2 ½% of the amount insured by the policy and of any dividend additions thereto. Such policies may further provide that such loan may be deferred for not exceeding 6 months after the application therefor is made.

(2) In the case of policies issued on and after the operative date of section 4060 (the standard nonforfeiture law), the loan value referred to in section 4022 shall be the cash surrender value at the end of the current policy year as required by section 4060. The insurer shall reserve the right to defer such loan, except when made to pay premiums, for 6 months after application therefor is made.

HISTORY: New 1956, p. 593, Act 218, Eff. Jan. 1, 1957.

500.4064 Loan indebtedness; right to compound interest.

Sec. 4064. In ascertaining the indebtedness due upon any loan upon any policy of insurance issued in this state, the interest, if not paid when due, shall be added to the principal of such loan, and shall bear interest at the rate specified in the note or loan agreement.

HISTORY: New 1956, p. 593, Act 218, Eff. Jan. 1, 1957.

500.4070 Insurance and annuity on same life; nonforfeiture rights under deferred annuity.

Sec. 4070. (1) Contracts may be issued in this state providing for both insurance and annuities on the same life, and sections 4008 through 4036 (standard provisions), 4042 (limitation of liability), 4046 (prohibited provisions), and sections 4204 through 4238 and sections 4242 and 4244 shall apply only to that part of such contracts providing for insurance.

(2) Every such contract (except a contract subject to the provisions of section 4060 (standard nonforfeiture law)) providing for a deferred annuity on the life of the insured only, or a deferred annuity issued on a single life, shall, unless paid for by a single premium, provide that in the event of the non-payment of any premium after 3 full years premiums shall have been paid, the annuity shall automatically become converted into a paid up annuity for such proportion of the original annuity as the number of completed years premiums paid bears to the total number of premiums required under the contract.

HISTORY: New 1956, p. 593, Act 218, Eff. Jan. 1, 1957.

CHAPTER 42.

INDUSTRIAL LIFE INSURANCE.

500.4200 Scope of chapter; other applicable provisions.

Sec. 4200. (1) This chapter shall apply only with respect to industrial life insurance policies.

(2) The following sections of chapter 40 (life insurance policies and annuity contracts) shall apply also to industrial life insurance policies: 4004 (policy must contain entire contract); 4040 (supplementary benefits); 4048 (provisions required by laws of other states, countries); 4052 (preliminary term insurance); 4054 (insurer may hold proceeds: exemption from creditors); 4060 (standard nonforfeiture law); 4062 (loan value: deferment); and 4064 (computation of loan indebtedness).

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4201 Industrial life insurance; definitions.

Sec. 4201. "Industrial life insurance," as used in this code, means that form of life insurance either (1) under which the premiums are payable weekly, or (2) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in any such policy is \$1,000.00 or less and if the words "industrial policy" are printed upon the policy as a part of the descriptive matter.

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4204 Required policy provisions; exceptions.

Sec. 4204. (1) In the case of industrial policies issued on and after January 1, 1944, no policy of industrial life insurance shall be issued or delivered in this state, unless the same shall contain in substance the provisions set forth in sections 4206 through 4238.

(2) Any of such provisions or portions thereof not applicable to single premium or nonparticipating insurance policies shall to that extent not be incorporated therein.

(3) This section and the sections referred to in subsection (1), above, shall not apply to policies issued or granted pursuant to nonforfeiture provisions prescribed in section 4220.

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4206 Grace period; provision required.

Sec. 4206. There shall be a provision that the insured is entitled to a grace period of 4 weeks within which the payment of any premium after the first may be made, except that where premiums are payable monthly the period of grace shall be 1 month; and that during the period of grace the policy shall continue in full force, but if during such grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any amount payable under the policy in settlement.

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4208 Incontestability; provision required, exceptions.

Sec. 4208. There shall be a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of 2 years from its date of issue, except for non-payment of premiums and except for violation of the conditions of the policy relating to military or naval service in time of war, and at the option of the insurer provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident may also be excepted.

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4210 Policy constitutes entire contract; provision required.

Sec. 4210. There shall be a provision that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon and at-

tached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract between the parties, and in the latter case a provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties.

HISTORY: New 1956, p. 594, Act 218, Eff. Jan. 1, 1957.

500.4212 Misstatement of age; provision required.

Sec. 4212. There shall be a provision that if the age of the person insured has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age.

HISTORY: New 1956, p. 595, Act 218, Eff. Jan. 1, 1957.

500.4214 Participation in surplus; provision required.

Sec. 4214. There shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy.

HISTORY: New 1956, p. 595, Act 218, Eff. Jan. 1, 1957.

500.4216 Conversion; weekly premium policies; provision required.

Sec. 4216. (1) There shall be a provision in the case of weekly premium policies granting, upon proper written request and upon presentation of evidence of the insurability of the insured satisfactory to the company, the privilege of converting his weekly premium industrial insurance to any form of life insurance with less frequent premium payments regularly issued by the company, in accordance with terms and conditions agreed upon with the company. The privilege of making such conversion need be granted only if the company's weekly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance with less frequent premium payments issued by the company at the age of the insured on the plan of industrial or ordinary insurance desired.

Same; monthly premium policies.

(2) There shall be a provision, in the case of monthly premium industrial policies, granting, upon proper written request and upon presentation of evidence of the insurability of the insured satisfactory to the company, the privilege of converting his monthly premium industrial insurance to any form of ordinary life insurance regularly issued by the company, in accordance with terms and conditions agreed upon with the company. The privilege of making such conversions need be granted only if the company's monthly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of ordinary insurance issued by the company at the age of the insured on the plan of ordinary insurance desired.

HISTORY: New 1956, p. 595, Act 218, Eff. Jan. 1, 1957.

500.4220 Nonforfeiture and cash surrender values.

Sec. 4220. (1) In the case of policies issued prior to the operative date of section 4060 (the standard nonforfeiture law), there shall be a provision which in event of default in premium payments, after premiums shall have been paid for 3 years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves less a sum of not more than 2 ½% of the amount insured by the policy and of any existing dividend additions thereto, and less any existing in-

debtedness to the company on the policy. Such provision shall stipulate that the policy, after premiums shall have been paid for 5 years, may be surrendered to the company at its home office within 13 weeks, or 3 months, from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the company may defer payment for not more than 6 months after application therefor is made. This provision shall not be required in term insurance of 20 years or less.

2. In the case of policies issued on and after the operative date of section 4060 (the standard nonforfeiture law) there shall be a provision for such nonforfeiture and cash surrender values as are required for industrial insurance by said section 4060.

HISTORY: New 1956, p. 595, Act 218, Eff. Jan. 1, 1957.

500.4222 Table of nonforfeiture benefits.

Sec. 4222. There shall be a table showing in figures the nonforfeiture benefits available under the policy every year upon default in payment of premiums during at least the first 20 years of the policy, and a provision that the company will furnish upon request an extension of such table beyond the year shown in the policy.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4224 Nonforfeiture benefit; automatic option; provision required.

Sec. 4224. There shall be a provision if more than 1 nonforfeiture benefit is provided, as to which of such benefits shall apply in the event 1 of the available benefits is not selected as required by the policy.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4228 Reinstatement; provision required.

Sec. 4228. There shall be a provision that the policy may be reinstated at any time within 2 years from date of the premium in default, unless the cash value has been paid or the period of extended term insurance expired, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest at a rate not exceeding 6% per annum payable annually.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4230 Settlement of claim upon death of insured; provision required.

Sec. 4230. There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than 2 months after receipt of such proof.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4236 Title required.

Sec. 4236. There shall be a title on the face and on the back of the policy correctly describing the same.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4238 Beneficiary changes.

Sec. 4238. There shall be a space on the front or the back page of the policy for the name of the beneficiary designated by the insured with a reservation of the insured's right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. Such policy may also contain a provision that if the beneficiary designated in the policy does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a

valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connections by marriage or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named as beneficiary or by reason of having incurred expense for the maintenance, medical attention or burial of the insured.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4242 Limitation of liability; aviation, military or naval service.

Sec. 4242. Nothing contained in this chapter shall be construed as prohibiting a life insurance company from placing in its industrial life insurance policies provisions limiting its liability with respect to (1) death resulting from aviation other than as a fare-paying passenger on a regularly scheduled route between definitely established airports, (2) military or naval service: Provided, That if the liability of the company is limited as herein provided, the liability shall in no event be fixed at an amount less than the reserve on the policy (including the reserve for any dividend additions thereto and excluding the reserve for any additional benefits in the event of death by accident or accidental means or for benefits in the event of any type of disability), less any indebtedness on or secured by such policy.

Nothing contained herein shall apply to any provision in an industrial life insurance policy for additional benefits in the event of death by accident or accidental means.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4244 Provisions prohibited.

Sec. 4244. (1) No policy of industrial life insurance issued on or after January 1, 1944, shall be issued or delivered in this state if it contains any of the following provisions:

Right to declare policy void for disease or ailment of insured, exception.

(a) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within 2 years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or the claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

Previous rejection for insurance.

(b) A provision giving the insurer the right to declare the policy void because the insured had been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

Payment of proceeds to other than beneficiary.

(c) A provision by which the company may pay the proceeds of the policy at the death of the insured to any person other than the named beneficiary, except in accordance with a standard provision as specified in section 4238.

Limitation of actions.

(d) A provision limiting the time within which any action at law or in equity may be commenced to less than 6 years after the cause of action shall accrue.

Settlement at maturity for less than full value.

(e) A provision for any mode of settlement at maturity of less value than the amount insured by the policy plus dividend additions, if any, less any indebtedness to the com-

pany on the policy and less any premium that may by the terms of the policy be deducted, payments to be made in accordance with the terms of the policy.

Additional benefits for accidental death.

(2) Nothing contained herein shall apply to any provision in an industrial life insurance policy for additional benefits in the event of death by accident or accidental means.

HISTORY: New 1956, p. 597, Act 218, Eff. Jan. 1, 1957.

CHAPTER 44.

GROUP LIFE INSURANCE.

500.4400 Scope of chapter; compliance required.

Sec. 4400. (1) This chapter applies only with respect to group life insurance.

(2) Except as provided in this chapter it shall be unlawful to make a contract of life insurance covering a group in this state.

HISTORY: New 1956, p. 597, Act 218, Eff. Jan. 1, 1957.

500.4404 Employee groups; required number of participants, premium payments.

Sec. 4404. Group life insurance may be issued covering not less than 10 employees with or without medical examination, written under a policy issued to the employer, the premium on which is to be paid by the employer or by the employer and the employees jointly, and insuring only all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer: Provided, however, That when the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, not less than 75% of such employees may be so insured.

HISTORY: New 1956, p. 597, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 23, Act 20, Imd. Eff. Apr. 19.

500.4408 National guard groups; participation authorization.

Sec. 4408. Group life insurance may be issued covering the members of 1 or more companies, batteries, troops or other units of the national guard of any state, written under a policy issued to the commanding general of the national guard who shall be deemed to be the employer for the purposes of this chapter, the premium on which is to be paid by the members of such units for the benefit of persons other than the employer: Provided, however, That when the benefits of the policy are offered to all eligible members of a unit of the national guard, not less than 75% of the members of such a unit must be so insured.

HISTORY: New 1956, p. 596, Act 218, Eff. Jan. 1, 1957.

500.4412 Labor union, teacher and postal clerk groups; participation authorization.

Sec. 4412. Group life insurance may be issued covering the members of any labor union, or state associations of teachers or postal clerks written under a policy issued to such union or association which shall be deemed to be the employer for the purposes of this chapter, the premium on which is to be paid by the union or association or by the union or association and its members jointly, and insuring only all of its members for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the union or association or its officials: Provided, however, That when the premium is to be paid by the union or association and its members jointly and the benefits are offered to all eligible members, not less than 75% of such members may be so insured: Provided further, That when members apply

and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examination.

HISTORY: New 1956, p. 598, Act 218, Eff. Jan. 1, 1957.

500.4416 Debtor groups; participation, authorization; benefit limitation.

Sec. 4416. Group life insurance may be issued covering only the lives of all members of a group of persons for not more than \$5,000.00 on any one life, numbering not less than 50 new entrants to the group yearly, who become borrowers from one financial institution, including subsidiary or affiliated companies, or who become purchasers of merchandise or other tangible property from one vendor under agreement to repay the sum borrowed or to pay the balance of the price of the merchandise or other tangible property purchased on the installment plan over a period of not more than 10 years, to the extent of their indebtedness to said financial institution or vendor but not to exceed \$5,000.00 on any one life, written under a policy which may be issued upon the application of and made payable to the financial institution or vendor or other creditor to whom such vendor may have transferred title to the indebtedness, as beneficiary, the premium on such policy to be payable either from funds of the financial institution, vendor or other creditor, or from charges collected from insured borrowers or purchasers, or from both. Where all or part of the premium is derived from the collection from the insured borrowers or purchasers of an identifiable charge for the insurance, the borrowers or purchasers shall have the option to reject the insurance. The foregoing limitations of \$5,000.00 on any one life may be raised to any sum in excess of such \$5,000.00 but not to exceed \$10,000.00 on any one life, in any such group numbering not less than 100 new entrants to the group yearly. The total amount charged to the borrower for interest and for such insurance premium shall not exceed the maximum amount of interest which could be lawfully charged. Such financial institution, including subsidiaries or affiliated companies, shall not act as agent for such group life insurance transaction. The provisions of section 4438 (individual certificate; right to convert) shall not apply to insurance described in this section. The borrower shall be given written notification of the application of such insurance when written. If a beneficiary receives any money from a policy issued under the provisions of this section, then the person whose indebtedness is insured, or the estate of the deceased, shall be released from all liability for the payment of such indebtedness to the amount paid to the beneficiary upon the policy.

HISTORY: New 1956, p. 598, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 85, Act 78, Eff. Sep. 27,—Am. 1961, p. 397, Act 226, Eff. Sep. 8.

500.4418 Debtor groups; mobile home and dwelling loans; participation, authorization; benefit limitation; payment of benefits to financial institution.

Sec. 4418. (1) Group life insurance may be issued in connection with loans on dwellings or mobile homes when provided through a group where the lending financial institution directly or indirectly is the group policyholder and the term of the loan is in excess of 5 years. Such insurance shall be only on a decreasing term basis and shall be limited in initial amount to the amount of the loan or \$25,000.00, whichever is less. Only 1 policy or certificate of life insurance may be issued in connection with each mortgage loan. Dividends payable under such group policies shall inure solely to the benefit of the party paying the premiums on such insurance and proportionate to that portion of the premium paid by or on behalf of the certificate holder. Policies issued under this section shall contain a conversion privilege specifying that within 31 days of the repayment of mortgage, the insured may convert the insurance then in force to any permanent form of life insurance. The available forms of converted insurance shall include whole life. The insurer may limit the converted policy to a minimum of \$1,000.00 or a maximum equal to 80% of the insurance then in force, or both. When and

if the loan for which the insurance was issued is repaid, any prepaid premiums in excess of \$5.00 shall be returned to the insured.

2) No insurer shall directly or indirectly, by any means, device, transaction or agreement, through its agents, employees or otherwise, provide for or pay to the institutions any monetary or financial benefits as a result of any insurance on the life of any borrower in connection with a loan on a dwelling or mobile home made by such financial institution, except as provided in this section for the types of insurance authorized hereunder.

3) Insurers may reimburse financial institutions making such loans and issuing such insurance through group policies and for individual policies being serviced by said financial institutions prior to the effective date of this act, for reasonable expenses incurred for servicing the insurance and may remunerate said financial institutions on the basis of a reasonable compensation. The reimbursement and remuneration shall not exceed a sum expressed in terms of cents per month per policy or certificate, as shall from time to time be authorized by the commissioner as reasonably necessary on an aggregate average basis to compensate financial institutions for such expenses and for a reasonable compensation as determined by the commissioner. A disability rider or provision in a life insurance policy shall not be deemed a policy for computing an expense reimbursement.

HISTORY. Add. 1968, p. 324, Act 224, Eff. Jan. 1, 1969.

500.4420 Nonprofit industrial association groups; participation, authorization.

Sec. 4420. Group life insurance may be issued covering the executives of employer members of any nonprofit incorporated industrial association, which is now and has been actively functioning as such under its articles of incorporation for a period of not less than 10 years, written under a policy issued to such association which shall be deemed to be the employer for the purposes of this chapter, or to the association and the executives of such employer members jointly, and insuring only all of such executives for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than such association, and the premium on which shall be paid by the employer members or the employer members and the executives of such employer members jointly.

HISTORY. New 1956, p. 599, Act 218, Eff. Jan. 1, 1957.

500.4424 Discretionary groups; participation, authorization.

Sec. 4424. (1) The commissioner is empowered to authorize the insuring on a group insurance basis of groups other than those specifically defined in sections 4404 through 4420, where conditions or circumstances indicate that granting such permission for discretionary group life insurance coverages is in the interest of public policy.

Basis for refusal.

2) The commissioner may refuse to grant such permission in any instance on the basis of a finding or findings that the requested group plan,

- a) Would not result in economies of acquisition and administration which justify a group rate;
- b) Would present hazards of voluntary adverse selection to a degree not usually present in group insurance;
- c) Would be actuarially unsound; or
- d) Would fail to preclude individual selection among persons to be insured under such proposed group plan.

Size and composition of group.

(3) Such discretionary group shall consist of not less than 250 persons. Such discretionary group may consist of only a portion of the employees of an employer or of the members of an organization, where such segregation arises out of reasonable grounds, geographical or otherwise, which make it presently impossible or undesirable to include in a single group all of the employees or members. Such discretionary group may consist of employees of more than 1 employer, or the members of more than 1 organization or association, when the evidence submitted clearly indicates the desirability of embracing the proposed assemblage of individuals under a single group. By way of particular but not in limitation, such group may consist of the employees of 1 or more governmental or quasi-governmental units, federal, state, municipal or local.

Trustee as policyholder.

(4) If, for reasons which the commissioner shall determine to be adequate, it appears to be impossible or infeasible for the employer to be the policyholder in any group authorized under this subsection, the commissioner may authorize the designation of a trustee or trustees to be the policyholder, subject to such regulations as the commissioner shall approve.

Group without employer contribution.

(5) The commissioner may authorize discretionary groups and plans of group insurance which qualify in all other respects under this section although there be no contribution to the premium payment from the employer or organization where he shall find that circumstances render such contribution inequitable, impossible or impracticable.

Percentage of employees, types and amount of coverage.

(6) The percentage of employees or members required to participate in any group authorized under this section, the types of insurance coverage to be offered to the members thereof, and the amounts of insurance to be provided, shall be such as the commissioner shall in his sound discretion determine. The maximum insurance available to any member of a group authorized under this section shall not exceed \$25,000.00. However, where any group which previously operated under authority of any of the sections 4404 through 4420 shall be continued under the provisions of this section, the types of insurance and amounts of coverage already authorized in such group may be continued although in excess of the limitations which would otherwise be available under this section.

Examination fee; rules.

(7) Before any application for permission to qualify under this section shall be considered, the applicant shall deposit with the commissioner a specific fee of \$50.00 to defray the costs of examining into the circumstances and conditions appertaining to such proposed group and group insurance; and shall covenant to compensate the department of insurance for any additional unusual expenses which it may incur. The applicant shall furnish such information, documents and data pertaining to the proposed group plan as the commissioner shall require to arrive at his determination. The commissioner shall, from time to time, publish rules for the enforcement of this section.

Judicial review.

(8) The applicant may appeal from the commissioner's refusal to authorize such discretionary group to the circuit court for the county of Ingham on the grounds that such refusal was arbitrary or capricious and devoid of sound underwriting or actuarial grounds; but any fees or costs paid to or incurred by the department of insurance under the provisions above set forth shall nevertheless not be subject to recovery.

HISTORY: New 1956, p. 599; Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 83, Act 77, Eff. Sep. 27;—Am. 1968, p. 175, Act 113, Imd. Eff. Jun. 11.

500.4430 Group life insurance policy; filing, approval; provisions required.

Sec. 4430. (1) No policy of group life insurance shall be issued or delivered in this state unless and until a copy of the form thereof has been filed with the commissioner and approved by him.

2) No such policy shall be so issued or delivered unless it contains in substance the provisions set forth in sections 4432 through 4442.

HISTORY: New 1956, p. 600, Act 218, Eff. Jan. 1, 1957.

500.4432 Group life insurance policy; incontestability.

Sec. 4432. There shall be a provision that the policy shall be incontestable after 2 years from its date of issue, except for non-payment of premiums and except for violation of the conditions of the policy relating to military or naval service in time of war.

HISTORY: New 1956, p. 600, Act 218, Eff. Jan. 1, 1957.

500.4434 Entire contract; application, representations.

Sec. 4434. There shall be a provision that the policy, the application of the employer and the individual applicants, if any, of the employees insured, shall constitute the entire contract between the parties, and that all statements made by the employer or by the individual employees shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense to a claim under the policy, unless it is contained in a written application.

HISTORY: New 1956, p. 600, Act 218, Eff. Jan. 1, 1957.

500.4436 Misstatement of age; provision required.

Sec. 4436. There shall be a provision for the equitable adjustment of the premium or the amount of insurance payable in the event of a misstatement of the age of an employee.

HISTORY: New 1956, p. 600, Act 218, Eff. Jan. 1, 1957.

500.4438 Individual certificate; conversion on termination of employment.

Sec. 4438. There shall be a provision that the company will issue to the employer for delivery to the employee, whose life is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom payable, together with provision to the effect that in case of the termination of the employment for any reason whatsoever the employee shall be entitled to have issued to him by the company, without further evidence of insurability, and upon application made to the company within 31 days after such termination, and upon the payment of the premium applicable to the class of risk to which he belongs and to the term and amount of the policy at his then attained age, a policy of life insurance in any 1 of the forms customarily issued by the company, except term insurance, in an amount equal to the amount of his protection under such group insurance policy at the time of such termination.

HISTORY: New 1956, p. 600, Act 218, Eff. Jan. 1, 1957.

500.4439 Insurance under group policy; assignment of rights, effect.

Sec. 4439. A person whose life is insured under a group insurance policy may, subject and pursuant to the terms of the policy, or pursuant to an arrangement between the insured, the employer and the company, assign (other than to the employer) all or any part of his incidents of ownership, rights, title and interests, both present and future, under such policy including specifically, but not by way of limitation, the right to designate and redesignate a beneficiary or beneficiaries thereunder, the right to make any requisite contributions to maintain the insurance in force, and the right to have an individual policy issued to him in case of termination of employment. Such an assignment by the insured, made either before or after the effective date hereof, is valid for the purpose of vesting in the assignee, in accordance with any provisions included

therein as to the time at which it is to be effective, all of such incidents of ownership, rights, title and interests so assigned, but without prejudice to the company on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment. This section is not intended to alter the law of this state but is intended only to confirm in express statutory form the law as it exists presently.

HISTORY: Add. 1969, p. 748, Act 330, Imd. Eff. Oct. 27;—Am. 1970, p. 502, Act 158, Imd. Eff. Aug. 2.

500.4442 New employees; provision required.

Sec. 4442. There shall be a provision that to the group or class thereof originally insured shall be added from time to time all new employees of the employer eligible to insurance in such group or class.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.4446 Provisions required by law of other states and countries; more favorable provisions permitted.

Sec. 4446. (1) Policies of group life insurance, when issued in this state by any insurer not organized under the laws of this state, may contain, when issued, any provision required by the law of the state, or territory, or district of the United States, or foreign country, under which the insurer is organized; and policies issued in other states or countries by insurers organized in this state, may contain any provision required by the laws of the state, territory, district or country, in which the same are issued, anything in this chapter to the contrary notwithstanding.

(2) Any such policy may be issued or delivered in this state which in the opinion of the commissioner contains provisions on any 1 or more of the several foregoing requirements set forth in sections 4432 through 4442 more favorable to the employer or to the employee than in such sections required.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.4450 Employer deemed policyholder.

Sec. 4450. In every group life insurance policy issued in this state, the employer shall be deemed to be the policyholder for all purposes within the meaning of this chapter, and, if entitled to vote at meetings of the insurer, shall be entitled to 1 vote thereat.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.4454 Readjustment of premium rate; optional provisions.

Sec. 4454. Any group life insurance policy may provide for a readjustment of the rate based on experience at the end of the first year or any subsequent year of insurance, which readjustment may be made retroactive for such policy year only.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

CHAPTER 50.

ORGANIZATION OF DOMESTIC STOCK AND MUTUAL INSURERS.

500.5000 Scope of chapter.

Sec. 5000. This chapter covers incorporation and procedures for organization of new domestic stock, mutual, and cooperative plan insurers; except, that this chapter shall apply to domestic general mutual insurers only as stated in section 5804.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.5001 Compliance with chapter required.

Sec. 5001. No stock or mutual insurer or other form of corporate body, shall hereafter be incorporated in this state for the purpose of transacting any form of insurance or surety bonding business, without complying with the procedure prescribed in this chapter.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.5002 Organization of insurers; definitions.

Sec. 5002. Definitions, as used in this code:

- (1) Except as otherwise indicated "corporation" means a corporation formed or existing under the laws of this state.
- (2) "Articles" means articles of incorporation, and all amendments thereto, and includes what has heretofore been referred to as articles of association and/or charters and amendments thereto of corporations governed by this code.
- (3) "Incorporator" means a person, natural or corporate, who signs the articles.
- (4) "Director" and "directors" shall be construed to be synonymous with "trustee" and "trustees" respectively. "Directors," when used in relation to any power or duty requiring collective action, shall be construed to mean "board of directors."
- (5) "Registered office" means the place designated in the articles or bylaws as the office of the corporation in this state.

HISTORY: New 1956, p. 601, Act 218, Eff. Jan. 1, 1957.

500.5006 Stock insurers; formation, number of incorporators required.

Sec. 5006. (1) Any number of persons, not less than 7, may associate together and form a stock insurer to transact any or all of the following kinds of insurance: Property, marine, inland navigation and transportation, or automobile insurance (limited), all as defined in chapter 6.

(2) Thirteen or more persons may organize a stock insurer for the purpose of transacting any of the following kinds of insurance: Life, disability, casualty, or fidelity and surety, all as defined in chapter 6 or title as defined in chapter 73.

(3) Any number of persons, not less than 20, a majority of whom shall be citizens of this state, may become together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of transacting life insurance, or life and disability insurance, on the mutual plan.

(4) Any number of persons, not less than 13, may incorporate a stock insurer for the purpose of insuring railway employees against loss of position, for transacting disability and life insurance, and granting annuities, all as identified in section 6604.

HISTORY: New 1956, p. 602, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 263, Act 221, Imd. Eff. Jul. 11.

500.5008 Articles of incorporation; contents, execution, specifications.

Sec. 5008. (1) The commissioner shall prepare and keep on hand blank forms of articles of incorporation for insurers desiring to incorporate under this code, which forms may be had on application, and shall be used by all insurers hereafter incorporated.

(2) The incorporators shall subscribe articles of incorporation in triplicate, which articles shall contain:

First. The names of the incorporators, and their places of residence respectively;

Second. The location of the principal office for the transaction of business in this state;

Third. The name by which the incorporation shall be known, which if it be upon the mutual plan shall contain the word "mutual";

Fourth. The purposes of the incorporation and the reference to the chapter of this code under which such purposes are enumerated and under which such company intends to operate;

Fifth. The manner in which the corporate powers are to be exercised; the number of directors and other officers; the manner of electing the same, and how many of the directors shall constitute a quorum, and the manner of filling all vacancies; and, in the case of mutual life or life and disability insurers, the names and post office addresses of the directors who shall serve until the first annual meeting of such corporation;

Sixth, The amount of capital stock, if any, and what proportion is to be paid in before the corporation shall commence business; the value thereof, as provided in section 5014;

Seventh, The term of existence of the corporation, subject to section 5010;

Eighth, The time for the holding of the annual meetings of the corporation;

Ninth, Any terms and conditions of membership therein which the incorporators may have agreed upon, and which they may deem important to have set forth in said articles;

Tenth, Any other terms and conditions prescribed by law for such class of insurer;

Eleventh, If a mutual company operating on the assessment plan, the number of classes or divisions of members therein, and the object or purpose of such classification or division, all of which shall be definitely and correctly stated; in what manner assessments, premiums or payments are to be required from the members, the purpose and objects for which the moneys so realized are to be appropriated, and the names and objects of each fund into which any such money shall be paid.

(3) The articles of any stock insurer formed or existing under this code may contain, or be amended to contain, a provision that the shareholders shall have no preemptive rights to subscribe for any additional shares of capital stock and authorizing the board of directors to prescribe the terms and conditions upon which additional shares of capital stock shall be offered for subscription including the price thereof, which shall not be less than the par value of such stock; and to offer shares which have not been subscribed by stockholders within the time duly fixed by the board of directors for subscription to any other person or persons at a price and upon terms not less favorable than those at which offered to such stockholders.

(4) Such articles shall be acknowledged by the person signing the same before some officer of this state authorized to take acknowledgments of deeds, who shall append thereto, his certificate of acknowledgment.

HISTORY: New 1956, p. 602, Act 218, Eff. Jan. 1, 1957.

500.5010 Duration of corporate existence.

Sec. 5010. The corporate existence of any company incorporated under or subject to this code shall not exceed 30 years, unless a longer term is provided in the articles of incorporation. Any company hereafter incorporated under this code may incorporate for a period of any specific number of years, not less than 30, or multiples of 30, or in perpetuity, provided that the legislature may shorten such terms by future laws.

HISTORY: New 1956, p. 603, Act 218, Eff. Jan. 1, 1957.

500.5012 Corporate name; restrictions.

Sec. 5012. No insurer formed under this code shall assume any name which is the same as or closely resembles the name of any other corporation doing business in this state.

HISTORY: New 1956, p. 603, Act 218, Eff. Jan. 1, 1957.

500.5014 Par value of stock; limitations.

Sec. 5014. Capital stock of domestic stock insurers incorporated under this chapter shall have value as follows:

(1) If organized to transact property, marine, inland navigation and transportation, or automobile insurance (limited), all as defined in chapter 6, each share of authorized capital stock shall have a value of not less than \$1.00 or more than \$100.00.

(2) If organized to transact life, disability, casualty, or fidelity and surety insurance, all as defined in chapter 6 or title insurance as defined in chapter 73, each share of authorized capital stock shall have a value of not less than \$1.00.

3) If organized to insure railway employees against loss of position, and to transact life and disability insurance, as identified in section 6604, each share of authorized capital stock shall have a par value of \$50.00.

HISTORY: New 1956, p. 603, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 263, Act 221, Imd. Eff. Jul. 11.

500.5020 Examination of articles by attorney general; fee.

Sec. 5020. (1) Before such articles of incorporation shall be effective for any purpose the same shall be submitted to the attorney general for his examination, and if found by him to be in compliance with this code he shall so certify to the commissioner.

2 Each and every insurer hereafter incorporated, where its articles of incorporation are required to be approved by the attorney general, shall pay to the attorney general for the use and benefit of the state of Michigan, the examination fee provided for in section 240 (2). It shall be unlawful for the attorney general to approve any articles of incorporation for mutual insurers until such examination fee is paid to him.

HISTORY: New 1956, p. 603, Act 218, Eff. Jan. 1, 1957.

500.5024 Incorporator's subscription bond; preliminary statement.

Sec. 5024. (1) The incorporators before securing subscribers, stockholders or members of such insurance company, or taking subscriptions for, or negotiating for, the sale of any of the capital stock of the said company, or subscriptions for membership therein, shall deliver to the commissioner such bond, deposit or security for the protection of subscribers as the commissioner may require. They shall also prepare and file in the office of the commissioner, together with triplicate copies of the said articles of incorporation with the certificate of the attorney general annexed thereto, a statement showing in full detail the plan upon which the company proposes to transact business, a copy of all contracts, stocks or other instruments which it proposes to make with, or sell to, its stockholders or members, together with a copy of its prospectus and the proposed advertisements to be used in the solicitation of members or stockholders. Such statement shall also show the name and location and main office of the company, the name, home and business address of each of the incorporators, and the amount subscribed and paid in by each of them, and the manner in which future payments shall be made, together with 4 references as to the character and financial standing of each of the said incorporators with the business address of each of said references.

Examination, license, refusal, approval of articles.

2 The commissioner shall examine the statements and documents so presented to him and shall have power to conduct any investigation which he may deem necessary, and to hear such incorporators and to examine under oath any persons interested or connected with the said proposed insurance company. If in the opinion of the commissioner the sale of capital stock in the proposed insurance company or soliciting of membership therein would, in his opinion, work a fraud upon the persons subscribing to such capital stock or to such membership he shall have authority to refuse to license the said persons so associating to proceed in the organization and promotion of the said insurance company. If, upon examination of the articles of incorporation, the documents and instruments above mentioned and such further investigation as the commissioner shall make, he is satisfied that the sale of the capital stock of the proposed insurance company or the subscription to membership therein would not work a fraud upon the persons solicited to become purchasers of such capital stock, or members of the said insurance company, he shall return to such incorporators 1 copy of such articles of incorporation certified for filing with the county clerk of the county in which the insurance company proposes to maintain its principal business office, and 1 copy to be certified by the commissioner for the records of the company itself, and shall retain 1 copy for his office files, and he shall then issue a certificate authorizing the in-

corporators to proceed with the organization of the insurance company through the sale of stock or taking of memberships.

Revocation of consent; investigation.

(3) The commissioner shall have authority at any time to revoke any certificate, order or consent made by him to such company to procure applications for stock or membership upon being satisfied that the further solicitation of stockholders, or members, in such corporation will work a fraud upon the persons so solicited; and he shall have authority to make such investigation from time to time as he may deem best and to grant hearings to such incorporators in relation thereto.

Sale of stock; securities commission.

(4) The action of the commissioner herein provided for shall not be in place of any action provided by law to be taken by the securities commission of the state of Michigan in relation to the sale, taking subscriptions for, or offering for sale any stocks or securities within this state.

HISTORY: New 1956, p. 604, Act 218, Eff. Jan. 1, 1957.

500.5028 Completion of organization; articles, filing, approval.

Sec. 5028. (1) The incorporators shall, after the filing and approval of such articles as aforesaid, proceed to the completion of organization of the proposed insurer.

Stock corporation, extension, liquidation.

(2) A stock corporation shall at once open its books of subscription to the capital stock, and no certificate of authority shall be issued by the commissioner to any such corporation until it shall have issued stock certificates representing the minimum capitalization as set forth in its articles of incorporation, and shall have collected in cash both its minimum capital, and any premium thereon for surplus requirements; and if such capital stock is not so subscribed and paid for, as above provided, within the period of 1 year from the opening of such books, such corporation shall proceed further in such sale of stock only on petition to, and consent by the commissioner, who may, if public policy warrants, extend such time for a period of 3 months; and upon like petition, again extend such time for a second period of 3 months; and if at the expiration of 18 months the corporation shall not have met the above requirements, the commissioner shall proceed to liquidate such corporation through receivership proceedings as prescribed by chapter 78.

Mutual corporation.

(3) A mutual corporation shall at once open books to receive propositions and enter into agreements as specified in the chapter under which it intends to operate. The acquisition of members shall proceed for such length of time, and be subject to such periods of time extension, and such liquidation proceedings, as is above provided for stock corporations.

HISTORY: New 1956, p. 605, Act 218, Eff. Jan. 1, 1957.

500.5036 Liability of directors for debts during organization.

Sec. 5036. The directors and incorporators of any stock company organized under this chapter, to transact property, marine, inland navigation and transportation, or automobile insurance (limited), all as defined in chapter 6, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided.

HISTORY: New 1956, p. 605, Act 218, Eff. Jan. 1, 1957.

500.5040 Examination; certificate of authority.

Sec. 5040. Upon the petition of the incorporators of such company, the commissioner shall cause an examination to be made in respect to the capital stock and shall

see that the requirements as to the same have been fully complied with; and if the company is organized to do business on the mutual or cooperative assessment plan, the commissioner shall similarly determine that the company is in the actual possession of the applications for insurance required of it, and the amount of premiums, assessments, reserve, surplus, or other resources required of it, as the case may be, and that it was shown to him by the affidavit of the president and secretary of the company that any required applications have been taken in good faith and not merely colorably. The commissioner may perform such examination by deputy or by any examiner in his office, or by the appointment of a special examiner, who shall certify to the facts as found. Upon being satisfied that all requirements of this code precedent to commencing business have been fully complied with, applicable to such company, the commissioner shall deliver to such company a certificate of authority to commence business and issue policies.

HISTORY: New 1956, p. 605, Act 218, Eff. Jan. 1, 1957.

CHAPTER 52.

CORPORATE POWERS, PROCEDURES OF STOCK AND MUTUAL INSURERS.

500.5200 Scope of chapter.

Sec. 5200. (1) This chapter applies only to domestic stock, mutual, and cooperative plan insurers; except, that sections 5242 (control of management by other corporation prohibited; voting trusts) and 5252 (prohibited personal interest of directors, officers in purchase, sale, or loan) apply also to foreign insurers, and section 5222 (extension of corporate duration) applies also to fraternal benefit societies.

2) For additional provisions applicable only to:

a) Mutual life and disability insurers, chapter 54.

b) General mutuals, see chapter 58.

d) Cooperative or assessment plan life, disability and loss of position insurers, see chapter 64.

e) Stock life, disability, and loss of position as railway employee insurers, see chapter 66.

HISTORY: New 1956, p. 605, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 164, Act 140, Eff. Mar. 10, 1967.

500.5202 Life, accident or sickness insurers; reorganization under code.

Sec. 5202. Any company organized to transact the business of life insurance or insurance against accident or sickness under any laws of this state in force prior to August 10, 1917, may reorganize under this code, and have the benefit of all its provisions, by a vote of the stockholders, or, if it be a mutual company, then by a vote of the members called for that purpose, in pursuance of its present articles, on entering into new articles of incorporation, signed by its charter officers, setting forth the particulars required under this code and filing a copy of such articles with the commissioner and the proper county clerk, after such a certificate of the attorney general has been obtained as is required when the articles are amended; and such company, in so reorganizing, shall be at liberty to make any change in its mode of doing business, not inconsistent with the provisions of this code, and to increase its capital stock, or to retire any guaranteed capital stock, as the stockholders or members may deem proper; but in so reorganizing they shall be subject to all the provisions of this code in regard to the deposit of securities, and to all its other provisions in the same manner and to the same extent as if such company had not previously had a corporate existence.

HISTORY: New 1956, p. 606, Act 218, Eff. Jan. 1, 1957.

500.5204 Companies deemed bodies corporate and politic; corporation law applicable.

Sec. 5204. All companies formed under the insurance laws of this state shall be deemed bodies corporate and politic, in fact and in name, and shall be subject to all of the provisions of law in relation to corporations as far as they are applicable.

HISTORY: New 1956, p. 606, Act 218, Eff. Jan. 1, 1957.

500.5205 Proof of corporate existence and authority to insure.

Sec. 5205. Whenever it shall be necessary, in any legal proceedings, to prove the corporate existence of any such insurer, a copy of the articles of incorporation, with a certificate by the commissioner attached, that such copy is a duplicate of the copy on file in his office; and that it has been made to appear to him by the certificate of the proper county clerk, that another copy of such articles has been duly filed in the office of such clerk, and by the certificate of the state treasurer in proper cases, that the securities required to be deposited with him have been deposited, together with a certified copy of such insurer's certificate of authority, shall be prima facie evidence of the corporate existence of the insurer; and except in proceedings by or under the authority of the state, to question its corporate right by information in the nature of quo warranto or otherwise, shall be conclusive evidence of the authority of the insurer to issue policies and transact business as contemplated by its articles, until such authority has been terminated.

HISTORY: New 1956, p. 606, Act 218, Eff. Jan. 1, 1957.

500.5206 Corporate powers; enumeration.

Sec. 5206. (1) Every corporation, unless otherwise provided, or inconsistent with the act under which a particular corporation is or shall have been formed shall have power:

- (a) To have succession, by its corporate name, for the term stated in its articles;
- (b) To sue and be sued, complain and defend, in any court of law or equity or to be a party to any proceedings before any board or commission or other public body of this state or any other state or government; suits at law may be maintained by such corporations against any of its members for any cause relating to the business of such corporation;
- (c) To have a corporate seal which may be altered at pleasure and to use the same by causing it or a facsimile thereof to be impressed or affixed or reproduced, or otherwise;
- (d) To acquire, purchase, hold, and convey real and personal estate and to mortgage or lease any such real or personal estate with or without any of its franchises, corporate or otherwise, subject to the provisions of this code;
- (e) To appoint such officers and agents as the business of the corporation shall require and to allow them suitable compensation;
- (f) To make, alter, amend and repeal bylaws for the regulation and government of its affairs, including the certification and transfer of its stock;
- (g) To conduct its business in this state, other states, the District of Columbia, the territories and colonies of the United States and in foreign countries and the territories and colonies thereof and have 1 or more offices out of this state and to acquire, purchase, hold, mortgage, pledge, assign, transfer and convey real and personal property out of this state subject to the provisions of this code;
- (h) To make contributions for public welfare.
- (i) To have and to hold authorized but unissued shares of its own stock, which have been authorized by its stockholders as provided in section 5215 or 5218, as the case may be, for issuance at a subsequent date as the board of directors may determine, in-

cluding the right for the allotment and sale of any or all of its unissued shares or of shares purchased or to be purchased, to the employees of the corporation, or to the employees of subsidiary corporations or to a trustee on their behalf, and for the payment of such shares in installments or at one time, and for the establishment of a special fund or funds in which such employees during the period of their employment or other period of time may be privileged to participate on such terms and conditions as may be imposed in respect thereof. Shares otherwise subject to pre-emptive rights under any articles of incorporation may be allotted and sold under such plan free from pre-emptive rights only with the written consent or vote of the holders of a majority of the shares entitled to exercise pre-emptive rights with respect thereto. Such allotment or sale may be cancelled by mutual agreement between the corporation or any employee or trustee, or in any other legal manner.

Same; exercise by board of directors.

(2) The powers of a corporation, except as otherwise provided, shall be exercised by the board of directors.

HISTORY—New 1956, p. 606, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 103, Act 91, Eff. Sep. 27.

500.5208 Corporate powers; limitations, exception.

Sec. 5208. The corporate powers of each insurer incorporated in this state shall be limited to the issuance of policies insuring persons or property or other hazards in the state of domicile and in other states from which it has received authority to transact insurance business from the insurance department of such state. The prohibition of this section shall not apply to insurers organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states, because the laws of such states do not permit the writing of the class or kind of insurance written by such insurers.

HISTORY—New 1956, p. 607, Act 218, Eff. Jan. 1, 1957.

500.5209 Insurer's name; restrictions.

Sec. 5209. An insurer shall transact its business under its own name, and shall not adopt any assumed name; excepting that an insurer, by amending its articles of incorporation, may change its name or take a new name.

HISTORY—New 1956, p. 607, Act 218, Eff. Jan. 1, 1957.

500.5210 Dealing in commodities prohibited; exception.

Sec. 5210. No domestic property or marine or inland navigation and transportation, or automobile (limited) insurer shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such articles as may have been insured by such insurer, and are claimed to be damaged by fire or water.

HISTORY—New 1956, p. 607, Act 218, Eff. Jan. 1, 1957.

500.5214 Articles of incorporation; amendment.

Sec. 5214. (1) An insurer shall have power to amend its articles of incorporation at any annual meeting of the stockholders or members, or at any special meeting called by the directors for that purpose.

Notice of meeting; purpose.

(2) Notice of any such annual or special meeting and of the purpose for which it is called shall be served on each of the stockholders, or if it is a mutual company on each of the members, in the following prescribed manner: Notice by mail shall be considered sufficient if directed to, and posted prepaid through the post office to the last known address of each stockholder or member, at least 21 days immediately preceding such meeting; notice by publication shall be considered sufficient if published in a newspaper printed and published within this state, and having general circulation

within the county or counties in which the company is transacting business, and 3 insertions, 1 each week for 3 consecutive weeks immediately preceding the date of holding such meeting shall be required: Provided, That the last insertion must be had at least 5 days before such meeting.

Same; copy to commissioner.

(3) The insurer shall furnish the commissioner with a true copy of such notice, supporting same by evidence of mailing or publication; the insurer shall also furnish the commissioner with an extract subscribed to by the president and secretary, from so much of the minutes of the meeting, as relates to the adoption of any amendment or amendments.

Examination by attorney general; triplicate filing.

(4) Such amendments shall not take effect until submitted to the attorney general and certified by him not to conflict with the constitution or laws of this state. The insurer shall pay to the attorney general the examination fee provided for in section 240 (2). It shall be unlawful for the attorney general to approve any such amendment for a mutual insurer until such examination fee is paid to him. Such amendments shall be filed in triplicate with the commissioner, 1 copy for his own records, 1 copy for the county clerk where the original copies were filed, and 1 copy to be returned to the insurer with a certified copy of the certificate of approval of the commissioner attached thereto.

Form.

(5) All such amendments shall be upon the form prescribed by the commissioner.

HISTORY: New 1956, p. 607, Act 218, Eff. Jan. 1, 1957.

500.5215 Articles of domestic stock life, disability, casualty, title or fidelity insurer; amendment as to increase, decrease or reclassification of capital stock.

Sec. 5215. (1) A domestic stock life, disability, casualty, title or fidelity and surety insurer may increase or decrease its authorized capital stock or reclassify the same by changing the number, par value, designations, preferences or relative participating, optional or other special rights of the shares, or the qualifications, limitations or restrictions of such rights in the manner herein provided. The par value of stock provided for in any amendment shall conform to same limitations as to par value as provided in respect of stock issued pursuant to original articles of incorporation.

Petition, approval, amendment by stockholders.

(2) Whenever any such insurer purposes to increase or decrease or reclassify its capital stock, it shall first present its petition to the commissioner setting forth the reasons for such increase or decrease or reclassification. The commissioner if satisfied that the proposed increase or decrease is for the best interests of the insurer and its policyholders, and that no reasonable objection exists thereto, may authorize and approve the proposed plan of increase or decrease, or may direct such modification thereof as may seem proper. After the approval of the petition as aforesaid, such increase must be approved and the articles of incorporation amended in this respect, by the written consent given without meeting or by the affirmative vote in person or by proxy at a regular or special meeting of the stockholders of not less than 2/3 of the capital stock of the insurer having voting power, but notice of such meeting reciting the purposes thereof shall be served on each of the stockholders, either personally or by directing same through the post office to the last known post office address of such stockholder at least 3 weeks previous to such meeting: Provided, however, That if any such proposed amendment would alter or change the preferences, special rights or powers given to any 1 or more classes of stock by the articles of incorporation so as to affect such class or classes of stock adversely or would increase or decrease the amount of

the authorized stock of such class or classes of stock adversely or would increase or decrease the par value thereof, then the holders of the stock of each class of stock so affected by such amendment shall be entitled to give written consent or vote as a class upon such amendment whether by the terms of the articles of incorporation such class be entitled to vote or not, and the affirmative action of a majority in interest of each such class of stock so affected by the amendment shall be necessary to the adoption thereof in addition to the affirmative action of such majority of all stock entitled to vote on an amendment as shall be required by law for the adoption thereof: And provided further, That such separate action of any class of stock proposed to be increased or decreased shall not be required if the provisions of the articles of incorporation or amendment thereto creating such class shall have authorized the increase or decrease thereof without such separate action.

Examination by attorney general; triplicate filing.

(3) Such amendment to the articles shall not become effective until finally approved by the commissioner nor until submitted to the attorney general and certified by him not to conflict with the constitution or laws of this state. Such amendments shall be filed in triplicate with the commissioner, 1 copy for his own records, 1 copy for the county clerk where the original copies were filed, and 1 copy to be returned to the insurer with a certified copy of the certificate of the approval of the commissioner attached thereto.

HISTORY. New 1956, p. 606, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 104, Act 91, Eff. Sep. 27;—Am. 1966, p. 263, Act 221, Imd. Eff. 1966.

500.5216 Articles; amendment as to reduction of capital.

Sec. 5216. (1) Any such stock life, disability, casualty, title or fidelity and surety insurer may by provision in its articles of incorporation or by amendment thereto made as in section 5215 provided authorized the reduction of its capital at any time and it may reduce its capital in conformity therewith. A certificate stating the fact that such reduction has been made in conformity with the articles of incorporation or amendments thereto, giving the wording of the resolution authorizing the same and the vote thereon, specifying the manner in and the extent to which the capital of the corporation is to be reduced, shall be made and filed as provided for certificates of amendment to the articles of incorporation.

Condition.

(2) No such reduction, however, shall be made in the capital of the insurer unless the assets of the insurer remaining after such reduction are sufficient to pay any debts of the insurer, the payment of which shall not have been otherwise provided for, nor if in the opinion of the commissioner to whom such certificate shall be submitted before being filed such reduction of capital shall endanger the protection of policyholders. Upon such certificate being so made and filed, the capital of the insurer shall thereby be so reduced.

Methods of effecting reduction.

(3) Such reduction of the capital of the insurer may be effected by retiring or reducing the outstanding shares of any class or by drawing the necessary number of the outstanding shares of any class by lot for retirement or by the exchange by the holders of outstanding shares of any class of the shares of such class held by them for a decreased number of shares of stock of the same or of a different class of stock or by reducing in the manner herein provided the par value of the shares of any class of stock having par value, or where the amount of capital represented by shares of stock having par value exceeds such par value by reducing the amount of capital represented by such shares by an amount not greater than such excess, or in case the capital shall have been increased by the transfer thereto from surplus pursuant to any provision of law so au-

thorizing and the transfer shall not have been made in respect of any designated class or classes of stock by retransferring to surplus all or any part of the amount by which capital shall have been so increased or by the purchase of shares for retirement either pro rata from all holders of shares of that class or stock or by purchasing such shares from time to time in the open market or at private sale in both cases at not exceeding such price or prices as may be fixed or approved by the stockholders entitled to vote upon the reduction of capital to be effected in that manner or by retiring shares owned by the corporation. If such reduction of capital of the corporation be effected by retiring shares then if the consent or resolution of stockholders above referred to shall so provide an amount not exceeding that part of the capital of the insurer represented by such shares may be charged against or paid out of the capital of the insurer in respect of such shares. If such reduction of capital shall have been effected by retiring or reducing the outstanding shares of any class in any manner above mentioned including the retirement of shares already owned by the insurer, the filing of said certificate as herein provided containing a recital of such fact shall constitute an amendment to the articles of incorporation effecting a reduction of the authorized capital stock of the insurer to the extent of the aggregate par value of such shares and if such shares constitute all the outstanding shares of any particular class shall have the effect of eliminating from the articles of incorporation all reference to said particular class of stock.

HISTORY: New 1956, p. 809, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 264, Act 221, Imd. Eff. Jul. 11.

500.5218 Articles; amendment as to increase or decrease of capital stock.

Sec. 5218. (1) A domestic stock property, marine, inland navigation and transportation, or automobile (limited) insurer may increase or decrease its capital stock in the manner herein provided. When any such insurer proposes to increase or decrease its capital stock it shall first present its petition to the commissioner, setting forth the reasons for such increase or decrease. The commissioner, if satisfied that the proposed increase or decrease is for the best interests of the insurer and its policyholders, and that no reasonable objection exists thereto, may authorize and approve the proposed plan of increase or decrease, or may direct such modification thereof as may seem proper.

Approval of petition, amendment by stockholders.

(2) After the approval of the petition as aforesaid, such increase or decrease must be approved, and the articles of incorporation amended in this respect, by the affirmative vote of not less than 2/3 of the capital stock of the insurer, voting in person or by proxy, at a regular or special meeting of the stockholders, but notice of such meeting, reciting the purposes thereof, shall be served on each of the stockholders, either personally or by directing same through the post office to the last known post office address of such stockholder at least 3 weeks previous to such meeting.

Final approval by commissioner.

(3) Such increase or decrease shall not become effective until finally approved by the commissioner, and until compliance is made with the requirements of section 5214.

Par value of stock; issuance of new stock.

(4) Whenever any insurer shall increase or decrease its capital stock as herein provided, the par value of its shares shall be fixed at not less than \$1.00 nor more than \$100.00 each, and the directors of the insurer shall have authority to make provision for calling in the old and issuing new certificates of stock.

HISTORY: New 1956, p. 610, Act 218, Eff. Jan. 1, 1957.

500.5220 Blank forms for amending articles.

Sec. 5220. The commissioner shall prepare and keep on hand blank forms covering the procedure for amending articles of incorporation of domestic insurers, which

forms may be had on application, and shall be used by all insurers hereafter amending their articles of incorporation.

HISTORY: New 1956, p. 610, Act 218, Eff. Jan. 1, 1957.

500.5222 Corporate life; extension.

Sec. 5222. It shall be lawful for any insurance corporation, whose term is about to expire by limitation, at any time within 2 years next preceding the expiration of such term, by a vote of 2/3 of its capital stock or its members present and voting, or if a fraternal benefit society by a 2/3 vote of its governing body or board, as the case may be, at any annual meeting or at any special meeting of its stockholders, or members, or governing body or board, as the case may be, called for that purpose, upon such notice, so given and supported, as is provided for in the case of amendments to articles of incorporation by section 5214, to direct the continuance of its corporate existence for such further term, not less than 30 years from the expiration of the existing term, as may be expressed in a resolution for that purpose. The president and secretary of such members or governing body or board or stockholders' meeting shall make and sign triplicate copies of such resolution, and its passage shall be verified by the oath of such secretary attached to each of such triplicates. One of said copies shall be filed in the office of the commissioner and 1 with the clerk of the county where the principal office of the corporation is located, and both shall be recorded at the expense of said corporation and the copies so filed, or the record thereof, or certified copies of either of such records, shall be prima facie evidence of the passage of such resolution and of the extension of said corporate life: Provided, That the filing fee prescribed by section 240.1(a) (fee schedule), for insurers organized in this state, shall be paid before such term shall be extended. Such action may likewise be taken within 18 months next after the expiration of such charter, with the consent in writing of the commissioner. The renewal term of such corporation shall begin from the expiration of the former term, and the corporation whose term has thus been renewed shall be the same corporation and own all its property, and be subject to all its liabilities, have the same stockholders and members and the same officers. The rights of all persons interested in said corporation shall continue as before such extension. The articles of incorporation, and by-laws shall continue the same until changed or amended by the corporation in the manner required by law.

HISTORY: New 1956, p. 610, Act 218, Eff. Jan. 1, 1957.

500.5224 Corporate life; expiration, liquidation.

Sec. 5224. In case the stockholders or members thereof shall not, before the expiration of the corporate existence of a domestic insurer organize a new corporation for the same purposes, on the basis of receiving the assets of the old corporation, and assuming the performance of all its existing contracts and policies, the officers of such corporation, at the expiration of its corporate life, shall be trustees for the purpose of keeping its funds invested for the security of policyholders, settling its affairs, and fulfilling and discharging its obligations, and as such, shall be under the control and direction of the proper circuit court in chancery, or other equity court, as in the case of other trustees; but the officers of such corporation shall not, at the time of the termination of the corporate existence, or in anticipation thereof, make or declare any dividend, or, except in satisfaction of the demands of creditors or policyholders, make any other disposition of the assets of the corporation, or any part thereof, which shall leave the available amount of such assets below the amount of existing debts and of the net value of outstanding policies, to be determined as hereinbefore provided; and any such attempted dividend or distribution shall be void, and may be enjoined on the application of the commissioner; and such officers, before entering upon their duties as such trustees, shall give bond to the people of the state to the satisfaction of the com-

missioner and to be filed with him, conditioned for the faithful discharge of their duties as such; and they shall be at all times subject to the supervision of the commissioner, in the same manner that corporations are under the provisions of this code; but such trustees shall not make dividends among stockholders, nor to members, unless in reduction of premiums on outstanding policies, except under the order of the proper court of equity; nor shall such court order any such dividends as shall at any time reduce the available assets of the company below the amount of existing debts and the net value of outstanding policies, to be determined as hereinbefore provided.

HISTORY: New 1956, p. 611, Act 218, Eff. Jan. 1, 1957.

500.5228 Bylaws; adoption, approval.

Sec. 5228. (1) The stockholders or members of a corporation may adopt bylaws which they deem advisable.

(2) The directors of a domestic insurer shall have power to make such bylaws, not inconsistent with the constitution and laws of this state, or with their articles of incorporation, as they may deem necessary for the government of the officers and members of the insurer, and the conduct of its affairs. All bylaws of insurers operating on the assessment plan, and any amendments thereto, shall be filed with the commissioner and be approved by him before becoming operative.

HISTORY: New 1956, p. 611, Act 218, Eff. Jan. 1, 1957.

500.5230 Special meetings of stockholders or members.

Sec. 5230. (1) Special meetings of the stockholders or members of a domestic stock or mutual insurer may be called for purposes other than those contemplated by sections 5214 (amendment of articles of incorporation) and 5222 (extension of corporate duration), by the directors at any time when deemed advisable.

Notices of meetings.

(2) Notice of all meetings of the members or stockholders shall be given by mailing to each member or stockholder a copy of such notice, postage prepaid, directed to his last known post office address at least 21 days prior to the time fixed for such meeting, and such notice shall state the time and place, and if it be a special meeting, the purpose of such meeting: Provided, That notice of the time and place of the annual meeting of a mutual insurer may be printed on the policy or certificate of renewal in lieu of mailing as required in this section, in which case such notice shall also be printed with the annual statement of such insurer.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957.

500.5232 Voting rights; stockholders, members, proxies, fiduciaries, pledgees.

Sec. 5232. Each stockholder or member of a domestic stock or mutual insurer shall at every meeting of the stockholders or members thereof be entitled to vote in person or by proxy in writing signed by such stockholder or member: Provided, That for insurers having only members and no stockholders, voting by proxy after June 1, 1943, shall be permitted only if provided in the articles or in any bylaw adopted by the members. Persons holding shares of the capital stock of any such insurer in a fiduciary capacity shall be entitled to vote the shares so held. Persons whose shares are pledged shall be entitled to vote, unless in the transfer by the pledgor on the books of the corporation he shall have expressly empowered the pledgee to vote thereon, in which case only the pledgee or his proxy may represent such shares and vote thereon.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957.

500.5234 Stockholders and members; voting rights, quorum.

Sec. 5234. A majority of the shares entitled to vote on a particular subject matter at any meeting of the stockholders shall constitute a quorum for such vote unless other-

wise provided by law or in the articles or in any bylaw adopted by the stockholders. A minimum of 10 members present in person shall constitute a quorum at any meeting of those insurers having members only and no stockholders, unless a larger number is specified in the articles or in any bylaw adopted by the members.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957.

500.5236 Voting rights; inspectors of election.

Sec. 5236. Whenever any stockholder or member present at a meeting of stockholders or members of an insurer shall request the appointment of inspectors, the chairman of the meeting shall appoint inspectors who need not be stockholders or members. If the right of any person to vote at such meeting shall be challenged, the inspectors of election shall determine such right. The inspectors shall receive and count the votes either upon an election or the decision of any question and shall determine the result. Their certificate of any vote shall be prima facie evidence thereof.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957.

500.5238 Directors; qualifications.

Sec. 5238. In all insurers organized under the laws of Michigan, a majority of the trustees or directors shall be residents of the state of Michigan. The articles of incorporation or bylaws of any insurer other than a stock insurer may provide that any director shall be a policyholder therein.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957;—Am. 1962, p. 40, Act 48, Eff. Mar. 28, 1963.

500.5239 Directors; responsibility in corporate affairs, limitation of actions.

Sec. 5239. The directors of every corporation, and each of them, in the management of the business, affairs, and property of the corporation, and in the selection, supervision and control of its committees and of the officers and agents of the corporation, shall give the attention and exercise the vigilance, diligence, care and skill, that prudent men use in like or similar circumstances. No director or directors shall be held liable for any delinquency under this section after 6 years from the date of such delinquency, or after 2 years from the time when such delinquency is discovered by one complaining thereof, whichever shall sooner occur.

HISTORY: New 1956, p. 612, Act 218, Eff. Jan. 1, 1957.

500.5242 Repealed. 1957, p. 107, Act 91, Eff. Sep. 27.

Section prohibited, with exception of voting trusts, any insurance company from controlling other insurers.

500.5243 Directors; indemnification and reimbursement, determination, presumption.

Sec. 5243. Any person may be indemnified and reimbursed by any insurer for expenses reasonably incurred by him and liabilities imposed upon him in connection with or arising out of any action, suit or proceeding, civil or criminal, or threat thereof, in which he may be involved by reason of his being or having been a director, officer or employee of the insurer or of any firm, corporation or organization which he served in any capacity at the request of the insurer. A person shall not be so indemnified or reimbursed (a) in relation to any matter in such action, suit or proceeding as to which he shall finally be adjudged to have been guilty of breach of duty as a director, officer or employee of the insurer or (b) in relation to any matter in such action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement: unless in either such case the person acted in good faith for a purpose which he reasonably believed to be in the best interests of the insurer and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his conduct was unlawful. The determination whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in (a) or (b) of the preceding sentence may only be made by the attorneys in

fact of reciprocal insurers, a majority of the policyholders of mutual insurers or the holders of record of a majority of the outstanding shares of the insurer or by a court of competent jurisdiction. No adjudication of liability or guilt as to such person shall in itself create a conclusive presumption that he did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter of law and shall inure to the benefit of his heirs, executors and administrators.

HISTORY: Add. 1968, p. 311, Act 213, Eff. Nov. 15.

500.5244 Directors, trustees, officers and agents; liability for payment under invalid law; reimbursement of expenses; exceptions.

Sec. 5244. No personal liability shall arise against any director, trustee, officer or agent of any insurer by reason of any payment made by or on behalf of such insurer on account of any taxes, licenses or fees paid pursuant to any statute, law or ordinance, even though such statute, law or ordinance be subsequently declared or held to be invalid. Any domestic insurer may reimburse any person, who acts or has acted as an officer or director of such insurer or who has acted as an officer or director of another corporation at such insurer's request, in which other corporation such insurer is a creditor or stockholder, for the actual, necessary expenses incurred by such person in the defense of any proceedings in which such person, or any past or present officer or director of such insurer, is made a party because of being or having been an officer or director of such insurer or of such other corporation: Provided, That such expenses do not relate to any proceedings in which any such person, such past or present officer or director of such insurer, is adjudged liable for negligence or misconduct toward such insurer, or to such matters as are settled by an agreement predicated on the existence of such liability.

HISTORY: New 1956, p. 613, Act 218, Eff. Jan. 1, 1957;—Am. 1966, p. 245, Act 217, Eff. Mar. 10, 1967.

500.5245 Board of directors; quorum; special meetings.

Sec. 5245. A majority of the board of directors constitutes a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the board of directors. Upon written notice of the time and place and purpose or purposes of any special meeting any of the directors in-between regular meetings of the board of directors may consent in writing to any specific action to be taken by the corporation; if approved by a majority of the directors at such special meeting, including those consenting in writing, such action shall be as valid a corporation action as though authorized at a regular meeting of the directors. The minutes of such approval and action shall be fully recorded, each written consent shall be made a part thereof, and these minutes and written consent shall be reviewed at the next regular meeting of said board of directors.

HISTORY: Add. 1966, p. 189, Act 170, Eff. Mar. 10, 1967.

500.5246 Officers and agents; appointment, removal, bond.

Sec. 5246. The board of directors of a domestic insurer shall select a president, a secretary, and a treasurer, or such equivalent officers as may be designated in its articles or bylaws, and may select 1 or more vice-presidents, assistant secretaries and assistant treasurers. Any 2 of the above offices except those of president and vice-president may, unless otherwise provided by the bylaws, be held by the same person but no officer shall execute, acknowledge, or verify an instrument in more than 1 capacity. The board may also appoint such other officers and agents as they may deem necessary for the transaction of the business of the corporation. All officers and agents shall respectively have such authority and perform such duties in the management of the property and affairs of the corporation, as may be delegated by the board of directors. Any offi-

cer or agent may be removed by the board of directors whenever in their judgment the business interests of the corporation will be served thereby. The board of directors may secure the fidelity of any or all of such officers by bond or otherwise. Unless otherwise provided in the articles or bylaws, the board of directors shall have power to fill any vacancies in any offices occurring from whatever reason.

HISTORY: New 1956, p. 613, Act 218, Eff. Jan. 1, 1957.

500.5248 Directors, officers, employees and agents; compensation.

Sec. 5248. (1) No domestic insurer shall pay any salary, compensation or emolument to any officer or director thereof, unless such payment is first authorized by a vote of the board of directors of such insurer. No such insurer shall make any agreement with any of its officers, directors or salaried employees whereby it agrees that for any services rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of 12 months from the date of such agreement, except the limitation shall not be construed as preventing the insurer from entering into contracts with its agents for the payment of renewal commissions.

Pensions, life insurance benefits to officers and employees.

(2) No such insurer shall grant any pension to any officer or director thereof, or to any member of his family after his death, except that such insurer may in pursuance of the terms of a retirement plan adopted by the board of directors of such insurer and approved by the commissioner provide for any person, who is or has been a salaried officer or employee of such insurer, a pension payable at the time of his retirement by reason of age or disability, and also life insurance benefits payable at his death.

Retirement benefits.

(3) Such an insurer, in pursuance of the terms of a plan adopted by its board of directors and approved by the commissioner, may provide for any person who is or has been a salaried officer or employee of such insurer, hospital, surgical, medical and health care benefits payable during his retirement, which plan shall provide equal benefits to all such officers, employees and their dependents.

Compensation of directors, officers, employees, computation.

(4) No director, officer or employee of such insurer shall be compensated unreasonably. The compensation of any director or officer of such insurer shall not be calculated, directly or indirectly, as a percentage of premiums collected or insurance written by the insurer, without the approval of the commissioner.

HISTORY: New 1956, p. 613, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 105, Act 91, Eff. Sep. 27;—Am. 1959, p. 34, Act 30, Eff. Mar. 19, 1960;—Am. 1963, p. 65, Act 69, Eff. Sep. 6;—Am. 1965, p. 417, Act 243, Imd. Eff. Jul. 21.

500.5252 Directors and officers; personal interest in purchase, sale or loan prohibited.

Sec. 5252. (1) No director or officer of an insurance corporation doing business in this state shall knowingly and intentionally, directly or indirectly, receive any money or valuable thing for negotiating, procuring, recommending or aiding in any purchase by or sale to such corporation of any property or any loan from such corporation, nor be pecuniarily interested, either as principal, co-principal, agent or beneficiary in any such purchase, sale or loan. Nothing herein contained shall prevent a life insurer from making a loan upon a policy held therein by the borrower not in excess of the net value thereof.

(2) Any person violating any provision of this section shall be guilty of a felony and upon conviction shall be punished by a fine not exceeding \$5,000.00, or by imprisonment for a term not to exceed 5 years, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 614, Act 218, Eff. Jan. 1, 1957;—Am. 1968, p. 516, Act 305, Eff. Nov. 15.

500.5256 Domestic insurers; records and securities, safekeeping; securities in names of insurer's nominees.

Sec. 5256. (1) Every domestic insurer shall keep all of its books, records, and files at or under the control of its home office or principal place of doing business in this state, and shall keep all of its securities, notes, mortgages or other evidences of indebtedness, representing investment of funds at its home office or principal place of doing business in this state or at any principal place of doing business outside the state. Such insurer may place for safekeeping all or any part of its securities, notes, mortgages or other evidences of indebtedness, with any national bank, state bank, trust company or any other corporation authorized to accept and hold personal property for safekeeping and located in the United States. A statutory deposit required by any state or foreign country shall be excepted and any delivery and pledge or assignment of its notes, mortgages or other securities by any such insurer, as security for money borrowed by it or as required in the regular course of its business by the laws of any state or foreign country, shall also be excepted. The insurer may hold certificates evidencing shares of stock or other registrable securities in the name of a nominee or nominees employed by the insurer and responsible to the insurer. The nominee or nominees, on the request of the insurer, shall indorse the certificate representing shares of stock or other registrable securities in blank or by assignment separate from the certificates. The insurer at all times shall maintain control or possession of the certificate representing the share of stock or other registrable securities, but, if necessary, the nominee or nominees may have access thereto for the purpose of examination under the supervision of the corporation.

(2) Any violation or attempted violation of this provision shall constitute a misdemeanor punishable by a fine not exceeding \$1,000.00 or by imprisonment in the county jail for a period not exceeding 6 months, or by both such fine and imprisonment in the discretion of the court; and any such violation on the part of any such insurer shall be sufficient cause for the revocation by the commissioner of its authority to transact business in this state.

HISTORY: New 1956, p. 614, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 677, Act 318, Eff. Mar. 20, 1970.

500.5258 Acknowledgments.

Sec. 5258. A corporation may acknowledge any instrument required by law to be acknowledged, by any 1 of its officers or by its attorney appointed by instrument in writing.

HISTORY: New 1956, p. 615, Act 218, Eff. Jan. 1, 1957.

500.5260 Stock certificates; substitutions.

Sec. 5260. (1) In case a certificate for shares of a corporation is lost, stolen or destroyed, a new certificate may be secured as provided for lost or destroyed certificates in section 17 of Act No. 106 of the Public Acts of 1913, which is known as the uniform stock transfer act.

(2) A corporation which voluntarily and in good faith issues a new certificate in lieu of one believed to have been lost, stolen or destroyed, or issues a new certificate in compliance with an order of a court of competent jurisdiction may recognize the person in whose name the new certificate or any certificate thereafter issued in exchange or substitution therefor, is issued, as the owner of the shares described therein for all purposes, including the right to vote and the right to receive payment of dividends, distribution or redemption price, until the owner of the original certificate or a transferee thereof without notice and for value shall enjoin the corporation and the holder of any new certificate or any certificate issued in exchange or substitution therefor from so acting.

HISTORY: New 1956, p. 615, Act 218, Eff. Jan. 1, 1957.

500.5264 Expenditures, vouchers and affidavits.

Sec. 5264. No domestic life insurer shall make any disbursement of \$100.00 or more unless the same be evidenced by a voucher signed by or on behalf of the person receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such insurer therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining the voucher.

HISTORY: New 1956, p. 615, Act 218, Eff. Jan. 1, 1957.

500.5266 Dividends to stockholders; general provision.

Sec. 5266. No dividends shall be declared due and payable to stockholders of any stock insurance company, except out of the surplus earnings of the company unless otherwise provided for in this code.

HISTORY: New 1956, p. 615, Act 218, Eff. Jan. 1, 1957.

500.5267 Dividends to stockholders; domestic fire insurance company.

Sec. 5267. It shall not be lawful for the directors or managers of any domestic fire insurance company to declare any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved from its admitted assets a sum equal to the amount of unearned premiums on unexpired risks and policies, and all other outstanding liabilities: Provided, always, That no company may declare dividends exceeding 10%, on its capital stock, in any 1 year, unless it shall have accumulated and be in possession of a surplus, in addition to the amount of its capital stock, and of such dividend, and all outstanding liabilities, equal to 1/4 of the amount of the unearned premiums on risks not terminated at the time of making such dividend or 1/2 of its capital stock, whichever is the greater. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its corporate rights, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided.

HISTORY: New 1956, p. 615, Act 218, Eff. Jan. 1, 1957.

500.5270 Insurer's rights as stockholder in other corporations.

Sec. 5270. When an insurer shall be a stockholder in any other corporation, as provided for in sections 922 (investment in stocks and bonds), 926 (investment in insurance stocks), and 938 (collateral loans), its president and other officers or any of its directors shall be eligible to the office of director of such insurer the same as if they were individually stockholders therein and an insurer holding such stock shall possess and exercise in respect thereof, all the rights, powers, privileges and liabilities of individual owners or holders of such stock.

HISTORY: New 1956, p. 616, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 105, Act 91, Eff. Sep. 27.

500.5272 Domestic fire insurance company; deficiency of asset, notice.

Sec. 5272. (1) Whenever it shall appear to the commissioner, from examination of any domestic fire insurance company that the assets of the company are insufficient to justify the continuance in business of such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, and in case any such company shall fail to pay in and make good the full amount of such deficiency within 30 days after such requisition and direction as aforesaid, the commissioner shall give notice of such failure in

some newspaper published in the county where the office of such company is located by its charter. Such notice shall contain a brief statement of the fact of such failure to comply with this section, and shall be published in such paper once in each week for 3 successive weeks.

Cessation of business; liability as to policies issued after notice.

(2) It shall not be lawful after the first publication of such notice for such company to issue any policy of insurance, or to make any contract for the same, or to transact any business under its charter, except to close up its business; and all contracts of insurance and policies issued after such first publication of such notice shall be void and of no binding force, and the person or persons making such contracts or issuing such policy shall be liable, in an action of trover, to the person insured, in double the sum named as premium in such contract or policy.

HISTORY: New 1956, p. 616, Act 218, Eff. Jan. 1, 1957.

500.5274 Domestic fire insurance company; assessment of stockholders.

Sec. 5274. (1) Any company receiving the requisition from the commissioner provided for in section 5272, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the articles of incorporation of the company; and in case any stockholder of the company shall fail to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the commissioner shall approve, it shall be lawful for the company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as such stockholder may be entitled to in the proportion that the ascertained value of the funds of the company may be found to bear to the original capital of the company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company.

(2) Any transfer of the stock of any such company made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer.

HISTORY: New 1956, p. 616, Act 218, Eff. Jan. 1, 1957.

500.5276 Domestic fire insurance company; liability of directors under new risks accepted during deficiency.

Sec. 5276. In the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the commissioner in the requisition, pursuant to section 5272, for the filling up of the deficiency in the capital and assets of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof.

HISTORY: New 1956, p. 616, Act 218, Eff. Jan. 1, 1957.

500.5280 Domestic mutual insurer; assets, deficiency; liability of director.

Sec. 5280. (1) If, upon examination, it appears to the commissioner that the assets of any domestic mutual insurer are insufficient to justify the continuance of such insurer in business, it shall be his duty to proceed in relation to such insurer in the same manner as is herein required in regard to stock companies; and the directors of such insurer are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the commissioner for filling up the deficiency in the capital and assets of such company, and before such deficiency shall have been made up.

(2) All the provisions of section 5272 shall apply to such a mutual insurer.

HISTORY: New 1956, p. 617, Act 218, Eff. Jan. 1, 1957.

500.5282 Domestic stock insurer; statement of beneficial ownership of equity securities.

Sec. 5282. Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of the company, shall file in the office of the commissioner on or before January 31, 1966, or within 10 days after he becomes beneficial owner, director or officer a statement, in such form as the commissioner may prescribe, of the amount of all equity securities of the company of which he is the beneficial owner. Within 10 days after the close of each calendar month thereafter, if there has been a change in ownership during the month, every such person shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during the calendar month.

HISTORY: Add. 1965, p. 742, Act 377, Eff. Mar. 31, 1966.

500.5283 Unfair use of information; prevention; actions for recovery of profits, limitations, exempt transactions.

Sec. 5283. For the purpose of preventing the unfair use of information which may have been obtained by the beneficial owner, director or officer by reason of his relationship to the company, any profit realized by him from any transfer of any equity security of the company within any period of less than 6 months, unless the security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of the beneficial owner, director or officer in entering into the transaction, of holding the security purchased, or of not repurchasing the security sold, for a period exceeding 6 months. Action to recover the profit may be instituted in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company fails or refuses to bring the action within 60 days after request or fails diligently to prosecute the action. No action shall be brought more than 2 years after the date the profit was realized. This section shall not be construed to cover any transaction where the beneficial owner was not such at the time the transaction dealing with the security involved, or any transaction which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

HISTORY: Add. 1965, p. 742, Act 377, Eff. Mar. 31, 1966.

500.5284 Securities not owned; sale; failure to deliver to transferee, exception.

Sec. 5284. It is unlawful for any beneficial owner, director or officer, directly or indirectly, to sell any equity security of the company if he does not own the security sold, or if owning the security, does not deliver the security to the transferee within 20 days after the sale, or does not within 5 days after the sale deposit it in the mails or other usual channels of transportation. No person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make the delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

HISTORY: Add. 1965, p. 742, Act 377, Eff. Mar. 31, 1966.

500.5285 Nonapplication of sections to certain transactions.

Sec. 5285. The provisions of section 5283 shall not apply to any transaction, and the provisions of section 5284 shall not apply to any sale of an equity security of a domestic stock insurance company not then or previously held by the transferor in an invest-

ment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by the dealer of a primary or secondary market, otherwise than on an exchange as defined in the securities exchange act of 1934, for the security. The commissioner, by such rules and regulations as he deems necessary or appropriate in the public interest, may define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

HISTORY: Add. 1965, p. 742, Act 377, Eff. Mar. 31, 1966.

500.5286 Foreign or domestic arbitrage transactions; exemptions.

Sec. 5286. The provisions of sections 5282, 5283 and 5284 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of this act.

HISTORY: Add. 1965, p. 743, Act 377, Eff. Mar. 31, 1966.

500.5287 Equity security; definition.

Sec. 5287. The term "equity security" means any stock or similar security; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

HISTORY: Add. 1965, p. 743, Act 377, Eff. Mar. 31, 1966.

500.5288 Registered equity securities; exemptions, conditions.

Sec. 5288. The provisions of sections 5282, 5283 and 5284 shall not apply to equity securities of a domestic stock insurance company if the securities shall be registered, or shall be required to be registered, pursuant to section 12 of the securities exchange act of 1934, as amended, or if the domestic stock insurance company shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 5282, 5283 and 5284 except for the provisions of this section.

HISTORY: Add. 1965, p. 743, Act 377, Eff. Mar. 31, 1966.

500.5289 Insurance commissioner; regulatory powers, effect of good faith.

Sec. 5289. The commissioner may make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 5282 to 5288, and for such purpose may classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 5282, 5283 and 5284 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that the rules or regulations may be amended or rescinded or determined by judicial or other authority to be invalid for any reason, after such act or omission.

HISTORY: Add. 1965, p. 743, Act 377, Eff. Mar. 31, 1966.

500.5290 Unlawful solicitation; use of name to solicit proxies or consents.

Sec. 5290. It is unlawful for any person, in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security of a domestic insurer not listed on a national securities exchange.

HISTORY: Add. 1965, p. 743, Act 377, Eff. Mar. 31, 1966.

CHAPTER 54.

MUTUAL LIFE AND DISABILITY INSURERS (Domestic).

500.5400 Scope of chapter.

Sec. 5400. This chapter applies only to domestic mutual life and disability insurers heretofore or hereafter formed other than cooperative insurers as identified in chapter 64.

HISTORY: New 1956, p. 617, Act 218, Eff. Jan. 1, 1957.

500.5402 Domestic mutual insurers; organization.

Sec. 5402. A domestic mutual insurer for the transaction of life insurance, or for transaction of life and disability insurance, may be formed in accordance with the applicable provisions of chapter 50 (organization of domestic stock and mutual insurers).

HISTORY: New 1956, p. 617, Act 218, Eff. Jan. 1, 1957.

500.5408 Certificate of authority; qualifications.

Sec. 5408. No certificate of authority shall be granted such insurer to issue policies until:

(1) At least 500 persons have subscribed in the aggregate for at least \$1,000,000.00 of insurance if organized for the purpose of transacting life insurance, or if organized for the purpose of transacting both life and disability insurances, until 500 persons have subscribed for \$1,000,000.00 of each such kinds of insurance as if corporations had been formed separately for each such purpose, and shall each have paid in 1 full annual premium in cash upon the insurance subscribed for: Provided, That no application shall exceed in amount \$5,000.00 of insurance on the life of any individual or individuals jointly;

(2) The insurer has deposited with the state treasurer securities as required under section 412, representing surplus funds in the amount of \$200,000.00 if to transact life insurance or \$300,000.00 if to transact life and disability insurances; and

(3) The requirements of this chapter have been complied with and certified under oath to the commissioner by at least 3 of the incorporators and then not until he is satisfied that the membership list and applications are genuine and the premiums paid in cash and the applicants have agreed to accept the policies within 30 days after such certificate shall have been issued: Provided, That no policy of insurance shall be issued until the commissioner shall have issued a certificate of authority to transact insurance.

HISTORY: New 1956, p. 617, Act 218, Eff. Jan. 1, 1957.

500.5412 Deficiency in insurance or membership; procedure.

Sec. 5412. If at any time it shall appear from an examination of the insurer or from any statement filed by it that the number of risks insured or the number of policies in force or the number of members or the amount of premiums on insurance in force are below the number and amounts required under section 5408 on organization, the commissioner shall issue an order directing the insurer, within a period of 90 days thereafter to secure bona fide applications for insurance in such insurer, together with the premiums therefor, from persons who, together with the existing members, shall equal the number of members required under section 5408 and whose insurance policies, together with those in force, cover the number of risks and provide for the amount of insurance so required upon organization. In the event that the insurer does not within such period become entitled to issue policies, the commissioner may in his discretion take proceedings for the liquidation of such insurer under the provisions of chapter 78.

HISTORY: New 1956, p. 617, Act 218, Eff. Jan. 1, 1957.

500.5416 Mutual life insurer; extension of powers, procedure.

Sec. 5416. A mutual life insurer may extend its corporate powers to transact disability insurance by amending its articles of incorporation and bylaws in accordance with the provisions of section 5202: Provided, Such amendment is first approved by a vote of 2/3 of its members in person or by proxy at an annual or special meeting called for that purpose pursuant to notice given in accordance with the bylaws, which notice shall specify the additional kind of insurance which it is proposed to transact.

HISTORY: New 1956, p. 618, Act 218, Eff. Jan. 1, 1957.

500.5420 Mutual life and disability insurers; bylaws, amendment, adoption, approval.

Sec. 5420. Bylaws not inconsistent with the articles of association may be adopted or amended at any meeting of the directors or members of the insurer held after the receipt from the commissioner of a certified copy of the certificate of incorporation. The bylaws or amendments shall not become effective until approved by and filed with the commissioner.

HISTORY: New 1956, p. 618, Act 218, Eff. Jan. 1, 1957;—Am. 1961, p. 219, Act 153, Eff. Sep. 8.

500.5424 Directors and officers; number, election.

Sec. 5424. The management of the business and affairs of such an insurer shall be vested in a board of directors. Every such insurer shall have not less than 5 nor more than 17 directors, and such officers as shall be provided for in the articles of incorporation or in the bylaws. The directors shall be elected at the annual meetings of the members but any time after the first annual meeting the directors may be divided into 3 groups as nearly equal as possible and thereafter 1 group only elected in a manner to be provided by the bylaws.

HISTORY: New 1956, p. 618, Act 218, Eff. Jan. 1, 1957;—Am. 1959, p. 32, Act 28, Eff. Mar. 19, 1960.

500.5430 Capital funds; borrowing, repayment.

Sec. 5430. A mutual insurer organized under this chapter may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to provide the securities to be deposited with the state treasurer as required under this code, or to enable it to comply with any requirement of the law, upon an agreement, which shall first have been submitted to and approved by the commissioner, that the same with interest at a rate not exceeding 7% per annum shall be repaid only out of the surplus earnings or profits of such insurer and with the approval of the commissioner whenever, in his judgment, the financial condition of the insurer warrants it, except that such approval shall be withheld if such repayment shall reduce the surplus to an amount less than the amount of deposit required of such insurer held in trust by the state treasurer. Any such sum or sums so advanced shall not form a part of the legal liabilities of the insurer but until repaid all statements published by such insurer or filed with the commissioner shall show the amount thereof then remaining unpaid.

HISTORY: New 1956, p. 618, Act 218, Eff. Jan. 1, 1957.

CHAPTER 58.**GENERAL MUTUAL INSURERS (Domestic).****500.5800 Scope of chapter.**

Sec. 5800. (1) This chapter applies only to domestic mutual insurers transacting property, casualty, disability and other insurances.

(2) The provisions of this chapter shall not apply to any domestic insurer doing business on August 10, 1917, unless such insurer shall be fully complying with the requirements of this chapter and shall by resolution of its board of directors duly certified to by the president and secretary and filed with and approved by the commissioner hav-

ing elected to adopt the provisions of this chapter, in which case such insurer may thereafter effect such kind or kinds of insurance as specified in its articles of incorporation as then or thereafter amended or as may be specified in such resolution.

HISTORY: New 1956, p. 618, Act 218, Eff. Jan. 1, 1957;—Am. 1970, p. 541, Act 180, Imd. Eff. Aug. 3.

500.5804 Domestic mutual insurers; incorporation.

Sec. 5804. (1) Any number of persons, not less than 20, a majority of whom shall be bona fide residents of this state, by complying with the provisions of this chapter, may become together with others who may hereafter be associated with them or their successors, a body corporate, for the purpose of carrying on the business of mutual insurance as herein provided.

2) Any persons proposing to form any such insurer shall subscribe and acknowledge articles of incorporation in accordance with chapter 50.

HISTORY: New 1956, p. 619, Act 218, Eff. Jan. 1, 1957.

500.5810 Domestic mutual insurers; qualification for certificate of authority.

Sec. 5810. No such insurer shall issue policies or transact any business of insurance unless it shall hold a certificate of authority from the commissioner authorizing the transaction of such business, which certificate shall not be issued until and unless the insurer shall comply with the following conditions:

1) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force at least 20 policies to at least 20 members for the same kind of insurance upon not less than 200 separate risks, each within the maximum single risk described herein. (2) The "maximum single risk" shall not exceed 20% of the admitted assets or 3 times the average risk or 1% of the insurance in force, whichever is the greater, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

(3) It shall have collected from each applicant in cash a premium upon each application which premium shall be held in cash or securities in which insurers are authorized to invest and shall be equal to at least \$25,000.00: Provided, however, The cash assets of such insurer shall be not less than \$50,000.00, 1/2 of which shall be derived from cash premium payments from the original applicants, and the balance may come from premiums on additional applications or contributions as provided in section 5836. and in case of workmen's compensation insurers, the minimum premiums required to be collected from original applicants shall be \$50,000.00 with minimum cash assets of \$100,000.00 created as heretofore provided in this subdivision.

(4) For the purpose of transacting employers' liability and workmen's compensation insurance the applications shall cover not less than 20 employers having employees of not less than 5,000, each such employee being considered as a separate risk for determining the maximum single risk.

HISTORY: New 1956, p. 619, Act 218, Eff. Jan. 1, 1957.

500.5814 Repealed. 1970, p. 542, Act 180, Imd. Eff. Aug. 3.

Section related to kinds of insurance permitted mutual insurers.

500.5818 Domestic mutual insurers; rights of corporation and other bodies to be members.

Sec. 5818. Any public or private corporation, board or association in this state or elsewhere may make applications, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee or local representative of any such corporation, board, association, or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity.

ity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

HISTORY: New 1956, p. 620, Act 218, Eff. Jan. 1, 1957.

500.5824 Domestic mutual insurers; voting rights of members.

Sec. 5824. Every member of the company shall be entitled to 1 vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid, as may be provided in the bylaws.

HISTORY: New 1956, p. 620, Act 218, Eff. Jan. 1, 1957.

500.5828 Domestic mutual insurers; contingent liability of members; non-assessable policies.

Sec. 5828. (1) The policies shall provide for a premium or premium deposit payable in cash and, except as herein provided, for a contingent premium at least equal to the premium or premium deposit.

(2) Such mutual insurer may issue a policy without a contingent premium while it has a surplus equal to the capital required of a domestic stock insurer transacting the same kinds of insurance, and in no event shall the holder of any such policy be liable for a greater amount than the premium or premium deposit expressed in the policy.

(3) If at any time the admitted assets are less than the reserve and other liabilities, the insurer shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore such assets, provided no member shall be liable for any part of such contingent premium in excess of the amount demanded within 1 year after the termination of the policy. The commissioner may, by written order, direct that proceedings to restore such assets be deferred during the time fixed in such order.

HISTORY: New 1956, p. 620, Act 218, Eff. Jan. 1, 1957.

500.5836 Domestic mutual insurers; borrowed capital.

Sec. 5836. Any director, officer or member of any such insurer, or any other person, partnership or corporation may advance to such insurer, any sum or sums of money necessary for the purpose of its business or to enable it to comply with any of the requirements of the law, and such moneys and such interest thereon as may have been agreed upon, not exceeding 7% per annum, shall not be a liability or claim against the insurer or any of its assets, except as herein provided, and shall be repaid only out of the surplus earnings of such insurer. No commission nor promotion expenses shall be paid in connection with the advance of any such money to the insurer and the amount of such advance shall be reported in each annual statement.

HISTORY: New 1956, p. 621, Act 218, Eff. Jan. 1, 1957.

500.5840 Domestic mutual insurers; deficiency in assets; assessment of members.

Sec. 5840. Such insurer not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment upon its members liable to assessment to provide for such deficiency, such assessment to be against each such member in proportion to such liability as expressed in his policy: Provided, The commissioner may, by written order, relieve the insurer from an assessment or other proceedings to restore such assets during the time fixed in such order.

HISTORY: New 1956, p. 621, Act 218, Eff. Jan. 1, 1957.

CHAPTER 60.
SPECIAL AUTOMOBILE INSURERS (Domestic).
(Stock and Mutual).

500.6000-500.6030 Repealed. 1964, p. 394, Act 256, Eff. Aug. 28.

Sections regulated domestic stock and mutual special automobile insurers.

CHAPTER 62.
MUTUAL EMPLOYERS' LIABILITY INSURERS (Domestic).

500.6200-500.6236 Repealed. 1964, p. 394, Act 256, Eff. Aug. 28.

Sections regulated domestic mutual employers' liability and workmen's compensation insurers.

CHAPTER 64.
COOPERATIVE PLAN INSURERS (Domestic).

500.6400 Scope of chapter.

Sec. 6400. (1) This chapter applies only to domestic insurers transacting life, disability, or loss of position insurances, as defined in section 6406, on the cooperative or assessment plan.

(2) Corporations heretofore organized and/or doing business under the provisions of Act No. 339 of the Public Acts of 1937, as amended, shall hereafter be subject to the provisions of this chapter and shall hereafter be classified as insurers doing business under this chapter.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6402 Domestic cooperative plan insurers; organization.

Sec. 6402. Subject to the requirements of chapter 50 (organization of domestic insurers) and 52 (corporate powers, procedures of domestic insurers), any number of persons, not less than 7, residents of this state, may incorporate for the purpose of carrying on upon the assessment or cooperative plan, the kind or kinds of insurance enumerated in any 1 or more subdivisions of section 6406.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6406 Domestic cooperative plan insurers; authorized kinds of insurance.

Sec. 6406. The kinds of insurance which may be carried on by insurers incorporated under this chapter shall be as follows:

(1) To insure persons against bodily injury or death by accident or against disability on account of sickness or accident and also to grant specific hospital benefits and medical, surgical and sick-care benefits to persons and their families, subject to such limitations as the commissioner may prescribe with respect thereto; and to provide reimbursement of funeral expenses, not exceeding \$200.00 to any person in conjunction therewith.

(2) To provide indemnity to conductors, engineers and motormen of steam and electric railways, and to persons engaged in other similar trades or occupations, for loss of position arising from discharge or suspension, which indemnity shall be payable in installments which do not exceed the average monthly wage of the member, and which, in the aggregate upon any 1 risk, shall not exceed 15% of the contingency reserve deposit provided in sections 6434 and 6446, and to provide indemnity for loss of position arising from retirement.

(3) To insure the lives of persons and to grant every insurance pertaining thereto. Such policies of life insurance may provide for total and permanent disability benefits and accidental death benefits.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6410 Domestic cooperative plan insurers; qualification for certificate of authority; issuance of policies.

Sec. 6410. No insurer shall commence business under this chapter until it shall have procured bona fide applications for insurance therein together with the first premium in cash from at least 300 eligible persons for each class of risk as defined in section 6406 which the insurer undertakes to write; nor until the secretary and treasurer shall have given good and sufficient bonds to the insurer to be held by the president of the insurer, for the faithful performance of their duties, which bonds shall each be in amount at least twice the amount of money liable to come into the hands of such officer at any 1 time, said bonds to be approved by the commissioner; nor until the commissioner, after receipt of satisfactory proof as to compliance with these and such other requirements as he shall deem essential, shall have issued a certificate of authority to such insurer, then, and not before, the insurer may issue its policies of insurance.

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6412 Domestic cooperative plan insurers; life insurer, qualifications to write annuity contracts.

Sec. 6412. No insurer subject to subdivision (3) of section 6406 (transaction of life insurance) shall write in Michigan any contract of annuity, or retain by virtue of supplemental agreement any proceeds of any policy or contract of insurance upon deposit with such insurer at interest or upon settlement option, until it shall have a contingency reserve deposit as defined and described in section 6434, in the amount of \$100,000.00, and shall have obtained from the commissioner a certificate of authority to write such contracts of annuity or supplemental agreements.

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6414 Domestic cooperative plan insurers; qualification to write group insurance.

Sec. 6414. No such insurer shall do a business of group insurance in Michigan until it shall have accrued a contingency reserve deposit as defined and described in section 6434 in the amount of \$100,000.00, and shall have obtained from the commissioner a certificate of authority to write group insurance.

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6418 Domestic cooperative plan insurers; directors; selection at annual meetings.

Sec. 6418. (1) The property, business and affairs of such insurer, shall be managed by not less than 5 nor more than 20 directors to be chosen by the members at the annual meeting of members, to serve until the next annual meeting and until their successors be qualified. The directors may be divided into 3 groups as nearly equal as possible and in such case only 1 group shall be elected at each annual meeting in a manner to be prescribed by the bylaws.

First annual meeting of members.

(2) The first annual meeting of members shall take place within 12 months following the date of execution of the articles of incorporation. During the interim between the execution of the articles of incorporation and the first annual meeting of members, the affairs of the insurer may be administered by such directors, officers or trustees as shall be vested with such interim authority by the terms of the articles of incorporation.

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6422 Domestic cooperative plan insurers; members, voting, quorum, inspection of books.

Sec. 6422. Every person insured in any insurer organized under this chapter shall be a member of such insurer, and shall be entitled to 1 vote at all meetings of the mem-

bers. and may vote in person or by proxy under such rules and regulations as may be provided in the bylaws of such insurer: Provided, however, That a minimum of 10 members shall be present in person to constitute a quorum. The books of such insurer shall be open for inspection by any member of such insurer at any of its meetings.

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6428 Domestic cooperative plan insurers; provisions applicable to policies.

Sec. 6428. (1) Every insurer transacting business under subdivision (1) of section 6406 (disability and related insurances) shall be subject to the provisions of sections 2242 (filing and approval of policy forms), 2260 (claims administration not waiver), chapter 34 (disability insurance policies), and chapter 36 (group and blanket disability insurance).

2) Every insurer transacting business under subdivision (2) of section 6406 (loss of position insurance) shall be subject to the provisions of section 6616; and all policies issued after January 1, 1948, shall grant such nonforfeiture values under annuity contracts as are required of life insurers under this insurance code.

3) On and after January 1, 1949, every insurer transacting business under subdivision (3) of section 6406 (life insurance) shall be subject to the provisions of chapters 40 life insurance policies and annuity contracts) and 42 (industrial life insurance).

HISTORY: New 1956, p. 626, Act 218, Eff. Jan. 1, 1957.

500.6432 Domestic cooperative plan insurers; reserves, standards applicable.

Sec. 6432. (1) Every insurer transacting the kind or kinds of insurance described in subdivisions (1) and (2) of section 6406 (disability and loss of position insurances) shall maintain reserves for unearned premiums in accordance with the standards prescribed from time to time by the commissioner, which standards shall conform to those required of other insurers authorized to insure similar risks under the provisions of this code.

2) Every insurer transacting the business of life insurance, endowment and/or annuity on or after January 1, 1948, shall maintain the reserves required by section 834 (standard valuation law); for all contracts issued between January 1, 1940, and December 31, 1947, inclusive, reserves not less than that determined by the national fraternal congress table of mortality as adopted by the national fraternal congress, August 23, 1899, with interest assumption not more than 4% per annum, or such other reserve as shall be provided by the certificate or contract of insurance, whichever may be the greater; and for all contracts issued prior to January 1, 1940, premiums shall be segregated as a separate fund or funds to be held in trust solely for the benefit of such contract, for which fund a separate accounting shall be made, unless or until the insurer shall be able to and shall elect to transfer said contracts or policies, with the reserves herein required, into 1 of the preceding 2 classes.

HISTORY: New 1956, p. 627, Act 218, Eff. Jan. 1, 1957.

500.6434 Domestic cooperative plan insurers; contingency reserve, escalator provisions.

Sec. 6434. (1) In addition to the requirements of section 6432, every domestic insurer subject to this chapter shall maintain a contingency reserve at all times at least equal to 1/10 of the total premium income for the preceding calendar year but not less than \$5,000.00 for each kind of insurance enumerated in section 6406 which the insurer undertakes to issue. Such contingency reserve shall be kept on deposit with the state treasurer, in securities specifically defined and described in chapter 9 (investments).

(2) Any such insurer authorized on January 31, 1947, to transact business in this state and upon said date legally transacting such business shall be granted 10 years to arrive at the contingency reserve requirements specified heretofore in this section, providing it makes and maintains contingency reserve deposits at least equal to the following percentages of total premium income for the preceding calendar years, on or before: January 31, 1948, 2%; January 31, 1949, 3%; January 31, 1950, 4%; January 31, 1951, 5%; January 31, 1952, 6%; January 31, 1953, 7%; January 31, 1954, 8%; January 31, 1955, 9%; January 31, 1956, 10%, or \$5,000.00 for each kind of business enumerated in section 6406, transacted by it, whichever is the greater: Provided, That no deposit with the state treasurer of Michigan under antecedent regulations of cooperative or assessment insurance companies shall be withdrawn until the provisions hereof shall be met.

HISTORY: New 1956, p. 627, Act 218, Eff. Jan. 1, 1957.

500.6436 Domestic cooperative plan insurers; unlawful use of reserve funds, penalty.

Sec. 6436. (1) It shall be unlawful for any officer or agent of a cooperative mutual life insurance company doing business in this state to appropriate or use any portion of the reserve or mortality funds of such company for any other purpose than such as the articles of incorporation, bylaws and contracts with members prescribe.

(2) Any officer or agent guilty of any intentional violation of this section, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 627, Act 218, Eff. Jan. 1, 1957.

500.6440 Domestic cooperative plan insurers; assessment of members; nonassessable policies.

Sec. 6440. On and after January 1, 1948, every policy issued or delivered in this state by any domestic insurer subject to this chapter, shall set forth on the first page thereof, in addition to the regular specified premiums, the fact that the member is liable to be assessed to the extent needed to pay said member's aliquot share of claims and expenses, and to maintain the reserves required by this chapter. No such assessment shall be levied against any policyholder except upon due notice to such policyholder. Every policyholder shall be entitled to elect that his or her policy reserves, or the required portion thereof, shall be applied against such assessment. If any member shall fail to pay such assessment in cash within 30 days after notice, said assessment shall become a lien upon his or her policy or policies. Whenever the amount of liens upon any policy shall equal its reserve, the policy shall become void without further action and no further liability shall attach to the insurer. No assessment shall be made until the method of determining and spreading the assessment shall have been approved by the commissioner. The commissioner may authorize the prosecution of suits to collect assessments when he shall deem such action equitable and practicable: Provided, That any insurer issuing the kinds of insurance in subdivisions (1) (disability) and/or (2) (loss of position) of section 6406 may issue a nonassessable policy, which may be so described on the face of the policy, while it has contingency reserves in the amount of at least \$200,000.00, and in no event shall the holder of any such policy, or any renewal thereof, be liable for a greater amount than the premiums expressed in

the policy: Provided further, That no such nonassessable policy shall be issued until the commissioner shall, after examination of the insurer, determine that the insurer has contingency reserves of at least \$200,000.00, and authorizes the insurer, in writing, to issue such nonassessable policies.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6446 Domestic cooperative plan insurers; limits of risk; increased reserve; reinsurance.

Sec. 6446. No such insurer shall expose itself to loss from all causes, on any 1 risk, in a total principal sum exceeding 10% of its contingency reserve deposit as defined in section 6434: Provided, That insurers may establish, make and maintain a larger contingency reserve deposit than is required by said section 6434, and thereafter the limits of exposure as herein defined shall be increased by 10% of any such excess deposit: Provided further, That insurers transacting business under this chapter may issue policies under which the amount insured exceeds the foregoing limitations, if the said insurers shall, at the time of issuance of said policy or policies, have in force, and shall maintain in force throughout the continuance of such policies, a good and enforceable contract or contracts of reinsurance ceding of said individual risks not less than the excess over the permissible retention as herein provided, which reinsurance shall be ceded only to insurers authorized under the provisions of this code to transact business of a similar class in this state, and to accept reinsurance: Provided, however, That no reinsurance shall be ceded to or accepted by any insurer operating under the cooperative or assessment plan: Provided further, That this section shall not reduce the limits of exposure to loss for insurers legally operating in this state under the cooperative or assessment plan on January 1, 1947.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6450 Domestic cooperative plan insurers; guaranty fund, creation, terms, repayment; other borrowed money.

Sec. 6450. Any such insurer may secure its required funds for reserve purposes by means of contributions or loans, but subject to the limitations set forth in this section. Any fund so secured is hereinafter described as a guaranty fund. Such fund shall be not more than \$300,000.00. The agreement upon which such guaranty fund is secured shall provide that any claim for its return shall be inferior and subordinate to all claims of and reserves for policyholders and insured members, and to the statutory required contingency reserve deposit, and shall be subject to the approval of the commissioner. Such guaranty fund and agreed interest thereon, not exceeding 6% per annum, shall not be liabilities or claims against the insurer or any of its assets except as herein provided. Interest shall be paid and principal shall be retired only out of surplus of the insurer in excess of current obligations and of reserves required by this chapter. No part of such principal shall be retired unless the surplus remaining after such repayment shall equal or exceed the amount of such guaranty fund retired, and the insurer shall have received the written consent of the commissioner. No commission or promotion expense of any kind shall be paid or allowed in connection with the raising of such guaranty fund, and the amount of such guaranty fund together with interest thereon and any portion thereof retired during any year shall be reported in the insurer's annual statement. Nothing in this section shall be construed to bar any insurer subject hereto from borrowing money; but the amount so borrowed with accrued interest thereon shall be carried by the insurer as an immediate liability, as distinguished from the *deferred or contingent liability* status of the guaranty fund.

HISTORY: New 1956, p. 625, Act 218, Eff. Jan. 1, 1957.

500.6456 Domestic cooperative plan insurers; conversion into mutual insurer, procedure.

Sec. 6456. (1) Any insurer transacting business under subdivisions (1) (disability) or (3) (life) of section 6406, or under both such subdivisions, may, at its option, convert itself without reincorporation into a mutual insurance company transacting the corresponding kind or kinds of business, and become subject to the provisions of sections 5408 through 5430 (provisions applicable to domestic mutual life and disability insurers) and the applicable portions of sections 408 (capital, surplus, assets required) and 412 (deposit requirement), upon meeting the surplus and other requirements of said sections. Any insurer transacting only the kinds of business specified in subdivisions (1) (disability) and/or (2) (loss of position) of section 6406, may, at its option, convert itself without reincorporation into a mutual company and continue to transact the said kind or kinds of business, and become subject in all other respects to the provisions of chapter 58 (domestic general mutual insurers) upon meeting the requirements of said chapter.

(2) The board of directors, trustees, or managers, shall adopt, in the manner provided by law, such amendments to the articles of incorporation and the bylaws of the insurer as shall be necessary to make the same conform to the articles of incorporation and bylaws of a mutual insurance company, as above limited. Upon approval by the commissioner of such amendments, and the filing of a certified copy of the amendments to the articles of incorporation with the county clerk of the county in which the principal office of the insurer is located, such insurer shall be subject to the provisions and entitled to the benefits of the sections or chapter above designated, as the case may be.

(3) Such conversion into a mutual insurance company shall not affect the rights or obligations of the insurer or its members on any contract theretofore made.

HISTORY: New 1956, p. 629, Act 218, Eff. Jan. 1, 1957.

CHAPTER 66.**RAILWAY EMPLOYEES, AND LIFE, DISABILITY INSURERS (Domestic, Stock).****500.6600 Scope of chapter.**

Sec. 6600. This chapter applies only to domestic stock insurers formed for the purpose of transacting insurance as provided in section 6604.

HISTORY: New 1956, p. 629, Act 218, Eff. Jan. 1, 1957.

500.6604 Railway employees loss of position, accident, disability and life insurer; formation, insuring powers.

Sec. 6604. Any number of persons, not less than 13, may associate together and form an incorporated company for the following purposes, to wit:

First, To insure railway employees against loss of position resulting from discharge, suspension or retirement;

Second, To insure any person against bodily injury or death by accident, or against disability on account of sickness;

Third, To insure the lives and health of persons and every insurance pertaining thereto, and to grant, purchase or dispose of annuities.

HISTORY: New 1956, p. 629, Act 218, Eff. Jan. 1, 1957.

500.6608 Capital stock issuance limitations; par value.

Sec. 6608. The amount of capital stock of any company organized under the provisions of this chapter shall not be less than \$200,000.00, in shares of the par value of \$50.00 each.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957.

500.6612 Applicability of chapter.

Sec. 6612. Such provisions of this code as are applicable to domestic stock insurers transacting life, disability, or casualty insurances as are not inconsistent with, or in conflict with provisions of this chapter are hereby made applicable to the operation of any insurer organized under the provisions of this chapter.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957.

500.6616 Railway employees loss of position insurance; limit of liability, application.

Sec. 6616. (1) All contracts insuring railway employees against loss of position or of wages resulting from discharge, suspension or retirement shall contain a provision, in form approved by the commissioner, limiting the liability under said contract to an amount not greater than the average monthly wages earned at the effective date of the policy contract, and in the event that more than 1 contract shall be in force, to its pro rata share of said loss. No insurer shall solicit, by advertising or otherwise, where the risk to be insured against is covered by a prior policy in force with another insurer, the writing of a contract wherein the insured shall recover under its contract any more than the pro rata share of the loss as herein provided.

(2) All contracts providing for such insurance shall be written only after a written application therefor shall be signed by the applicant wherein he shall be required to state whether he has similar coverage with another company and the amount of his average monthly wages.

(3) The provisions of this section shall be applicable to all insurers organized under or admitted to do business within the state of Michigan under the provisions of Act No. 256 of the Public Acts of 1917, as amended, or under the provisions of this code: Provided, That contracts of insurance, in force as of July 30, 1943, shall not be altered, amended or affected in any way by reason of the provisions of this section.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957.

CHAPTER 68.

FARMERS' AND OTHER SPECIAL MUTUAL PROPERTY INSURERS (Domestic).

500.6800 Scope of chapter; code applicability to domestic farmers' mutual insurers.

Sec. 6800. (1) This chapter applies only to domestic farmers' mutual insurers and to the other domestic mutual insurers organized and transacting insurance upon property under this chapter.

(2) No provision or provisions of this insurance code not contained in or referred to in this chapter shall be applicable as to any such insurer.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957.

500.6802 Formation of mutual plan insurers.

Sec. 6802. Companies may be incorporated upon the mutual plan to insure against loss and damage by fire, lightning, cyclones, windstorms, tornadoes, hail, riot, riot attending a strike, aircraft, smoke, vehicles and death of livestock from any cause, by complying with the provisions of this chapter as provided in the succeeding sections.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957.

500.6804 Farmers' mutuals; organization, insuring powers.

Sec. 6804. Any number of persons not less than 25 may associate together for the purpose of mutual insurance of the property of its members against loss or damage by inherent explosion, fire, lightning, riot, riot attending a strike, aircraft, smoke or vehicles, *which property* to be insured by companies organized or operating under this section shall embrace only farm property or property located in a village or city of less

than 5,500 inhabitants used by a farmer exclusively for his own storage purposes, which property is not associated in any way with any retail, wholesale or processing operation, country churches, schoolhouses, lodge halls and town halls and their contents, in any township; and churches, schoolhouses and dwellings and accompanying outbuildings and their contents situated within the corporate limits of cities or villages having a population not in excess of 5,500 inhabitants; and any buildings and contents, located on county agricultural fairgrounds, used for fair purposes or for boys and girls club work: Provided, That such property has adequate fire protection.

HISTORY: New 1956, p. 630, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 189, Act 168, Eff. Sep. 27.

500.6806 Farmers' mutuals; limit of risk, reinsurance.

Sec. 6806. No company organized or operating under section 6804 shall carry an insurance or assume a liability on any single hazard amounting to more than \$2,500.00 or more than 1/10 of 1% of the total amount of insurance carried and in force in such company, whichever is the larger, unless the excess insurance over and above the maximum amount permitted be reinsured in some other insurance or reinsurance company legally authorized to do business in this state.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6807 Farmers' mutuals; coverage of property while off insured premises.

Sec. 6807. In the absence of any charter provision or bylaw to the contrary, the terms of a policy issued by any company organized or operating under section 6804 shall be construed to cover any loss or damage by fire or lightning to any insured farm vehicle and its contents while located in any building not insurable by said company, provided said property shall have been absent from the insured owners' premises not more than 10 days and continuously in said uninsurable building not more than 48 hours.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6810 Mercantile mutuals; organization, insuring powers.

Sec. 6810. Any number of owners or operators of banks or mercantile establishments, not less than 25 being residents of the state, may associate together and form an incorporated company for the purpose of insuring property against loss or damage by fire or lightning, which property, primarily to be insured, shall consist of merchandise, goods, chattels, warehouses, store and office fixtures; or secondarily, may include store buildings, warehouses, stores, outbuildings and their contents, used and held in the ordinary conduct of banking and mercantile business of the country.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6812 Machinery mutuals; organization, insuring powers.

Sec. 6812. Any number of manufacturers, owners or operators of grain, bean and grass seed threshing machinery, hay pressing machinery, corn husker and shredder, portable engines, whether traction or otherwise, steam or gas, portable saw mills and feed mills, operated or driven by portable engines, not less than 25 in number, being residents of the state, may associate together and form an incorporated company for the purpose of insuring such property against loss or damage by fire or lightning.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6814 Lumber dealers' mutuals; organization, insuring powers.

Sec. 6814. Any number of retail lumber dealers, whether incorporated or not, not less than 25 in number, who collectively shall have invested in the retail lumber business an aggregated value of not less than \$50,000.00, may associate together and form an incorporated company for the purpose of insuring their stocks of lumber, sheds, of-

ices and fixtures generally kept in retail lumber yards, against loss and damage by fire or lightning.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6816 Windstorm mutuals; organization, insuring powers.

Sec. 6816. Any number of persons, not less than 25, may associate together and form an incorporated company for the purpose of insuring any real or personal property against loss or damage by cyclones, windstorms and tornadoes.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6818 Hail mutuals; organization, insuring powers.

Sec. 6818. Any number of persons not less than 25 may associate together and form an incorporated company for the purpose of insuring property of its members against loss or damage by hail, which property to be insured may embrace grains, fruits, and other farm products as the charters and bylaws of said companies may provide.

HISTORY: New 1956, p. 631, Act 218, Eff. Jan. 1, 1957.

500.6820 Livestock mutuals; organization, insuring powers.

Sec. 6820. Any number of persons not less than 75 may associate together and form an incorporated company for the purpose of insuring livestock of its members against death from all causes, except fire and lightning.

HISTORY: New 1956, p. 632, Act 218, Eff. Jan. 1, 1957.

500.6822 Certificate of authority; required to transact business.

Sec. 6822. (1) No insurance company organized or operating under this chapter shall transact any business without a certificate of authority from the commissioner.

Same; expiration, renewal, revocation.

(2) All such certificates of authority shall expire on the last day of June of each year and shall be renewed annually upon full compliance with the provisions of this chapter, and such certificates of authority shall be revocable by the commissioner for violation of any of the provisions of this chapter after due notice to such company and a hearing on the question of such violation.

Same; qualification for certificate of authority or commencing business.

(3) No insurance company hereafter organized under this chapter, except as herein otherwise provided, shall be granted a certificate of authority or shall commence business until bona fide agreements have been entered into for insurance with at least 200 individuals covering property to be insured to the amount of not less than \$500,000.00; no company hereafter organized under sections 6810 (mercantile mutuals) or 6814 (lumber dealers' mutuals) shall commence business until it shall be possessed of not less than \$60,000.00 in premiums, upon which not less than \$25,000.00 have been paid in cash, and the remainder in notes or agreements of solvent parties founded on actual bona fide applications for insurance; and no company hereafter organized under sections 6816 (windstorm mutuals) or 6818 (hail mutuals) shall commence business until bona fide agreements have been entered into for insurance with at least 200 individuals, covering property to be insured to the amount of not less than \$500,000.00, which property in the first instance shall be located in not less than 5 counties, and not more than \$125,000.00 of said property to be insured under such original applications shall be located in any one county. No company organized under section 6820 (livestock mutuals) shall commence business until bona fide agreements have been entered into for insurance with at least 100 individuals, covering livestock to be insured to the amount of not less than \$50,000.00.

HISTORY: New 1956, p. 632, Act 218, Eff. Jan. 1, 1957.

500.6823 Property insurance; territorial limitations.

Sec. 6823. No company shall hereafter be organized under the provisions of this chapter for the purpose of insuring property other than that mentioned in sections 6804 (farmers' mutuals), 6810 (mercantile mutuals), 6812 (machinery mutuals), 6814 (lumber dealers' mutuals), and 6820 (livestock mutuals): Provided, Any mutual insurance company whose business is limited by law or its charter to 1 or more counties, may provide in its charter or by amendment to its charter for insuring for its resident members any real or personal property owned by them and situated outside said county or counties in which said company is authorized to insure but in a county adjoining the same; and may also provide for extending the insurance on personal property which may be temporarily absent not to exceed 6 months in a county adjoining a county or counties in which said company is authorized to do business, during which time the insurance on such personal property shall be in force as fixed in the company's charter or bylaws in relation thereto: Provided further, That upon the adoption of any such article or amendment, the same shall automatically extend to all existing policies of the company, and that such insurance shall be subject to the same limitations as provided respectively in such sections 6804, 6810, 6812, 6814, and 6820.

HISTORY: New 1956, p. 632, Act 218, Eff. Jan. 1, 1957.

500.6824 Reinsurance; limitations.

Sec. 6824. Any company organized or operating under this chapter whose business is limited by law or by its charter to 1 or more counties may provide in its charter or by amendment to its charter for assuming reinsurance from other companies on property located anywhere within the state: Provided, however, That no reinsurance shall be accepted of a different kind or on a different class of property than the company is by its charter permitted to write direct. The company ceding such reinsurance shall not, by virtue of such reinsurance, become a member of the company assuming the reinsurance nor shall the ceding company assume any contingent liability for assessment unless otherwise provided by written agreement.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6826 Records and reports; requirements.

Sec. 6826. All companies organized or operating under this chapter shall keep such reasonable records and make such reports as the commissioner shall require.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6828 Financial report to members; penalty for violations.

Sec. 6828. (1) It shall be the duty of the secretary of each mutual insurance company doing business in this state under the authority of this chapter to make out and deliver by mail or otherwise to the last known post office address as shown by the company's records each year to each individual member of such company a copy of the financial report required by law to be made by such company to the commissioner.

(2) Any person, being a resident of this state, acting as secretary of any such mutual insurance companies, doing business in this state, who shall wilfully refuse, or neglect to make out and deliver the reports, as provided in subsection (1), above, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of not more than \$100.00.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6830 Directors and officers; election.

Sec. 6830. A company hereafter organized under this chapter shall provide in its articles of incorporation that its directors shall be elected by its members and that its officers shall be elected by its board of directors. The secretary or manager of the com-

pany may or may not be a member of the board of directors or a member of the company.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6834 Corporation, board or association as member.

Sec. 6834. Whenever any public or private corporation, board or association in this state has entered into an agreement for and holds a policy in any mutual insurance company operating under this chapter, any officer, stockholder, or trustee of any such corporation, board or association who may be designated by such corporation, board or association, may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6838 Premium notes and assessments; liens.

Sec. 6838. The articles of incorporation and bylaws of any such company organized under or subject to the provisions of this chapter, may provide for the receiving of applications or agreements from its members for insurance, with or without taking from the insured any premium note or notes; and it shall be lawful for such mutual insurance companies, to make assessments upon such agreements, or policies issued thereon, or upon the premium note or notes, as the case may be, pro rata, according to the amount of such agreement or policies, or premium note or notes for the payment of the losses and expense incurred by such companies, and all such premium notes, or agreements, or assessments, shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs and interest thereon.

HISTORY: New 1956, p. 633, Act 218, Eff. Jan. 1, 1957.

500.6840 Levy of assessment; deficit.

Sec. 6840. (1) It shall be the duty of the president and secretary or other executive officer or officers having power to levy assessments, of each and every mutual insurance company doing business in this state under authority of this chapter to levy an assessment on the members according to classification thereof, sufficient to cover all liability of the company at each and every assessment: Provided, however, That the commissioner may if he deems it advisable grant authority to carry forward a portion of any deficit. Any deficit carried over must be included in the assessment levied during the year immediately following.

Farmers' mutuals, advance premiums, surplus.

(2) It shall be unlawful for any mutual fire insurance company incorporated under the provisions of section 6804 (farmers' mutuals) to conduct its business on the delayed assessment plan and authority is hereby given for mutual insurance companies incorporated under this chapter to collect an advance premium ratably assessed against the membership of an amount which shall be estimated as sufficient to pay each member's proportionate share of the losses and expenses of the company for the ensuing 12 months or lesser period as prescribed by the articles of incorporation of the company, and to provide for surplus funds as permitted in section 6844.

Membership fees; nonassessable policies.

(3) The amount of membership fee collected per \$100.00 of insurance by a mutual insurance company incorporated under the provisions of this chapter at the time of issuing a policy for a new member or increasing a policy shall be uniform for all companies on the same class of business and shall be prescribed by the commissioner upon agreement on the amount of such membership fee by a majority of the companies

writing each separate class. Such fee shall be the only fee collected in addition to the advance premium. No new membership fee shall be charged for a policy reinstated within 6 months of the date such policy was cancelled: Provided further, That any mutual fire insurance company doing business in this state under authority of this chapter and operating upon the advance premium plan while having a surplus at least equal to \$200,000.00 may issue an insurance policy which shall provide that the member insured shall not be liable for an additional assessment during the period for which an advance premium has been paid, and in no event shall the holder of any such policy be liable to the company for a greater amount than the advance premium charged for that period.

HISTORY: New 1956, p. 634, Act 218, Eff. Jan. 1, 1957.

500.6842 Failure to make assessment; penalty.

Sec. 6842. Any person being a resident of this state, acting as president, secretary or other officer of any such mutual insurance company, doing business in this state under authority of this chapter, who shall wilfully refuse, or neglect to make assessments as provided in section 6840 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00 nor less than \$500.00, or by imprisonment in the county jail not less than 6 months nor more than 1 year, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1956, p. 634, Act 218, Eff. Jan. 1, 1957.

500.6844 Surplus fund; accumulation.

Sec. 6844. Any company organized or operating under this chapter may provide in its charter or by amendment to its charter for the collection of assessments and/or premiums in excess of the amount required to cover current losses and expenses, for the purpose of accumulating a surplus fund.

HISTORY: New 1956, p. 634, Act 218, Eff. Jan. 1, 1957.

500.6846 Board of directors; borrowing power.

Sec. 6846. The board of directors of any company organized or operating under this chapter may borrow money for the purpose of paying losses and expenses.

HISTORY: New 1956, p. 634, Act 218, Eff. Jan. 1, 1957.

500.6848 Unearned premium reserve; refund.

Sec. 6848. Any company organized or operating under this chapter upon the advance premium plan, shall maintain and set aside as a liability an unearned premium reserve upon the same basis as that required of domestic stock insurance companies transacting the same kind of business. Such companies shall provide in their policy for the refund of the unearned premium in case of cancellation for any cause.

HISTORY: New 1956, p. 635, Act 218, Eff. Jan. 1, 1957.

500.6850 Investments; real estate; agricultural credit corporation membership.

Sec. 6850. No company organized or operating under this chapter shall invest any of its assets until it has cash in state or national banks of Michigan of \$20,000.00 in excess of the estimated amount of all unpaid losses of which the company has received notice. Should any company's cash in such banks fall below the required amount after investments have been made, the commissioner may if he deem it necessary for the protection of the policyholders of the company require such company to convert a part or all of its investments into cash. Funds available for investment may be invested in accordance with the laws of this state relating to the investment of the assets of domestic stock companies transacting the same kind of business except that companies organized or operating under this chapter are prohibited from investing in or owning corporation stocks, or investing in or owning real estate, except as follows:

(1) Such as shall be necessary for its immediate accommodation in transacting business, or

(2) Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts, or

(3) Such as shall have been conveyed to the company in satisfaction for debts or subrogation of claims, or

(4) Such as shall have been purchased at sales upon judgments, decrees or mortgages in favor of such company, or held by or owned by it; and all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within 5 years after the title has been perfected in such company, unless the company shall procure a certificate from the commissioner that the interest of such company will materially suffer by a forced sale, in which event the sale may be postponed for such period as the commissioner shall direct in such certificate, not to exceed 10 years in all, or

(5) Any company organized or operating under this chapter is hereby authorized, upon the consent and approval of the commissioner, and in accordance with the rules and regulations promulgated by the commissioner, to purchase and own stock in or become a member of any agricultural credit corporation, or similar corporation, formed for the purpose of financing and/or lending money to any such company. Any such company purchasing and owning stock in or becoming a member of any such corporation is hereby authorized, upon the consent and approval of the commissioner, to borrow money for the purpose of paying losses and to pledge for the payment thereof the assets of such company. If the delinquency in collection of assessments levied by any such company, purchasing and owning stock in or becoming a member of any such corporation, at the end of the fiscal year of such company shall exceed 15%, the commissioner shall be empowered to take steps for the collection of such assessments, including the power to bring suit on behalf of such company, and/or to order such additional assessments as may be found to be necessary to remove such deficiency.

HISTORY: New 1956, p. 635, Act 218, Eff. Jan. 1, 1957.

500.6854 Insurance in excess of fair value prohibited.

Sec. 6854. No company organized or operating under this chapter shall issue a policy for an amount in excess of a fair value of the property insured.

HISTORY: New 1956, p. 635, Act 218, Eff. Jan. 1, 1957.

500.6856 Maximum amount recoverable on face of policy; premium, assessments.

Sec. 6856. No company organized or operating under this chapter shall issue any policy which provides that the maximum amount recoverable is less than the amount stated on the face of the policy, and no assessment shall be levied or premium collected on any amount larger than that so stated on such policy face.

HISTORY: New 1956, p. 635, Act 218, Eff. Jan. 1, 1957.

500.6858 Adjustment or arbitration of losses; subpoenas to witnesses; notice.

Sec. 6858. That any justice of the peace of this state is hereby authorized and required to issue subpoenas, and compel the attendance of witnesses before the president, vice-president, secretary, board of directors, or either of the directors, or the auditor or board of auditors of any mutual insurance company organized under the laws of this state, whenever requested so to do by said officers of such insurance companies, or any 1 of them, or the insured, to give evidence in any matter touching the adjustment or arbitration of losses by fire or other cause which may come before such officer or officers; and such subpoena shall be valid to compel the attendance of a witness within the same county where such matter is to be tried, and within 30 miles of the

place of such trial. The opposite party interested in such adjustment or arbitration shall be notified, without cost to him or them, at least 24 hours in advance, of the time and place where such witnesses are to be examined, and he or they shall have the right to appear by attorney or in person, and cross-examine all witnesses produced.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6859 Adjustment or arbitration of losses; service of subpoenas, fees.

Sec. 6859. Any such subpoena may be served by a sheriff, constable or any other person, and it shall be served by delivering a copy thereof, and by paying or tendering to him the same fees for traveling and 1 day's attendance as are allowed by law in justice courts.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6860 Adjustment or arbitration of losses; compelling attendance of witness, costs.

Sec. 6860. Whenever it shall appear to the satisfaction of said justice of the peace, by affidavit of a party interested in said adjustment or arbitration, or by other competent testimony, that any person duly subpoenaed to appear as required in said subpoena, shall have refused or neglected without just cause to attend as a witness in conformity to such subpoena, and the testimony of such witnesses is material, as the deponent verily believes, the said justice shall have power to issue an attachment to compel the attendance of such witness, and said witness shall be liable for the cost of such attachment for the service of the same, which costs may be recovered in an action of assumpsit at the suit of the party injured by such neglect or refusal, before any court having competent jurisdiction in like cases, and shall moreover be liable to said injured party in damages.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6862 Adjustment or arbitration of losses; administration of oath to witness; perjury.

Sec. 6862. Any 1 of said officers or directors of such insurance companies shall have the power, and they are hereby authorized to administer an oath to said witnesses or parties so testifying before them in the adjustment or arbitration of such losses, and said witnesses shall be liable to the same pains and penalties for perjury as are now provided by law.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6864 Limitation of actions.

Sec. 6864. No suit or action at law for the recovery of any claim for loss or damage under a policy issued by any company organized or operating under this chapter shall be sustainable in any court of law or equity unless commenced within 12 months next after the liability shall have accrued.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6866 Uniform farm mutual fire policy.

Sec. 6866. On and after January 1, 1946, no company organized or operating under the provisions of this chapter shall issue fire insurance policies on farm property in this state other than those of the standard form as set forth in section 6868.

HISTORY: New 1956, p. 636, Act 218, Eff. Jan. 1, 1957.

500.6868 Uniform farm mutual fire policy; required form.

Sec. 6868. Uniform Farm Mutual Fire Insurance

Policy No. \$.....

(Name of company)

Organized Charter expires

In consideration of the provisions and stipulations herein or added hereto and of the warranties contained in the application (if any) for insurance, and subject to the tenor, terms, provisions and stipulations of its charter and bylaws and any amendment thereto hereafter made, does hereby insure and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business, nor in any event for more than the interest of the insured, commencing the day of 19..... at noon, standard time, at location of property involved, against all **direct loss by fire and lightning and by removal from premises endangered by the perils insured against in this policy, except as hereinafter provided**, to the property described hereinafter while located or contained as described in this policy, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere, to an amount not exceeding the sums hereinafter stated upon the following described property, to-wit: (space for policy form) Assignment of this policy shall not be valid except with the written consent of this company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, and to the charter and bylaws of said company not inconsistent therewith and to any amendment thereto hereafter made during the term hereof, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

In witness whereof, this company has caused these presents to be executed and attested by its president and secretary this day of

A D. 19..... President Secretary

(All that appears above shall appear upon the first page of the policy.)

1. Concealment, Fraud This entire policy shall be void if whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.
2. Uninsurable and Excepted Property This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, manuscripts, photos, pictures, jewelry, sporting goods or antiques.
3. Perils Not Included This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire: Provided, That such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss or when the property is endangered by fire in neighboring premises; nor shall this company be liable for loss by theft.

4. Other Insurance Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.
5. Conditions Sus- Unless otherwise provided in writing added hereto this
pending or Re- company shall not be liable for loss occurring: (a) while the
stricting Insurance hazard is increased by any means within the control or
knowledge of the insured; or (b) while a described building,
whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond
a period of 60 consecutive days; or (c) as a result of explosion or riot, unless fire ensue,
and in that event for loss by fire only; (d) if, with the knowledge of the insured fore-
closure proceedings be commenced or notice given of sale of any property insured
hereunder by reason of any mortgage or trust deed; or (e) if any change, other than
by the death of an insured, takes place in the interest (except increase of insured's
interest), title or possession of the subject of insurance (except change of occupants
without increase of hazard); or (f) while the insured shall have any other contract
of fire insurance covering in whole or in part on property covered by this policy
without the knowledge of this company.
6. Other Perils or Any other peril to be insured against or subject of insurance
Subjects to be covered in this policy shall be by endorsement in
writing hereon or added hereto.
7. Added Provisions The extent of the application of insurance under this policy
and of the contribution to be made by this company in case
of loss, and any other provisions or agreement not incon-
sistent with the provisions of this policy, may be provided
for in writing added hereto, or by duly adopted articles of
association or bylaws of the company, but no provision may
be waived except such as by the terms of this policy is sub-
ject to change.
8. Waiver Provisions No permission affecting this insurance shall exist, or waiver
of any provision by valid, unless granted herein or expressed
in writing added hereto, or by duly adopted articles of association or bylaws of the
company.
9. Cancellation This policy shall be cancelled at any time at the request of
of Policy the insured, in which case this company shall, upon demand
and surrender of this policy, refund the excess of paid pre-
mium above the customary short rates for the expired time. This policy may be can-
celled at any time by this company by giving to the insured a 5 days' written notice
of cancellation, delivered personally or mailed to the insured at the last known post
office address as shown by the company's records, with or without tender of the excess
of paid premium above the pro rata premium for the expired time, which excess, if
not tendered, shall be refunded on demand. Notice of cancellation shall state that said
excess premium (if not tendered) will be refunded on demand.
10. Mortgagee Interest If loss hereunder is made payable, in whole or in part, to a
and Obligations designated mortgagee not named herein as the insured,
such interest in this policy may be cancelled by giving to
such mortgagee a 10 days' written notice of cancellation delivered personally or
mailed to such mortgagee at the last known post office address as shown by the com-
pany's records.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to

all the mortgagee's right of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing, or may be provided for by the bylaws of the company.

11. **Pro Rata Liability** This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

12. **Requirements In Case Loss Occurs** The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within 60 days after the loss, unless such time is extended in writing by the company, the insured shall render to this company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property, since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

13. **Appraisal** In case the insured and this company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the insured or this company, such umpire shall be selected by a circuit judge of the judicial circuit of this state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any 2 when filed with this company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

14. **Company's Options** It shall be optional with this company to take all, or any part, of the property at the agreed or appraised value, and also to pay its proper share of repairing, rebuilding or replacing the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

15. Abandonment There can be no abandonment to this company of any property.
16. When Loss The amount of loss for which this company may be liable Payable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided.
17. Suit No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, nor unless commenced within 12 months next after the loss shall have occurred.
18. Subrogation This company may require from the insured an assignment of all right of recovery against any party for loss or damage to the extent that payment therefor is made by this company, and of all contractual rights against any third party (but without impairment of insured's right to sue for the full amount due such insured), to the extent that payment for loss or damage is made by this company. Suit for recovery under any assignment made to this company may be brought in the name of the insured or this company or both, but without cost to the insured.

HISTORY: New 1956, p. 637, Act 218, Eff. Jan. 1, 1957.

500.6869 Uniform farm mutual fire policy; conflicting bylaws, riders.

Sec. 6869. No bylaw of any company authorized under the provisions of this chapter or any rider attached to a "uniform farm mutual fire insurance policy" shall restrict or nullify paragraphs number 12, 13, 16 or 17 of such policy.

HISTORY: New 1956, p. 640, Act 218, Eff. Jan. 1, 1957.

500.6870 Uniform farm mutual fire policy; optional provisions.

Sec. 6870. A company may print on or in its policies its name, location, date of organization and date of expiration of its charter, articles of incorporation and/or by-laws, the names of its officers and agents, the number and date of the policy and, if it is issued through an agent, the words "this policy shall not be valid until countersigned by the duly authorized agent of the company at"

HISTORY: New 1956, p. 640, Act 218, Eff. Jan. 1, 1957.

500.6872 Uniform farm mutual fire policy; rate, premium, assessment, expiration.

Sec. 6872. If a company issues its policies for a specified term and/or charges an advance premium or assessment, the form set forth for the face of the policy may be altered to show rate, premium or assessment and expiration date of policy.

HISTORY: New 1956, p. 640, Act 218, Eff. Jan. 1, 1957.

500.6874 Uniform farm mutual fire policy; printed descriptions and specifications of property.

Sec. 6874. A company may print or use in its policies printed forms of description and specifications of the property insured.

HISTORY: New 1956, p. 640, Act 218, Eff. Jan. 1, 1957.

500.6876 Repealed. 1963, p. 58, Act 53, Eff. Sep. 6.

Section regulated attachment of riders to uniform farm mutual fire policy.

500.6886 Uniform farm mutual fire policy; other provisions of code applicable.

Sec. 6886. Domestic mutual insurers transacting insurance under this chapter shall also be subject to the following additional chapters and provisions of this code as applicable:

- 1) Chapter 1 (scope of code), except as to section 150 (general penalty).
- 2) Chapter 2 (the insurance commissioner).
- 3) Sections 448 (privilege fee, domestic insurers), 449 (privilege fees; receipt; credited to general fund), 450 (privilege fees, penalty for delinquency), 454 (name of insurer), 460 (countersignature by resident agent required; penalty), and 476 (retaliatory provision).
- 4) Chapter 9 (investments).
- 5) Chapter 14 (agents), except that applicants for license as agents of insurers organized under sections 6804 (farmers' mutuals), 6816 (windstorm mutuals), and 6818 (hail mutuals) shall not be required to take the examination for license provided for under section 1420 or to pay the examination fee, but the commissioner may make such inquiry and/or examination as to the qualifications of any applicant as he shall deem necessary.
- 6) Chapter 20 (unfair and prohibited trade practices, and frauds).
- 7) Section 2236 (basic policy forms, filing; approval, disapproval; exceptions; appeal).
- 8) Chapter 50 (organization of domestic stock and mutual insurers).
- 9) Chapter 52 (corporate powers, procedures of domestic stock and mutual insurers).
- 10) Chapter 76 (consolidations or mergers).
- 11) Chapter 78 (liquidations and receiverships).
- 12) Chapter 83 (repeals, saving clause, effective date).

HISTORY: New 1956, p. 640, Act 218, Eff. Jan. 1, 1957.

CHAPTER 72.**RECIPROCAL INSURANCE EXCHANGES.****500.7200 Scope of chapter.**

Sec. 7200. This chapter applies only to reciprocal insurers.

HISTORY: New 1956, p. 641, Act 218, Eff. Jan. 1, 1957.

500.7202 Reciprocal insurance exchanges; insuring powers.

Sec. 7202. Individuals, partnerships and public or private corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other or with individuals, partnerships and corporations of other states and countries providing indemnity among themselves and from any loss which may be insured against under other provisions of the laws, including employers' liability, workmen's compensation and accident insurance, and excepting life and health insurance.

HISTORY: New 1956, p. 641, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 106, Act 91, Eff. Sep. 27.

500.7206 Reciprocal insurance exchanges; execution of contract by attorney.

Sec. 7206. Such contracts may be executed by an attorney, agent or other representative, herein designated as attorney. Such attorney may be an individual, individuals, firm or corporation.

HISTORY: New 1956, p. 641, Act 218, Eff. Jan. 1, 1957.

500.7210 Reciprocal insurance exchanges; formation; declaration, contents; deposit; attorney's bond.

Sec. 7210. Such subscribers so contracting among themselves shall, through their attorney, file with the commissioner a declaration, verified by the oath of such attorney, setting forth:

- (1) The name or title of the exchange;
- (2) The location of the principal office of the exchange;
- (3) The kind or kinds of insurance risks to be exchanged. The classes of risks to be written shall be those authorized by section 7202 of this chapter;
- (4) A copy of common contract [sic] entered into between the members of the exchange and the attorney;
- (5) A copy of the policy or agreement wherein contracts of insurance are exchanged among the subscribers;
- (6) That applications have been made for insurance upon at least 200 risks aggregating not less than \$3,000,000.00, as represented by bona fide applications, or in case of employers' liability or compensation insurance covering a total payroll of not less than \$3,000,000.00, such applications to be concurrently effective when such reciprocal exchange is authorized to commence business by the commissioner. In the case of automobile insurance, applications shall have been made upon at least 1,000 automobiles represented by contracts to be effective concurrently and covering any or all classes of automobile insurance;
- (7) That there has been deposited and shall be maintained at all times with the state treasurer \$50,000.00 in cash or securities, as a general deposit for the benefit of subscribers wherever located: Provided, That this subdivision shall not be effective as to reciprocal exchanges now existing until as of September 28, 1952. Such securities to conform to the investment requirements as outlined for stock insurers writing the same class of risks;
- (8) There shall be filed a copy of a bond of \$50,000.00 with the commissioner conditioned that the attorney will faithfully carry out the contract or agreement made between the attorney and the subscribers, guaranteeing the subscribers against any loss to them by reason of any illegal or dishonest acts on the part of such attorney. Such bond may be a bond of an authorized surety company or a personal bond with 2 sureties who are approved by the commissioner. Said bond shall run in favor of the board of trustees or advisory committee of the reciprocal exchange and shall be for the benefit of all subscribers wherever located.

HISTORY: New 1956, p. 641, Act 218, Eff. Jan. 1, 1957.

500.7214 Reciprocal insurance exchanges; actions and suits; commissioner as attorney for service of process.

Sec. 7214. (1) Subscribers at a reciprocal or interinsurance exchange shall only sue or be sued in the name or designation adopted by them.

(2) Concurrently with the filing of the declaration provided for under section 7210, the attorney shall file with the commissioner the appointment of the commissioner as attorney to receive service of process as provided in section 457, and service of such process shall be as provided in such section 457.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957.

500.7218 Reciprocal insurance exchanges; limit of risk; statement of maximum assumed by subscriber.

Sec. 7218. There shall be filed with the commissioner by such attorney a statement under the oath of such attorney, showing the maximum amount of indemnity upon any single risk, and such attorney shall, whenever and as often as the same shall be re-

quired, file with the commissioner a statement verified by his oath to the effect that he has examined the commercial rating of such subscribers as shown by the reference book of a commercial agency having at least 100,000 subscribers, and that from such examination or from other information in his possession it appears that no subscriber has assumed on any single risk an amount greater than 10% of the net worth of such subscriber.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957.

500.7222 Reciprocal insurance exchanges; certificate of authority, issuance, revocation.

Sec. 7222. Each attorney by or through whom are issued any policies of or contracts for indemnity of a reciprocal insurer, shall procure from the commissioner annually in the name or title adopted a certificate of authority stating that all the requirements of this chapter have been complied with, and upon such compliance and the payment of the fees and taxes required by this chapter, the commissioner shall issue such certificate. In case of a breach of any of the conditions imposed by the provisions of this chapter, the commissioner may revoke the certificate of authority issued hereunder.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957.

500.7226 Reciprocal insurance exchanges; corporation empowered to exchange contracts.

Sec. 7226. Any public or private corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized, and as much granted as the rights and powers expressly conferred.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957;—Am. 1957, p. 106, Act 91, Eff. Sep. 27.

500.7230 Reciprocal insurance exchanges; records and securities of domestic insurers, safekeeping.

Sec. 7230. Section 5256 shall apply to domestic reciprocal insurers.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957.

500.7234 Reciprocal insurance exchanges; filing of fire, lightning or wind-storm rates.

Sec. 7234. Any reciprocal or interinsurance exchange exchanging contracts of indemnity between its subscribers and providing coverage for loss by fire, lightning or windstorm and which maintains its own rates and schedule of rates shall not be required to join or become a member of a fire insurance rating bureau but may, in lieu of joining such bureau, file with the commissioner its schedule of rates.

HISTORY: New 1956, p. 642, Act 218, Eff. Jan. 1, 1957.

CHAPTER 73

TITLE INSURERS

500.7300 Scope of chapter.

Sec. 7300. This chapter applies only to domestic, foreign and alien insurers transacting title insurance.

HISTORY: Add. 1966, p. 265, Act 221, Imd. Eff. Jul. 11.

500.7301 Title insurers; definitions.

Sec. 7301. As used in this chapter:

(a) "Title insurance" means the insuring, guaranteeing or indemnifying of designated owners of real estate or any interest therein against loss or damage which may result by reason of the title being vested in a manner otherwise than as stated in the ti-

the insurance policy, or by reason of the title being unmarketable, or by reason of the title being subject to liens, encumbrances or other matters adversely affecting the rights of use, enjoyment or disposition thereof, and not excepted in the policy, all in accordance with the terms of a title insurance policy approved as to substance and form, or doing anything equivalent in substance to any of the foregoing in a manner designed to evade the provisions of this chapter.

(b) "Title insurer" means any domestic, foreign or alien insurer issuing title insurance, either directly or indirectly, other than reinsurance or coinsurance or both as referred to in section 7308, with respect to any real estate located in this state.

(c) "Title insurance policy" means any policy or contract insuring, guaranteeing or indemnifying against loss or damage suffered by owners of real estate or by other persons interested therein by reason of liens, encumbrances upon, defects in or the unmarketability of the title to the real estate, or other matters affecting the title to real estate or the right to the use and enjoyment thereof, and insuring, guaranteeing or indemnifying the condition of the title to real estate or the status of any lien thereon.

(d) "Title insurance commitment" means a document issued by a duly authorized title insurer offering to issue a title insurance policy upon performance of the conditions set forth therein.

HISTORY: Add. 1966, p. 265, Act 221, Imd. Eff. Jul. 11.

500.7302 Corporations authorized to transact title insurance.

Sec. 7302. Only a domestic, foreign or alien corporation organized on the stock plan and authorized by the commissioner pursuant to section 7303 shall transact or attempt to transact a title insurance business in this state or issue title insurance with respect to real estate located in this state.

HISTORY: Add. 1966, p. 266, Act 221, Imd. Eff. Jul. 11.

500.7303 Certificate of authority required; conditions for issuance.

Sec. 7303. No corporation shall issue title insurance policies, contracts or commitments with respect to real estate located in this state or otherwise transact any business of title insurance in this state unless it holds a certificate of authority from the commissioner, pursuant to section 402, authorizing the transaction of the business, which certificate shall not be issued until the title insurer has complied with the following conditions:

(a) A domestic title insurer shall comply with the deposit requirements of subdivision (a) of subsection (1) of section 413.

(b) A foreign title insurer shall comply with the deposit requirements of subdivision (c) of subsection (1) of section 413.

(c) An alien title insurer shall comply with the deposit requirements of subsection (2) of section 413.

(d) A domestic, foreign or alien title insurer shall have completed its rate filing pursuant to section 7312.

(e) A domestic, foreign or alien title insurer shall have filed its forms of policies pursuant to section 7313.

HISTORY: Add. 1966, p. 266, Act 221, Imd. Eff. Jul. 11.

500.7304 Title insurers; powers.

Sec. 7304. Every title insurer authorized to do business pursuant to this code may issue title insurance; make, execute and perfect such contracts, agreements, policies and other instruments as may be required therefor; examine titles to real estate in connection with any transaction in which a policy of title insurance or commitment therefor is being issued and report thereon; issue commitments for title insurance policies specifying the requirements for the issuance of such policies; act as escrow agent in any

transaction involving the issuance of a title insurance policy. Nothing contained in this chapter shall be construed to authorize any title insurer, or any officer, director, employee, trustee, agent or solicitor thereof, to engage in any act or practice prohibited by Act No. 354 of the Public Acts of 1917, being section 450.681 of the Compiled Laws of 1948, under a claim that the act or practice is incidental to the conduct of a business authorized by this chapter, whether or not a separate charge is made therefor. It shall be unlawful for any title insurer, or any such person, to suggest to any party to a transaction involving the examination, insuring and conveyancing of titles to real estate that the party does not need to retain for the transaction the professional services of an independent attorney duly licensed to practice law in this state.

HISTORY: Add. 1966, p. 266, Act 221, Imd. Eff. Jul. 11.

500.7305 Unearned premium reserves.

Sec. 7305. (1) Every title insurer authorized to transact title insurance in this state shall establish and maintain, except as provided in subsection (4), an unearned premium reserve on business done in this state which at all times and for all purposes shall be deemed and constitute unearned portions of the risk premiums and shall be charged as a reserve liability for the title insurer in determining its financial condition.

2) The unearned premium reserve shall be cumulative and shall consist of the following:

a) The unearned premium reserve established by each title insurer pursuant to section 517, in respect to gross premiums received prior to January 1, 1967.

b) Five percent of the gross premiums received by it in each month commencing with January 1, 1967, for all policies of title insurance and reinsurance and coinsurance agreements.

3) Commencing January 1, 1969, and on January 1 of each year thereafter, there shall be released from the unearned premium reserve an amount equal to 1/10 of that portion thereof originally placed therein in respect to each year more than 10 in the past. The amounts so released from the unearned premium reserve shall no longer constitute a part thereof and may be used for any lawful purposes.

4) A foreign title insurer authorized to transact title insurance in this state may establish an unearned premium reserve on its title insurance done in this state in accordance with the laws of the state under which the insurer is organized, if the reserves are mandatory under such laws and are substantially equivalent to the requirements of this section.

HISTORY: Add. 1966, p. 266, Act 221, Imd. Eff. Jul. 11.

500.7306 Claim reserves; requirements.

Sec. 7306. (1) Every title insurer shall establish and maintain, in addition to other reserves, a reserve against unpaid claims and claim expense, herein known as the claim reserve. The reserve shall be in an amount estimated in the aggregate as being sufficient to provide for payment of all claim and claim expense likely to be incurred by reason of every claim presented pursuant to written notice from or on behalf of an insured of a title defect in or lien on or adverse claim against the title insured, that may result in a claim being paid or cause expense to be incurred for the proper disposition of the claim.

(2) The amounts so estimated shall be revised from time to time as circumstances require, but shall be redetermined at least once each year.

HISTORY: Add. 1966, p. 267, Act 221, Imd. Eff. Jul. 11.

500.7308 Reinsurance; authorization.

Sec. 7308. (1) Any title insurer may reinsure a part of its liability under 1 or more of its title insurance policies, reinsurance or coinsurance agreements by ceding a part of

the liability to any company authorized to engage in the title insurance business in this state or in any other of the states of the United States. No title insurer shall effect reinsurance with an insurer not authorized to do business in this state unless the assuming insurer has been approved by the commissioner.

(2) Any title insurer may reinsure title insurance policies, reinsurance or coinsurance agreements issued or entered into by any other company authorized to engage in the business of title insurance in this state or any other state of the United States regardless of the location of the land, an interest in which is being insured.

(3) The ceding of reinsurance to other companies and the reinsurance of other companies authorized by this section may be effected by facultative treaty or contract or, subject to the approval of the commissioner, pursuant to an automatic reinsurance treaty or contract.

(4) No title insurer shall directly or indirectly contract for or effect reinsurance of any risk in this state except with an insurer authorized by the commissioner to transact business in this state or in an insurer authorized to transact business in any other state or the District of Columbia, who meets the same standard of solvency as is required by the laws of this state for insurers of the same class transacting business in this state. No title insurer shall directly or indirectly contract for or effect reinsurance with an insurer not authorized to transact insurance in this state without approval of the commissioner.

HISTORY: Add. 1966, p. 267, Act 221, Imd. Eff. Jul. 11.

500.7310 Rating organizations; formation, operation.

Sec. 7310. Rating organizations for title insurance may be formed and may operate pursuant to the applicable provisions of chapter 24.

HISTORY: Add. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

500.7312 Rates; filing.

Sec. 7312. The rates of every title insurer shall be filed pursuant to the applicable provisions of chapter 24.

HISTORY: Add. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

500.7313 Filing of basic forms of policies; policy commitments and other contracts or agreements.

Sec. 7313. The basic form of title policies, title policy commitments and other contracts or agreements of title insurance shall be subject to the filing and other provisions of section 2236.

HISTORY: Add. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

500.7315 Investments; interests in realty.

Sec. 7315. In addition to the classes of investments authorized by chapter 9, any title insurer may invest in and hold interests in real estate acquired in the process of settling claims asserted under its title policies subject to the provisions of subsection (4) of section 948.

HISTORY: Add. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

500.7317 Licensing of agents or solicitors.

Sec. 7317. Persons acting as agents or solicitors for a title insurer shall be licensed in such capacities and subject to the applicable provisions of chapter 14.

HISTORY: Add. 1966, p. 268, Act 221, Imd. Eff. Jul. 11.

500.7318 Effect of act on prior act; liabilities, penalties.

Sec. 7318. (1) This chapter shall not impair or affect any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time it takes effect, but the same may be enjoyed, asserted,

enforced, prosecuted or inflicted, as fully and to the same extent as if this chapter had not been passed.

HISTORY: Add. 1966, p. 266, Act 221, Imd. Eff. Jul. 11.

CHAPTER 76.

CONSOLIDATION OR MERGER OF DOMESTIC INSURERS.

500.7604 Insurers; consolidation, merger or reinsuring; procedure.

Sec. 7604. (1) Any insurer organized under the laws of this state and transacting business under any of the provisions of this code may consolidate or merge with or reinsure all or any part of its outstanding risks for the purpose of effecting a merger or consolidation with any insurer of generally like character authorized to transact business in the state of Michigan under terms that shall be reasonable and just. "Consolidation" and "merger" as used in this chapter shall include a transaction whereby an insurer authorized to transact business in this state which is a wholly owned subsidiary of a controlling corporation, which need not be an insurer, distributes shares of the capital stock of the controlling corporation in merging another insurer into such subsidiary. When any such insurer proposes to consolidate or merge with or reinsure all of its outstanding risk, with another insurer, for the purpose of effecting a merger or consolidation, the following procedure shall be mandatory:

First, The insurers shall petition the commissioner, setting forth the terms and conditions of the proposed consolidation or agreement of reinsurance, to which the commissioner may in his discretion grant his preliminary, tentative or conditional approval;

Second, After securing such approval from the commissioner, the insurers shall give notice, either personally or through mailing at least 21 days prior to the time fixed for such meeting, to the last known postal address of each stockholder, subscriber or member, that the question of such consolidation or reinsurance will be voted upon at a regular or special meeting of such stockholders, subscribers or members, which notice shall fairly but briefly describe the proposed procedure;

Third, The consolidation or contract of reinsurance for the purpose of effecting a merger or consolidation shall be approved at such regular or special meeting held in pursuance of such call and notice, by the affirmative vote of not less than 2/3 of the members or subscribers voting in person or by proxy if it be a mutual or a cooperative or assessment corporation or a reciprocal or interinsurance exchange, or not less than 2/3 of the outstanding capital stock, if it be a stock company.

Fourth, The consolidation agreement or contract of reinsurance for the purpose of effecting a merger or consolidation together with proper proof that it has been approved by the stockholders, subscribers or members as aforesaid, shall be submitted to the commissioner for his final approval. Such contract shall not become effective until the commissioner, in his discretion, shall have issued his certificate of final approval to the petitioner. If the terms of the consolidation or reinsurance contract for the purpose of effecting a merger or consolidation provide that securities shall pass to any insurer assuming the liabilities for which said securities are held, any public official or other person or company holding said securities shall upon the written order of the commissioner deliver said securities to or credit said securities to the account of the corporation, corporations, person or persons entitled thereto by the terms of the contract and the order of the commissioner.

Dissolution; cessation of liability.

(2) Consolidation or reinsurance for the purpose of effecting a merger or consolidation of all of the insurance risk of any membership corporation under the provisions of this section, shall act as a dissolution of such corporation except in the case of a stock

company which shall be dissolved in accordance with the provisions of the general corporation code; and all liability upon its certificates or contracts shall cease upon the expiration of 5 days following such consolidation, merger or reinsurance for the purpose of effecting a merger or consolidation; but its officers may thereafter perform any act or acts necessary to close its affairs with the approval of the commissioner.

Reinsurance of individual risks.

(3) The provisions of this section shall not be construed as prohibiting any insurer from reinsuring a fractional part or all of any individual risk in the usual or incidental conduct of its business.

Fraternal benefit societies.

(4) Consolidation or reinsurance for the purpose of effecting a merger or consolidation of all or a substantial portion of the risks of any fraternal benefit society shall be governed by this section insofar as not otherwise regulated by the provision of chapter 80, specifically governing fraternal benefit societies.

Title insurance company, general abstract business.

(5) The provisions of this section shall not be construed as prohibiting a title insurance corporation from acquiring by merger, exchange of stock, or otherwise, if permitted by and pursuant to the Michigan general corporation act, a corporation engaged in the general abstract business or the assets thereof.

HISTORY: New 1956, p. 643, Act 218, Eff. Jan. 1, 1957;—Am. 1961, p. 113, Act 104, Eff. Sep. 8;—Am. 1969, p. 374, Act 194, Imd. Eff. Aug. 6.

500.7606 Insurers; retention of names.

Sec. 7606. When an insurer is consolidated or merged under the provisions of this chapter, the name of the insurer may be retained for a period of 5 years after the effective date of the consolidation or merger for the use of the resulting insurer and no other domestic or foreign insurer shall be authorized to do business under such name or any other name that closely resembles such name during the 5-year period.

HISTORY: Add. 1957, p. 106, Act 91, Eff. Sep. 27.

CHAPTER 78.

LIQUIDATIONS AND RECEIVERSHIPS.

500.7800 Scope of chapter.

Sec. 7800. This chapter shall apply to all domestic and foreign corporations, associations, societies and orders transacting an insurance business under authority of any law of this state, including all corporations, associations, fraternal benefit societies and orders which are subject to examination by the commissioner, or which are doing or attempting to do or representing that they are doing the business of insurance in this state, or which are in process of organization intending to do such business therein, or to become incorporated under any law of this state for the transaction of an insurance business.

HISTORY: New 1956, p. 644, Act 218, Eff. Jan. 1, 1957.

CITED IN OTHER SECTIONS: Sections 500.7800 to 500.7868 are cited in § 550.358.

500.7802 Delinquency proceedings; application for order to show cause.

Sec. 7802. Whenever any such corporation,

- (1) Is insolvent; or
- (2) Has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the commissioner, or his deputy or examiner; or
- (3) Has neglected [sic] or refused to comply within the time prescribed therein, with an order of the commissioner that it eliminate a capital, minimum required surplus or reserve deficiency; or

(4) Has by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of another insurer, without first having obtained the written approval of the commissioner; or

(5) Is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or

(6) Has wilfully violated its charter or any law of the state; or

(7) Whenever any officer thereof has refused to be examined under oath touching its affairs; or

(8) If such corporation be found, after examination, to be in such condition that it could not meet the requirements for incorporation and authorization;

The commissioner may, the attorney general representing him, apply to the circuit court in the judicial circuit in which the principal office of such corporation is located, for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, or for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

HISTORY: New 1956, p. 644, Act 218, Eff. Jan. 1, 1957.

500.7806 Change of venue; application of judicature act.

Sec. 7806. In any case arising under this chapter the commissioner may file his petition for liquidation or receivership in the circuit court for the county of Ingham, and the preliminary steps towards the appointment of a receiver shall be taken and heard in such circuit, and the circuit court of Ingham county may at any time thereafter transfer such case to the circuit court of the county in which such company may have its principal place of business, for such further steps and action as may be necessary in the premises, as in cases of change of venue. In all other respects proceedings under this chapter shall be conducted according to the procedure prescribed in the judicature act of this state.

HISTORY: New 1956, p. 644, Act 218, Eff. Jan. 1, 1957.

500.7808 Injunction against dissolution; procedure.

Sec. 7808. No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such insurance corporation included within the provisions of this chapter, shall be entertained by any court in this state, unless the same is made by the attorney general upon relation or application of the commissioner of insurance of this state.

HISTORY: New 1956, p. 645, Act 218, Eff. Jan. 1, 1957.

500.7810 Injunction against dissolution; order to show cause; hearing.

Sec. 7810. On such application, or at any time thereafter, such court may in its discretion, issue an injunction restraining such corporation from the transaction of its business or the disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the commissioner, the attorney general representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the commissioner to take possession has been removed and that the corporation can properly resume possession of its property and the conduct of its business.

HISTORY: New 1956, p. 645, Act 218, Eff. Jan. 1, 1957.

500.7814 Liquidation; powers of insurance commissioner as liquidator; notice; effective date of dissolution.

Sec. 7814. (1) If, on like application and order to show cause, and after a full hearing, the court shall order a liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner who may deal with the property and business of such corporation in his own name as commissioner or in the name of the corporation, as the court may direct, and shall be vested by operation of law with title to all the property, contracts and rights of action of such corporation as of the date of the order so directing him to liquidate.

(2) The filing or recording of such order in any record office of the state, shall impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded by such corporation would have imparted.

(3) The order of liquidation shall, unless otherwise directed by the court, provide that the dissolution of the corporation shall take effect upon the entry of such order in the office of the clerk of the county wherein such corporation had its principal office for the transaction of business.

HISTORY: New 1956, p. 645, Act 218, Eff. Jan. 1, 1957.

500.7818 Liquidation; powers of commissioner as receiver; bond.

Sec. 7818. (1) The commissioner or his deputy or special deputy, acting under the provisions of this chapter in any liquidation proceedings, shall have all the powers of a receiver in insolvency proceedings, and may do and perform any act for the protection of the assets or the recovery of the same, and for the settlement or discharge of the obligations of the insurer, that may be necessary or that may be directed by the court.

(2) Such receiver shall in no case be permitted to increase the liabilities of any insurer undergoing liquidation excepting for the purpose of preserving its assets.

(3) He shall have the same authority to make assessments upon stockholders or members of the company as the officers thereof are authorized to make under the provisions of this code, and it shall be his duty to make such assessments, ratably in any case where authorized, to any extent that may be necessary to discharge the whole obligations, existing at any time during such receivership or insolvency proceedings. He may bring suit to recover and enforce such assessments in any court of competent jurisdiction against the members or stockholders, as the case may be, or, by direction of the court having jurisdiction of the liquidation, may bring such suit or suits in the circuit court without regard to the amount involved.

(4) Such receiver shall be held accountable to the circuit court of the county having jurisdiction for his actions in the premises.

(5) The circuit court in the first instance may require the commissioner or the person acting as his deputy in the liquidation proceedings, to file a bond as in other receiverships.

HISTORY: New 1956, p. 645, Act 218, Eff. Jan. 1, 1957.

500.7822 Special deputies and employees; powers of examination.

Sec. 7822. (1) For the purposes of this chapter the commissioner shall have power to appoint, under his hand and official seal, 1 or more special deputy commissioners as his agent or agents, and to employ such counsel, clerks and assistants as may by him be deemed necessary, and give each of such persons such power to assist him as he may consider wise.

(2) In any proceedings under this chapter the commissioner, his deputy or any examiner or special deputy shall have all of the powers given to the commissioner, by any law of this state authorizing the commissioner to make or cause to be made examinations of insurance corporations, including the power to examine under oath the of-

licers and employes of such corporation, and to compel the production of books and papers as herein provided.

HISTORY: New 1956, p. 646, Act 218, Eff. Jan. 1, 1957.

500.7824 Expenses of proceedings; payment.

Sec. 7824. The compensation of such special deputy commissioner, counsel, clerks and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the funds or assets of such corporation.

HISTORY: New 1956, p. 646, Act 218, Eff. Jan. 1, 1957.

500.7830 Annual report as to proceedings.

Sec. 7830. The commissioner shall publish, in his annual report, the names of the corporations so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policyholders, creditors, stockholders, and the public with his proceedings under this chapter; and to that end the official in charge of any such corporation shall file annually with the commissioner a report of the affairs of such corporation.

HISTORY: New 1956, p. 646, Act 218, Eff. Jan. 1, 1957.

500.7833 Receiver; notice of appointment, property description; guaranty association act.

Sec. 7833. When a receiver is appointed in this state for any authorized insurer, the receiver shall promptly give notice of his appointment and a brief description of the contents of the property and casualty guaranty association act, if applicable, by first class mail, to: (i) all persons known or reasonably expected to have or be interested in claims against the insurer, at the last known address within this state; (ii) all insureds of the insurer, at the last known address within this state; and (iii) the governors of the property and casualty guaranty association. The receiver may also require that agents of the insurer give prompt written notice of the same information, by first class mail, to their insureds at the last known address within this state. The receiver shall also promptly publish such notice in a newspaper of general circulation in the county where the insurer had its principal office in this state not less than once per week, for 4 weeks, and by publication elsewhere in this state as the court shall direct.

HISTORY: Add. 1969, p. 514, Act 277, Imd. Eff. Aug. 11.

500.7836 Uniform insurers liquidation act; short title.

Sec. 7836. Sections 7836 through 7868 constitute, and may be cited as, the "uniform insurers liquidation act."

HISTORY: New 1956, p. 646, Act 218, Eff. Jan. 1, 1957.

500.7837 Uniform insurers liquidation; definitions.

Sec. 7837. For the purposes of this act:

- (1) "Insurer" means any person, firm, corporation, association, or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization, or conservation by, the insurance commissioner of this state, or the equivalent insurance supervisory official of another state.
- (2) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer.
- (3) "State" means any state of the United States, and also the District of Columbia, Alaska, Hawaii, and Puerto Rico.
- (4) "Foreign country" means territory not in any state.

(5) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has designated as its domiciliary state and/or state of entry into the United States.

(6) "Ancillary state" means any state other than a domiciliary state.

(7) "Reciprocal state" means any state other than this state in which in substance and effect the provisions of this act are in force, including the provisions requiring that the insurance commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(8) "General assets" means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders, or all policyholders and creditors in the United States, shall be deemed general assets.

(9) "Preferred claim" means any claim with respect to which the law of a state or of the United States accords priority of payment from the general assets of the insurer.

(10) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(11) "Secured claim" means any claim secured by mortgage, trust, deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against general assets. The term also includes claims which more than 4 months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(12) "Receiver" means receiver, liquidator, rehabilitator, or conservator as the context may require.

HISTORY: New 1956, p. 646, Act 218, Eff. Jan. 1, 1957.

500.7838 Uniform insurers liquidation; domiciliary receivers, powers.

Sec. 7838. (1) Whenever under the laws of this state a receiver is to be appointed in delinquency proceedings for an insurer domiciled in this state, the court shall appoint the insurance commissioner as such receiver. The court shall direct the receiver forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

(2) The domiciliary receiver and his successors in office shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer wherever located, as of the date of entry of the order directing possession to be taken, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are hereinafter prescribed for ancillary receivers appointed in this state as to assets located in this state. The filing or recording of the order directing possession to be taken, or a certified copy thereof, in the office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded. The domiciliary receiver shall be responsible on his official bond for the proper administration of all assets coming into his possession or control. The court may at any time require an additional bond from him or his deputies if deemed desirable for the protection of the assets.

(3) Upon taking possession of the assets of a delinquent insurer the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by the laws of this state for the purpose of liquidating, rehabilitating, reorganizing, or conserving the affairs of the insurer. In connection with delinquency proceedings he may appoint 1 or more special deputy commissioners to act for him, and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants and all expenses of taking possession of the delinquent insurer and of conducting the delinquency proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of the duties imposed upon them, special deputies shall possess all the powers given to, and in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to delinquency proceedings.

HISTORY: New 1956, p. 647, Act 218, Eff. Jan. 1, 1957.

500.7840 Uniform insurers liquidation; ancillary receiver powers.

Sec. 7840. (1) Whenever under the laws of this state an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the insurance commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment (a) if he finds that there are sufficient assets of such insurer located in this state to justify the appointment of an ancillary receiver, or (b) if 10 or more persons resident in this state having claims against such insurer file a petition with the commissioner requesting the appointment of such ancillary receiver.

(2) The domiciliary receiver of an insurer domiciled in a reciprocal state, shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets, as a receiver of an insurer domiciled in this state.

HISTORY: New 1956, p. 648, Act 218, Eff. Jan. 1, 1957.

500.7842 Uniform insurers liquidation; claims of nonresidents against domestic insurers, filing, proof.

Sec. 7842. (1) In a delinquency proceeding begun in this state against an insurer domiciled in this state, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(2) Controverted claims belonging to claimants residing in reciprocal states may either (a) be proved in this state as provided by law, or (b), if ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of

this state as provided in section 7844 with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount, and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

HISTORY: New 1956, p. 648, Act 218, Eff. Jan. 1, 1957.

500.7844 Uniform insurers liquidation; claims of residents against foreign insurers, filing, proof.

Sec. 7844. (1) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceeding.

(2) Controverted claims belonging to claimants residing in this state may either (a) be proved in the domiciliary state as provided by the law of that state, or (b), if ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver in the manner provided by the law of this state for the proving of claims against insurers domiciled in this state, and he shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least 40 days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver, within 30 days after the giving of such notice, shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount, and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

HISTORY: New 1956, p. 648, Act 218, Eff. Jan. 1, 1957.

500.7846 Uniform insurers liquidation; preferred claims, priority.

Sec. 7846. (1) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. All such claims whether owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(2) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this state shall be preferred if like claims are preferred by the laws of that state.

HISTORY: New 1956, p. 649, Act 218, Eff. Jan. 1, 1957.

500.7848 Uniform insurers liquidation; special deposit claims, priority.

Sec. 7848. The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may

share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

HISTORY: New 1956, p. 649, Act 218, Eff. Jan. 1, 1957.

500.7850 Uniform insurers liquidation; secured claims, priority.

Sec. 7850. The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this act, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amount shall be conclusive; otherwise, the amount shall be determined in the delinquency proceedings in the domiciliary state.

HISTORY: New 1956, p. 649, Act 218, Eff. Jan. 1, 1957.

500.7854 Uniform insurers liquidation; attachment, garnishment or execution prohibited.

Sec. 7854. During the pendency of delinquency proceedings in this or any reciprocal state no action or proceeding in the nature of an attachment, garnishment, or execution shall be commenced or maintained in the courts of this state against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within 4 months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

HISTORY: New 1956, p. 649, Act 218, Eff. Jan. 1, 1957.

500.7858 Uniform insurers liquidation; action by domiciliary receiver of reciprocal state.

Sec. 7858. The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover any assets of such insurer to which he may be entitled under the laws of this state.

HISTORY: New 1956, p. 649, Act 218, Eff. Jan. 1, 1957.

500.7868 Construction of act.

Sec. 7868. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

HISTORY: New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

CHAPTER 79

PROPERTY AND CASUALTY GUARANTY ASSOCIATION.

500.7901 Property and casualty guaranty association act; short title.

Sec. 7901. This chapter constitutes, and may be cited as the "property and casualty guaranty association act".

HISTORY: Add. 1969, p. 514, Act 277, Imd. Eff. Aug. 11.

500.7911 Property and casualty guaranty association; members.

Sec. 7911. To implement the provisions of this chapter, there shall be maintained within this state, by all insurers authorized to transact insurance in this state, except those authorized to transact life insurance in this state, but including the accident fund created by section 2 of part 5 of Act No. 10 of the Public Acts of the first extra session of 1912, being section 415.2 of the Compiled Laws of 1948, an association of

such insurers to be known as the property and casualty guaranty association, hereafter referred to as the "association". Every such insurer shall be a member of the association, as a condition of its authority to continue to transact insurance in this state.

HISTORY: Add. 1969, p. 514, Act 277, Imd. Eff. Aug. 11.

500.7912 Property and casualty guaranty association; board of governors; members, terms, qualifications, vacancies.

Sec. 7912. The association shall be managed by a board of governors, composed of 5 member insurers, each of whom shall be appointed by the commissioner to serve for terms of 3 years and until their successors are appointed and qualified. Three of the governors shall be domestic insurers and 2 shall be foreign insurers. At least 2 governors shall be stock insurers and at least 2 shall be nonstock insurers. The 5 governors shall be representative, as nearly as possible, of all the kinds of insurance covered by this chapter. In case of a vacancy for any reason in the office of any such governor, the commissioner shall appoint a member insurer to fill the unexpired term of such vacant office to maintain the membership of the board as required herein.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7914 Property and casualty guaranty association; plan of operation, adoption, amendment, approval; failure to adopt operation plan.

Sec. 7914. (1) The association shall adopt a plan of operation and any amendments thereof, not inconsistent with the provisions of this chapter, necessary to assure the fair, reasonable and equitable manner of administering the association, and to provide for such other matters as are necessary or advisable to implement the provisions of this chapter. The plan of operation and any amendments thereof shall be subject to prior written approval by the commissioner. All members of the association shall adhere to the plan of operation.

(2) If for any reason the association fails to adopt a suitable plan of operation within 6 months following the effective date of this chapter, or if at any time thereafter the association fails to adopt suitable amendments to the plan of operation, the commissioner shall adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the commissioner or superseded by a plan of operation adopted by the association and approved by the commissioner.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7916 Property and casualty guaranty association; servicing facilities, designation; reimbursement; authority; approval.

Sec. 7916. In accordance with its plan of operation the association may designate 1 or more of its members as servicing facilities but a member may decline such designation. Each servicing facility shall be reimbursed by the association for any expenses it incurs and for any payments it makes on behalf of the association. Each servicing facility shall have authority to perform any functions of the association that the governors lawfully may delegate to it and to do so on behalf of and in the name of the association. The designation of servicing facilities shall be subject to the approval of the commissioner.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7918 Property and casualty guaranty association; borrowing power; judicial proceedings.

Sec. 7918. (1) The association shall have authority to borrow funds when necessary to effectuate the provisions of this act.

(2) The association, either in its own name or through servicing facilities, may be sued and may use the courts to assert or defend any rights the association may have by

virtue of this chapter as reasonably necessary fully to effectuate the provisions thereof.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7921 Member insurer, insolvent insurer; definitions.

Sec. 7921. As used in this chapter:

a) "Member insurer" means an insurer required to be a member of the association in accordance with the provisions of section 7911.

b) "Insolvent insurer" means a member insurer for which a domiciliary or ancillary receiver has been appointed in this state after the effective date of this chapter.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7925 Covered claims; definition, exceptions.

Sec. 7925. (1) "Covered claims" means obligations of an insolvent insurer which: (i) arise out of the insurance policy contracts of the insolvent insurer issued to residents of this state or are payable to residents of this state on behalf of insureds of the insolvent insurer, (ii) were unpaid by the insolvent insurer, (iii) are presented as a claim to the receiver in this state or the association on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings, (iv) were incurred [sic] or existed prior to, on, or within 30 days after the date the receiver was appointed, and (v) arise out of policy contracts of the insolvent insurer issued for the kinds of insurance known as workmen's compensation insurance, automobile insurance, basic property insurance as defined in section 2901 and all insurance policy contracts recognized by the commissioner as homeowner's multiple peril, farm owner's multiple peril and commercial multiple peril.

2. Covered claims shall not include any obligations to refund unearned premiums nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or after the insurance policy has been canceled by the association as provided in this chapter.

3. Covered claims shall not include any obligations to insurers, insurance pools, underwriting associations or any person who has a net worth greater than 1/10 of 1% of the aggregate premiums written by member insurers in this state in the preceding calendar year.

4. Covered claims shall not include any claim in an amount of \$200.00 or less nor the first \$200.00 of any claim in excess of \$200.00 nor that portion of any claim which is in excess of any applicable limit provided in the insurance policy.

5. Covered claims shall not include that portion of any claim, other than a workmen's compensation claim, which is in excess of 1/20 of 1% of the aggregate premiums written by member insurers in this state in the preceding calendar year.

6. Covered claims shall not include that portion of any basic property insurance claim or commercial multiple peril insurance claim which is in excess of \$150,000.00.

HISTORY: Add. 1969, p. 515, Act 277, Imd. Eff. Aug. 11.

500.7931 Covered claims; payment; party in interest; uninsured motorist; nonresident; continued coverage; cancellation.

Sec. 7931. (1) The association shall pay and discharge covered claims. It may do so either directly by itself or through a servicing facility or through a contract for reinsurance or transfer of liabilities with any member insurer, in accordance with the plan of operation.

(2) The association shall be a party in interest in all proceedings involving a covered claim and shall have the same rights as the insolvent insurer would have had if not in receivership: (i) to appear, defend and appeal a claim in a court of competent jurisdiction, (ii) to receive notice of, investigate, adjust, compromise, settle and pay a covered claim and (iii) to investigate, handle and deny a noncovered claim. The association

shall have no cause of action against the insureds of the insolvent insurer for any sums it has paid out, except as provided by this chapter.

(3) If damages against uninsured motorists are recoverable by the claimant from his own insurer or from the motor vehicle accident claims fund, or any similar fund, such damages recoverable shall be a credit against a covered claim payable under this chapter. If damages against an insured who is not a resident of this state are recoverable by a claimant who is a resident of this state, in whole or in part, from any insolvency fund or its equivalent in the state where the insured is a resident, such damages recoverable shall be a credit against a covered claim payable under this chapter. Any amount paid a claimant in excess of the amount authorized by this section may be recovered by action brought by the association.

(4) The association shall continue coverage for covered claims under all insurance policies of the insolvent insurer that were in force on the date the receiver was appointed until the insurance policy has expired in accordance with its terms, or has been replaced by the insured or has been canceled by the association as provided in this chapter, but in no event for a period longer than 30 days after the date the receiver was appointed.

(5) The association shall have authority to cancel insurance policies of the insolvent insurer by mailing or delivering to the insured at the last known address within this state a 10 days' written notice of cancellation, notwithstanding any statute or policy provision to the contrary.

HISTORY: Add. 1969, p. 516, Act 277, Imd. Eff. Aug. 11.

500.7933 Member insurers' financial condition; reports and recommendations, confidentiality; liability.

Sec. 7933. The association shall have authority to submit reports and make recommendations to the commissioner regarding the financial condition of any member insurer. Such reports and recommendations shall not be considered public documents. There shall be no liability on the part of, and no cause of action of any nature shall arise against, member insurers, the association or their agents or employees, the governors or the commissioner or his authorized representatives, for any statements made by them in any reports or recommendations made hereunder.

HISTORY: Add. 1969, p. 517, Act 277, Imd. Eff. Aug. 11.

500.7935 Cooperation by insureds; claims, assignment.

Sec. 7935. (1) Insureds entitled to the protection of this chapter shall cooperate with the association in accordance with their policies in the same manner as they would have been required to cooperate with their insurer if it were not in receivership and shall be deemed to have assigned to the association any right to make claim against the receiver for a refund of unearned premium for the period of coverage provided by the association beginning on the date of receivership.

(2) Any insured or claimant entitled to the benefits of this chapter shall be deemed to have assigned to the association, to the extent of any payment received, his rights against the estate of the insolvent insurer.

HISTORY: Add. 1969, p. 517, Act 277, Imd. Eff. Aug. 11.

500.7941 Assessment on members; categories; use; rate; payment; failure to pay.

Sec. 7941. To the extent necessary to secure funds for the association for payment of covered claims and also for payment of reasonable costs of administering the association, the association shall levy assessments upon all member insurers. The association shall allocate its claim payments and costs to the following 3 categories: (i) workmen's compensation insurance, (ii) automobile insurance, (iii) basic property insurance as defined in section 2901 and all insurance policy contracts recognized by the commis-

soner as homeowner's multiple peril, farm owner's multiple peril and commercial multiple peril. Separate assessments shall be made for each category. The assessment for each category shall be used to pay the claim payments and costs allocated to such category and shall be in proportion to the net direct premiums written, after deducting dividends paid or credited to policyholders, by each member insurer in this state for kinds of insurance included within each category, as reported in the most recent annual statement available at the time of assessment. The rate of assessment shall be a uniform percentage of the premiums for all member insurers. The assessments shall be remitted to and administered by the association in accordance with the plan of operation. Each member insurer so assessed shall have at least 30 days advance written notice as to the date the assessment is due and payable. A member insurer shall not be assessed during any calendar year for more than 1% of any of its net direct premiums written in this state during the previous calendar year. The assessments shall be recognized in the rate-making procedures for insurance rates in the same manner that expenses and premium taxes are recognized. Any unused assessments and any reimbursements from the receiver remaining in any category in excess of covered claims and expenses allocated to such category shall be refunded by the association to the member insurers who paid the assessments for such category in proportion to their assessments paid. An insurer which ceases to be a member of the association shall have no right to a refund of any assessment previously remitted to the association. The commissioner may revoke the certificate of authority to transact business in this state of a member insurer which fails to pay an assessment when due as provided in this act and after demand having been made.

HISTORY: Add. 1969, p. 517, Act 277, Imd. Eff. Aug. 11.

500.7945 Insolvent insurer; stay of proceedings.

Sec. 7945. All proceedings in any court of this state to which the insolvent insurer is a party shall be stayed for a period of 60 days from the date a receiver is appointed in this state or in the state of domicile of the insurer, to permit proper defense of all pending causes of action.

HISTORY: Add. 1969, p. 517, Act 277, Imd. Eff. Aug. 11.

500.7947 Tax exemption.

Sec. 7947. The association shall be exempt from all license fees, income, franchise, privilege or occupation taxes levied or assessed by this state, any municipality, county or other political subdivision of the state, except state, county or municipal taxes upon the real or personal property of the association, which is to be assessed and taxed in the same manner as real property and personal property of other nonexempt persons.

HISTORY: Add. 1969, p. 518, Act 277, Imd. Eff. Aug. 11.

500.7949 Insurance commissioner; regulatory powers, visitation, examination; hearings.

Sec. 7949. (1) The operation of the association at all times shall be subject to the regulation of the commissioner. The commissioner, or any deputy or examiner, or any person whom the commissioner appoints, shall have the power of visitation and examination into the affairs of the association and free access to all books, papers and documents that relate to the business of the association, may summon and qualify witnesses under oath, and may examine officers, agents or employees or any other person having knowledge of the affairs, transactions or conditions of the association.

(2) Any member insurer aggrieved by any action or decision of the association may

appeal to the commissioner within 30 days from the action or decision. Proceedings under this section are subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1969, p. 518, Act 277, Imd. Eff. Aug. 11.

CHAPTER 80.

FRATERNAL BENEFIT SOCIETIES.

500.8000 Scope of chapter; exemption from other laws.

Sec. 8000. (1) This chapter applies only to fraternal benefit societies, as defined in section 8001.

(2) Except as herein otherwise provided, such societies shall be governed by this chapter, and shall be exempt from all provisions of the other insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter enacted shall apply to them, unless they are expressly designated therein.

HISTORY: New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

500.8001 Fraternal benefit society; definition.

Sec. 8001. Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, or which limits its membership to a secret fraternity having a lodge system and representative form of government, and which shall make provision for the payment of benefits in accordance with section 8034 hereof, is hereby declared to be a fraternal benefit society.

HISTORY: New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

500.8002 Lodge system; definition.

Sec. 8002. (1) Any society having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be admitted in accordance with its constitution, laws, ritual, rules and regulations and which subordinate lodges or branches shall be required by the laws of such society to hold periodical meetings, shall be deemed to be operating on the lodge system.

(2) This section shall not apply to any society which shall not adopt the same by a majority vote of its governing body.

HISTORY: New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

500.8003 Representative form of government; definition; governing body, meetings; proxy voting.

Sec. 8003. (1) Any such society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws: Provided, That the elective members shall constitute a majority in number and have not less than 2/3 of the votes, nor less than the votes required to amend its constitution and laws.

(2) Such constitution and laws shall require that the meetings of the supreme or governing body, and the election of officers, representatives or delegates shall be held as often as once in 4 years: Provided, however, That in time of war or other emergency the commissioner may order the postponement of such meetings for the duration of such emergency or for any lesser period as in his discretion he may best deem fit. The officers of the society and the delegates and representatives constituting the supreme

legislative or governing body shall continue to hold office and exercise and perform all powers and duties conferred on them, during such postponement.

(3) The members, officers, representatives or delegates of a fraternal benefit society shall not vote by proxy.

HISTORY. New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

500.8005 Existing societies; saving clause.

Sec. 8005. Any society now engaged in transacting business in this state may exercise after the passage of this code all the rights conferred thereby, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this chapter if incorporated; or, if it be a voluntary association, it may incorporate hereunder. But no society already organized shall be required to reincorporate hereunder.

HISTORY. New 1956, p. 650, Act 218, Eff. Jan. 1, 1957.

500.8006 Fraternal benefit societies; organization, articles of incorporation, contents.

Sec. 5006. Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a fraternal benefit society as defined by this chapter, may make and sign (giving their address) and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation in which shall be stated:

First. The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this state, as to mislead the public or to lead to confusion;

Second. The purpose for which it is formed which shall not include more liberal powers than are granted by this chapter: Provided, That any lawful, social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society and the mode in which its corporate powers are to be exercised;

Third. The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year, or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than 1 year from the date of the issuance of the permanent certificate.

HISTORY. New 1956, p. 651, Act 218, Eff. Jan. 1, 1957.

500.8007 Fraternal benefit societies; preliminary certificate to solicit members; completion of organization.

Sec. 8007. (1) Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of \$5,000.00, with sureties approved by the commissioner, conditioned upon the return of the advance payments as provided in section 8008 to applicants, if the organization is not completed within 1 year, shall be filed with the commissioner, who may require such further information as he deems necessary, and if the purposes of the society conform to the requirements of this chapter and all provisions of law have been complied with, the commissioner shall so certify and retain and record or file the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

2. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding 1 year, as

may be authorized by the commissioner, upon cause shown, unless the 500 applicants required under section 8008 have been secured and the organization has been completed as in sections 8006 through 8008 provided; and the articles of incorporation and all proceedings thereunder shall become null and void in 1 year from the date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and commenced business as herein provided.

HISTORY: New 1956, p. 651, Act 218, Eff. Jan. 1, 1957.

500.8008 Fraternal benefit societies; solicitation of members; completion of organization; certificate of compliance.

Sec. 8008. (1) Upon receipt from the commissioner of the preliminary certificate provided for in section 8007, the society may solicit members for the purpose of completing its organization, and shall collect from each applicant the amount of not less than 1 regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected.

(2) But no such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least 500 lives for at least \$1,000.00 each and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examinations have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established 10 subordinate lodges or branches into which said 500 applicants have been initiated; nor until there has been submitted to the commissioner, under oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligations contracted, when valued for death benefits upon the basis of the American experience table of mortality with interest assumption not more than 4% per annum, or any table which produces aggregate reserves higher than those based upon the American experience table of mortality with interest assumption not more than 4% per annum, or any higher standard at the option of the society, and for disability benefits by tables based upon reliable experience, and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than 4% per annum; nor until it shall be shown to the commissioner by the sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least 1 regular monthly payment as herein provided per \$1,000.00 of indemnity to be effected, which payments in the aggregate shall amount to at least \$2,500.00; all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses.

(3) Said advanced payments shall, during the period of organization, be held in trust, and, if the organization is not completed within 1 year as hereinafter provided, returned to said applicants.

(4) The commissioner may make such examination and require such further information as he deems advisable, and, upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the date of such certificate. The commissioner shall cause a record of

such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

HISTORY: New 1956, p. 651, Act 218, Eff. Jan. 1, 1957.

500.8010 Fraternal benefit societies; constitution, bylaws, general powers.

Sec. 8010. Every such society shall have the power to make a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to or amend such constitution and bylaws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

HISTORY: New 1956, p. 652, Act 218, Eff. Jan. 1, 1957.

500.8011 Fraternal benefit societies; constitution and bylaws, waiver.

Sec. 8011. The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members.

HISTORY: New 1956, p. 652, Act 218, Eff. Jan. 1, 1957.

500.8012 Fraternal benefit societies; amendments, filing, printed constitution as evidence.

Sec. 8012. (1) Every society transacting business under this chapter shall file with the commissioner a duly certified copy of all amendments of or additions to its constitution and laws within 90 days after the enactment of the same.

2) Printed copies of the constitution and laws as amended, changed or added to, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

HISTORY: New 1956, p. 652, Act 218, Eff. Jan. 1, 1957.

500.8013 Domestic societies; amendment of articles of incorporation, filing, operation.

Sec. 8013. Any domestic society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws, and all such amendments shall be filed with the commissioner and shall become operative upon such filing, unless a later time be provided in such amendments or in its articles of incorporation, constitution or laws.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957.

500.8015 Domestic societies; principal offices.

Sec. 8015. The principal offices of a domestic society shall be located in this state.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957.

500.8016 Domestic societies; meetings of governing body.

Sec. 8016. Any domestic society may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957.

500.8018 Authority to do business; certificate, fee.

Sec. 8018. No society, foreign or domestic shall transact business in this state without a certificate of authority from the commissioner. Each certificate of authority issued by the commissioner shall continue in full force and effect upon the payment of a \$5.00 fee on or before March 1 of each year until it is revoked, suspended, or otherwise withdrawn. A duly certified copy or duplicate of such certificate of authority

shall be prima facie evidence that the society is a fraternal benefit society within the meaning of this chapter.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957; — Am. 1957, p. 106, Act 91, Eff. Sep. 27; — Am. 1959, p. 106, Act 101, Eff. Mar. 19, 1960.

500.8019 Solicitation for unlicensed society; penalty.

Sec. 8019. Any person who shall solicit membership for, or in any manner assist in procuring membership in any fraternal benefit society not licensed to do business in this state, or who shall solicit membership for, or in any manner assist in procuring membership in any such society not authorized as herein provided to do business as herein defined in this state, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$200.00.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957.

500.8020 Foreign societies; general qualifications.

Sec. 8020. Any foreign society desiring admission to this state, shall have the qualifications required of domestic societies organized under this chapter, and have its assets invested as required by the laws of the state, territory, district, country, or province where it is organized.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957.

500.8021 Foreign societies; certificate of authority, qualifications, renewal.

Sec. 8021. (1) No foreign society now transacting business, organized prior to the passage of this code, which is not now authorized to transact business in this state, shall transact any business herein without a certificate of authority from the commissioner.

(2) Any such society shall be entitled to a certificate of authority to transact business within this state upon filing with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner as hereinafter provided; a statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the commissioner; a certificate from the proper official in its home state, province or country, that the society is legally organized; a copy of its contract, which must show that benefits are provided for by periodical, or other payments by persons holding similar contracts; and upon furnishing the commissioner such other information as he may deem necessary to a proper exhibit of its business and plan of working, and upon showing that its assets are invested in accordance with the laws of the state, territory, district, province or country where it is organized, he shall issue a certificate of authority to such society to do business in this state until the first day of the succeeding July, and such certificate of authority shall be renewed annually, as provided in section 8018.

HISTORY: New 1956, p. 653, Act 218, Eff. Jan. 1, 1957; — Am. 1957, p. 106, Act 91, Eff. Sep. 27.

500.8022 Foreign societies; license; revocation, notice, hearing, review.

Sec. 8022. When the commissioner on investigation is satisfied that any foreign society transacting business under this chapter has exceeded its powers, or has failed to comply with any provisions of this chapter, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his findings, and state in writing the grounds of his dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner or the society does not present good and sufficient reasons why its authority to transact business in this state should not at that time be re-

voked, he may revoke the authority of the society to continue business in this state. All decisions and findings of the commissioner made under this section may be reviewed by proper proceedings in any court of competent jurisdiction, as provided in section 8023.

HISTORY: New 1956, p. 654, Act 218, Eff. Jan. 1, 1957.

500.8023 Foreign societies; revocation of license, effect on existing contracts.

Sec. 8023. When the commissioner refuses to license any society, or revokes its authority to do business in this state, he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officer of the society, upon request, and the action of the commissioner shall be reviewable by proper proceedings in any court of competent jurisdiction within this state: Provided, however, That nothing contained in this section or in section 8018 (annual license required) shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

HISTORY: New 1956, p. 654, Act 218, Eff. Jan. 1, 1957.

500.8025 Service of process; service on insurance commission, exclusive method.

Sec. 8025. Every society, whether domestic or foreign, now transacting business in this state, and every such society hereafter applying for admission, shall, before being licensed, appoint in writing the commissioner and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate upon the commissioner or, in his absence upon the person in charge of his office, and shall be deemed sufficient service upon such society: Provided, however, That no such service shall be valid or binding against any such society when it is required thereunder to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon the commissioner he shall forthwith forward by registered mail 1 of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

HISTORY: New 1956, p. 654, Act 218, Eff. Jan. 1, 1957.

500.8026 Annual report to insurance commissioner; additional information.

Sec. 8026. Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner, in such form as he may require, a statement under oath of its president and secretary or corresponding officer, of its condition and standing on the thirty-first day of December next preceding and of its transactions for the year ending on that date, and also shall furnish such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working. The commissioner may at other times require any further statement he may deem necessary to be made relating to such society.

HISTORY: New 1956, p. 655, Act 218, Eff. Jan. 1, 1957.

500.8027 Domestic societies; examination; expense.

Sec. 8027. The commissioner, or any person he may appoint shall have the power of visitation and examination into the affairs of any domestic society. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society and may summon and qualify as witness under oath and examine its officers, agents and employes or other persons in relation to the affairs, transactions and condition of the society. The expense of such examination shall be paid by the society examined, upon statement furnished by the commissioner.

HISTORY: New 1956, p. 655, Act 218, Eff. Jan. 1, 1957.

500.8028 Foreign societies; examination; expense.

Sec. 8028. The commissioner, or any person whom he may appoint, may examine any foreign society transacting or applying for admission to transact business in this state. The commissioner may employ assistants and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witness under oath and examine its officers, agents and employes and other persons in relation to the affairs, transactions and condition of the society. He may, in his discretion, accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country where such society is organized. The actual expenses of examiners making any such examination shall be paid by the society upon statement furnished by the commissioner. If any such society or its officers refuse to submit to such examination or to comply with the provisions of this section relative thereto, the authority of such society to write new business in this state shall be suspended or license refused until satisfactory evidence is furnished the commissioner relating to the condition and affairs of the society, and during such suspension the society shall not write new business in this state.

HISTORY: New 1956, p. 655, Act 218, Eff. Jan. 1, 1957.

500.8029 Examination reports; conditions precedent to publication.

Sec. 8029. Pending, during or after an examination or investigation of any such society either domestic or foreign, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society, until a copy thereof shall have been served upon such society, at its home office, nor until such society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire.

HISTORY: New 1956, p. 655, Act 218, Eff. Jan. 1, 1957.

500.8030 Taxation of societies; exemptions.

Sec. 8030. Every fraternal benefit society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment.

HISTORY: New 1956, p. 655, Act 218, Eff. Jan. 1, 1957.

500.8034 Authorized benefits; benefit certificate, issuance.

Sec. 8034. (1) Every society transacting business under this chapter shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age: Provided, The period of life at which the payment of benefits for disability on account of old age shall commence, shall not be under 70 years, and may provide for monuments or tombstones to the memory of its deceased members, and for the pay-

ment of last sickness and funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of 70, all, or such portion of the face value of his certificate as the laws of the society may provide: Provided, That nothing in this chapter contained shall be so construed as to prevent the issuing of benefit certificates for a term of years less than the whole of life which are payable upon the death or disability of the member occurring within the term for which the benefit certificate may be issued.

(2) Any society which shall show by the annual valuation hereinafter provided for, that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American experience table and 4% interest, may issue such benefit certificates as may be authorized by its laws, including certificates providing benefits contingent upon the duration of the life of the member, and may grant to its members extended and paid-up protection and/or such loan and withdrawal equities as its laws may provide: Provided, That such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

HISTORY: New 1956, p. 656, Act 218, Eff. Jan. 1, 1957.

500.8035 Beneficial membership; rights and obligations; social members.

Sec. 8035. (1) Any society may admit to beneficial membership any person who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society, or in lieu of a medical examination persons may be admitted to beneficial membership upon such showing of eligibility as the laws of the society may provide: Provided, That upon contracts so entered into such additional reserves shall be set up as the commissioner requires, if any, of all societies and companies writing life insurance without medical examination.

2. Any person so admitted prior to attaining the full age of 21 years and after attaining the age of 16 years nearest birthday shall be bound by the terms of such person's application, certificate and all the laws, rules and regulations of the society together with all amendments to each thereof and shall be entitled to all rights and privileges of membership therein. All contracts for membership and benefits made by such person and all contracts for the discharge of any money payable or benefit accruing thereunder shall be allowed to be good and of the same force and effect as though such person had attained the age of majority at the time of making such contract: Provided, however, That this section shall not have the effect of making a promissory note or other evidence of indebtedness given by such person in payment of a rate or rates on such contracts valid, either in the hands of the original owner or subsequent purchaser thereof.

(3) Nothing herein contained shall prevent such society from accepting general or social members, who shall have no voice or vote in the management of the insurance affairs of the society, nor from issuing juvenile certificates on the lives of children under the age of 21 years.

HISTORY: New 1956, p. 656, Act 218, Eff. Jan. 1, 1957.

500.8036 Beneficiaries; designation, change, interest.

Sec. 8036. Any beneficial member may direct any benefit to be paid to his estate or to such person or persons, entity, or interests, as may be permitted by the laws of the society governing beneficiaries. Each member shall have the right to designate his beneficiary or beneficiaries and from time to time have the same changed in accordance with the laws, rules and regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable in conformity with the provisions of the contract of membership.

The provisions of this section shall not apply to any society which shall not adopt the same by a majority vote of its governing body.

HISTORY: New 1956, p. 656, Act 218, Eff. Jan. 1, 1957.

500.8037 Juvenile certificates; applications; branches for children.

Sec. 8037. Any fraternal benefit society authorized to do business in this state may provide in its laws for the payment of benefits upon children under 21 years of age, upon the application of some adult person, as the laws of such society may provide. Any such society may, at its option, organize and operate branches for such children. Membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8038 Juvenile certificates; conditions precedent to issuance.

Sec. 8038. No benefit certificate as to any child, as authorized under section 8037, shall take effect until after such examination or inspection as may be required by the laws of the society, nor shall any such benefit certificate be issued unless the society shall, when first engaging in this class of business, simultaneously put in force at least 500 such certificates, on each of which at least 1 rate has been paid.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8039 Juvenile certificates; death benefit contributions, basis; waiver; return; additional contributions.

Sec. 8039. The death benefit contributions to be made upon such certificates shall be based upon the "Standard Industrial Mortality Table," or the "English Life Table Number 6," or the society may use a table based upon its own juvenile experience of at least 10 years and covering not less than 100,000 lives with a rate of interest not greater than 4% per annum, or upon a higher standard: Provided, That contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the laws of the society: And provided further, That extra contributions shall be made if the reserves hereinafter provided for become impaired.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8040 Juvenile certificates; reserves required; admission to benefit membership; rights in certificate; designation of beneficiary.

Sec. 8040. Any society issuing such benefit certificates shall maintain on all such certificates the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section 8039: Provided, That a society may provide that when a child who is eligible for benefit membership reaches the minimum age for such membership, such child may be so admitted into such society upon compliance with such requirements as may be provided by the laws of the society, and upon such admission any reserve upon such juvenile certificate shall be transferred to the benefit or reserve fund of the society. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in juvenile certificate, nor the person who paid the contributions, shall have any vested right in such certificate, or any new certificate issued to such child, but the nomination of an eligible beneficiary shall be left to the child so admitted to benefit membership.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8041 Juvenile certificates; society control certificates.

Sec. 8041. A society shall have full power to provide for means of enforcing payment of contribution, designation of beneficiaries and changing such designations, and in all other respects for the regulation, government and control of such certificates and

all rights, obligations and liabilities incident thereto and connected therewith, not at variance with the provisions of these sections 8037 through 8041.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8045 Juvenile certificates; benefits payable from society funds; nonliability of officers and members.

Sec. 8045. Officers and members of the supreme, grand or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such society; but the same shall be payable only out of the funds of such society and in the manner provided by its laws.

HISTORY: New 1956, p. 657, Act 218, Eff. Jan. 1, 1957.

500.8046 Fraternal benefit societies; benefits, exemption from attachment, garnishment or other process.

Sec. 8046. No money or other benefit, charity or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnishment or other process, or be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment.

HISTORY: New 1956, p. 658, Act 218, Eff. Jan. 1, 1957.

500.8049 Fraternal benefit societies; periodic contributions, basis.

Sec. 8049. No society shall hereafter be incorporated which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the American experience table of mortality with interest assumption not more than 4% per annum, or any table which produces aggregate reserves higher than those based upon the American experience table of mortality with interest assumption not more than 4% per annum, nor shall any such society be admitted to transact business in this state which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon 1 of the bases named in section 8055 and applicable thereunder to such society. No society, domestic or foreign, shall hereafter be incorporated or admitted to write or accept members for permanent disability benefits except upon tables based upon reliable experience with an interest assumption not higher than 4%.

HISTORY: New 1956, p. 658, Act 218, Eff. Jan. 1, 1957.

500.8050 Fraternal benefit societies; partial payment of contributions on readjusted rates.

Sec. 8050. Such society shall, upon a written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding 1/2 of the periodical contribution, against the certificate with interest payable or compounded annually at a rate not lower than 4% per annum: Provided, That this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contributions, and to contracts affected by such readjustment.

HISTORY: New 1956, p. 658, Act 218, Eff. Jan. 1, 1957.

500.8051 Fraternal benefit societies; increased contribution to meet deficiency.

Sec. 8051. The laws of such society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws, and by the provisions of this or any other section, additional, increased or extra

rates of contribution shall be collected from the members to meet such deficiency; and such laws may provide that each member's certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding 5% per annum: Provided, however, That where any such deficiency is charged against a member's certificate, the society shall at the time of making such charge and at least once in each 5 years thereafter notify the member of the amount of his or her individual charge and any accumulations thereto. This notice shall be given in writing and it shall be mailed to the last known address of the member.

HISTORY: New 1956, p. 656, Act 218, Eff. Jan. 1, 1957.

500.8052 Society issued certificates; contents, subject to changes in articles, constitution or laws.

Sec. 8052. Every certificate issued by any such society shall specify the amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association, the articles of association, the constitution and laws of the society and the application for membership and medical examination, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member, and copies of the same certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof, and any changes, additions or amendments to said charter or articles of incorporation, or articles of association, if a voluntary association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

HISTORY: New 1956, p. 656, Act 218, Eff. Jan. 1, 1957.

500.8053 Application for insurance attached to policy or furnished later; penalty.

Sec. 8053. (1) All fraternal benefit societies doing business in the state of Michigan shall, when requested by the insured, attach to every policy when issued in this state, an accurate copy of the application for such insurance, including the medical examination, family history of the applicant and all representations of any kind made by the applicant upon which the contract of insurance is based. If such copy of application shall not be requested by the insured at the time policy is issued, it shall be furnished by the insurer insuring at any time thereafter upon request of the insured in his lifetime, or of his representatives or beneficiaries after his death.

(2) If any fraternal benefit society shall fail to comply with the provisions of this section, it shall be the duty of the commissioner, upon a hearing before him after proper notice given to such society, to revoke the license or suspend the right of such society to do business within this state for such time, not less than 3 months nor exceeding 1 year, as to the commissioner shall seem just and proper.

HISTORY: New 1956, p. 659, Act 218, Eff. Jan. 1, 1957.

500.8055 Valuation of certificates; bases; annual report.

Sec. 8055. (1) In addition to the annual report required in section 8026, each society shall annually report to the commissioner a valuation of its certificates in force on December 31, last preceding; excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses. Such report of valuation shall show, as contingent liabilities, the present mid-year value of the promised benefits provided in the constitution and laws of such society under certificates then subject to valuation; and as contingent assets the present mid-year value of the future net contributions provided in

the constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years.

(2) Such valuation shall be certified by a competent actuary, or, at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society, and shall be filed with the commissioner within 45 days after the submission of the last preceding annual report.

(3) In the case of certificates issued prior to January 1, 1940, the legal minimum standard of valuation for all certificates, except for disability benefits, shall be the national fraternal congress table of mortality as adopted by the national fraternal congress, August 23, 1899, with interest assumption not more than 4% per annum, or, at the option of the society, any table or tables which in the aggregate produce higher reserves than those based upon the standard prescribed by this section: Provided, That no table or basis of valuation shall be used which produces a reserve less than that provided for by the certificate or in the bylaws of the society. In the case of certificates issued on and after January 1, 1940, the legal minimum standard of valuation for all certificates except for disability benefits shall be the American experience table of mortality, with interest assumption not more than 4% per annum: Provided, That no table or basis of valuation shall be used which produces a reserve less than that provided for by the certificate or in the bylaws of the society. At the option of the society, it may use in the case of certificates issued prior to January 1, 1940, a table based upon the society's own experience of at least 20 years and covering not less than 100,000 lives, with interest assumption of not more than 4% per annum.

(4) Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation.

HISTORY: New 1956, p. 659, Act 218, Eff. Jan. 1, 1957.

500.8056 Valuation of certificates; disability benefits, separation as to funds.

Sec. 8056. Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefits and expense funds and the valuation of all other business of the society: Provided, That where a combined contribution table is used by a society for both death and permanent total disability benefits, the valuation shall be according to tables of reliable experience, and in such case a separation of the funds shall not be required.

HISTORY: New 1956, p. 660, Act 218, Eff. Jan. 1, 1957.

500.8057 Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Section related to valuation of fraternal benefit society bonds.

500.8058 Valuation of certificates; annual report to members.

Sec. 8058. A report of such valuation, as made under sections 8055 and 8056, and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1 of each year; or, in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society.

HISTORY: New 1956, p. 660, Act 218, Eff. Jan. 1, 1957.

500.8060 Reserve required to meet claim liability.

Sec. 8060. Deferred payments or instalments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or instalments are thereafter to be paid. Such liability shall be the present value of such future

payments or instalments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities.

HISTORY: New 1956, p. 660, Act 218, Eff. Jan. 1, 1957.

500.8061 Funds for special purposes; maintenance, use.

Sec. 8061. Any society may create, maintain, invest, disburse and apply an emergency, surplus, hospital and health, home, thrift, pension for its employees, patriotic, relief or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in subsection (2) of section 8034 (benefits which may be provided by society).

HISTORY: New 1956, p. 660, Act 218, Eff. Jan. 1, 1957.

500.8062 Mortuary and disability funds not used for expenses.

Sec. 8062. Every society, the admitted assets of which do not exceed the sum of the required reserves and accrued liabilities by at least \$200,000.00, shall in every provision of the laws of the society for payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions of either or any of said funds shall be used for expenses.

HISTORY: New 1956, p. 661, Act 218, Eff. Jan. 1, 1957.

500.8063 Reserve funds; unlawful use, penalty.

Sec. 8063. (1) It shall be unlawful for any officer or agent of a fraternal benefit society doing business in this state to appropriate or use any portion of the reserve or mortality funds of such society for any other purpose than such as the articles of incorporation, laws, and contracts with members prescribe.

(2) Any person guilty of any intentional violation of this section, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1956, p. 661, Act 218, Eff. Jan. 1, 1957.

500.8064 Investments; limitation; saving clause.

Sec. 8064. (1) A domestic society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon.

(2) No investments heretofore acquired by any fraternal benefit society in conformity with the provisions of law as existing at the time of such acquisition shall be deemed to be unlawful by reason of the provisions of this code.

HISTORY: New 1956, p. 661, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 677, Act 318, Eff. Mar. 20, 1970.

500.8065, 500.8066, 500.8068-500.8074, 500.8076, 500.8079, 500.8080

Repealed. 1969, p. 678, Act 318, Eff. Mar. 20, 1970.

Sections related to investments of fraternal benefit societies in various securities.

500.8081 Investments; foreign societies.

Sec. 8081. Any foreign society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state or country in which it is incorporated shall be held to meet the requirements of this chapter for the investment of funds.

HISTORY: New 1956, p. 664, Act 218, Eff. Jan. 1, 1957.

500.8082 Deficiency of assets; requisition; order to show cause; revocation; refusal to license.

Sec. 8082. (1) If, on or after January 1, 1942, it shall appear from the annual statement and valuation report filed with the commissioner, or if it shall appear, as a result of a filed report of examination of any such society that the total admitted assets of any society are less than the reserve liability calculated as prescribed in this chapter, together with all current and accrued liabilities, the commissioner shall determine the amount of such deficiency and shall issue a written requisition to such society to remove, repair, or make good such deficiency within such period as he shall designate, not less than 60 days nor more than 12 months from the service of such requisition. He may also, by official order, prohibit such society, while such deficiency exists, from issuing any new certificates of insurance in this state, and in the case of a domestic society, from issuing any new certificates in this state or elsewhere.

(2) If such society shall fail or be unable to make good such deficiency within the time specified in such order, the commissioner, the attorney general representing him, shall apply to the circuit court in the judicial circuit in which the principal office of such corporation is located, or to the circuit court of the county of Ingham for an order directing such corporation to show cause why the commissioner should not take possession of its property and continue its business or for such other relief as the nature of the case and the interests of its certificate holders, creditors, or the public may require. He may apply for this order on the ground that its future transaction of business will be hazardous to its certificate holders, its creditors, or the public. In the case of a foreign or alien society, the commissioner may also or in lieu of such proceedings revoke its license to do business in this state or refuse to issue a renewal license.

HISTORY: New 1956, p. 664, Act 218, Eff. Jan. 1, 1957.

500.8083 Delinquent domestic societies; delinquency proceedings; notice; cessation of new business.

Sec. 8083. (1) Whenever after examination the commissioner is satisfied that any domestic society has failed to comply with any provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of 1 year or more, shall have a membership of less than 400 or shall determine to discontinue business, the commissioner may present the facts relating thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an appropriate action in the circuit court for the county of Ingham, and such court shall thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such society, and shall proceed at once to take possession of the books, papers, moneys and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

(2) No such proceedings shall be commenced by the attorney general against any such society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given to it, on a date to be named in said notice, to show cause why such proceedings should not be commenced.

(3) The commissioner is authorized after such examination and upon being satisfied that such society is exceeding its powers or is not carrying out its contracts in good faith or is transacting business fraudulently to immediately order said society to cease from issuing benefit certificates or policies. Such society after such order by said commissioner shall not issue policies or benefit certificates until it has shown cause to the satisfaction of the commissioner or in a proceeding commenced by the attorney general hereunder why it should not be permitted to continue to issue such policies or benefit certificates.

HISTORY: New 1956, p. 664, Act 218, Eff. Jan. 1, 1957.

500.8085 Injunction, dissolution, receiver; applied for by attorney general only.

Sec. 8085. No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such domestic society or branch thereof shall be entertained by any court in this state, unless the same is made by the attorney general.

HISTORY: New 1956, p. 665, Act 218, Eff. Jan. 1, 1957.

500.8086 Charter; loss for discontinuance of business; insufficient members.

Sec. 8086. When any domestic society shall have discontinued business for the period of 1 year, or has less than 400 members, its charter shall become null and void.

HISTORY: New 1956, p. 665, Act 218, Eff. Jan. 1, 1957.

500.8087 Consolidation, merger or reinsurance; procedure.

Sec. 8087. (1) When any such fraternal benefit society shall propose to consolidate or merge its business or to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society the proposed contract in writing setting forth the terms and conditions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after due notice, and, if approved by a vote of 2/3 of the members of the supreme legislative or governing body of each of said societies, such contract, as so approved, shall be submitted to the commissioner of insurance of this state for his approval and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of each of such fraternal benefit societies as of the thirty-first day of December preceding the date of such contract: Provided, That the commissioner may, within his discretion, require such financial statement to be submitted as of the last day of the month preceding the date of such contract.

Approval by commissioner.

(2) The commissioner shall thereupon consider such contract of consolidation, merger or reinsurance, and, if satisfied that the interests of the certificate holders of such fraternal benefit societies are properly protected, and that such contract is just and equitable to the members of each of such societies, and that no reasonable objection exists thereto, shall approve said contract as submitted.

Approval by commissioners of insurance of other states.

(3) In case the parties corporate to such contract shall have been incorporated in separate states, or territories, such contract shall be submitted as herein provided to the commissioner of insurance of each of such incorporating states, or territories, to be considered and approved separately by each of such commissioners of insurance.

Certificate of approval; contract effective.

(4) When said contract of consolidation, merger or reinsurance shall have been approved as hereinabove provided, such commissioner or commissioners of insurance

shall issue a certificate to that effect, and thereupon the said contract of consolidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved the fact of its submission and its contents shall not be disclosed by the commissioner.

Title of property of constituent corporations vested in resulting corporation.

(5) When such commissioner or commissioners shall have approved the said contract of consolidation, merger or reinsurance and shall have issued their certificate of approval to that effect, all the property, real, personal, and mixed, shall be vested in the resulting corporation, as well as all and singular the rights, privileges, powers and franchises and any other property or interest therein shall be thereafter as effectually the property of the said resulting corporation as they were of the corporations prior to the consolidation or merger, and the title to any real estate whether by deed or otherwise under the laws of this state vested in any of such constituent corporations shall not revert or be in any way impaired by reason of this act.

Other provisions applicable.

(6) Any such consolidation or merger shall further be subject to the applicable provisions of section 7604 (consolidation or merger of domestic insurers) to the extent therein provided.

HISTORY: New 1956, p. 665, Act 218, Eff. Jan. 1, 1957.

500.8088 Consolidation, merger or reinsurance; expenses, statement, approval.

Sec. 8088. All necessary and actual expenses and compensation incident to the proceedings for such consolidation, merger, or reinsurance shall be paid as provided by such contract of consolidation, merger or reinsurance: Provided, however, That no brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof, nor shall any compensation be paid to any officer or employes of either of the parties to such contract for directly or indirectly aiding in effecting such contract of consolidation, merger or reinsurance. An itemized statement of all such expenses shall be filed with the insurance commissioner, or commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties thereto. Except as fully expressed in the contract of consolidation, merger or reinsurance, or itemized statement of expenses, as approved by the commissioner or commissioners of insurance, as the case may be, no compensation shall be paid to any person or persons, and no officer or employe of the state shall receive any compensation, directly or indirectly, for in any manner aiding, promoting or assisting any such consolidation, merger or reinsurance.

HISTORY: New 1956, p. 666, Act 218, Eff. Jan. 1, 1957.

500.8089 Violation of section; penalty.

Sec. 8089. Any person violating any of the provisions of sections 8087 and 8088 shall be guilty of a felony, and upon conviction shall be liable to a fine of not more than \$5,000.00, or to imprisonment for not more than 5 years, or to both fine and imprisonment.

HISTORY: New 1956, p. 666, Act 218, Eff. Jan. 1, 1957.

500.8090 False statements; application for membership or benefits, penalty.

Sec. 8090. (1) Any person, officer, member or examining physician of any society authorized to do business under this chapter, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society

transacting business under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than 30 days nor more than 1 year, or both, in the discretion of the court.

Same; payment of benefit; verified report; declaration under oath; perjury.

(2) Any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this chapter, elsewhere than by sections 8087 or 8088, shall be guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

HISTORY: New 1956, p. 666, Act 218, Eff. Jan. 1, 1957.

500.8093 Violation of sections; penalty.

Sec. 8093. Any society, or any officer, agent or employe thereof neglecting or refusing to comply with, or violating any of the provisions of this chapter, the penalty for which neglect, refusal or violation is not specified in sections 8019 (solicitation for unlicensed society), 8090 (false statements, representations), or 8089 (penalties as to consolidations, mergers, or reinsurance) shall be fined not exceeding \$200.00 upon conviction thereof.

HISTORY: New 1956, p. 667, Act 218, Eff. Jan. 1, 1957.

500.8094 Exemptions as to certain societies.

Sec. 8094. (1) Nothing contained in this chapter shall be construed to affect or apply to any of the following described organizations which were in existence and issuing benefits hereunder upon July 1, 1945: grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias (exclusive of the insurance department of the Supreme Lodge Knights of Pythias), the Junior Order of United American Mechanics (exclusive of the beneficiary degree of insurance branch of the National Council Junior Order of United American Mechanics), and the Ladies' Lutheran Benevolent Federation of Michigan, labor organizations or societies which admit to membership only such persons who at the time of admission are engaged in any 1 occupation or limits their membership to any 1 religious denomination, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this state which provides death benefits not exceeding \$500.00 to any 1 person, or disability benefits not exceeding \$300.00 in any 1 year to any 1 person, or both, nor to any contracts of reinsurance business on such plan in this state nor to domestic societies which limit their membership to the employes of a particular city or town, nor to similar societies which limit their membership to a designated firm, business house or corporation granting death benefits not exceeding \$1,000.00 and/or disability benefits not exceeding \$300.00 in any 1 year to any 1 person, nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than \$150.00, or for disability benefits of more than \$150.00 to any 1 person in any 1 year.

Commissioner may require information.

(2) The commissioner may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this chapter.

Society contracting to pay benefits for death or disability resulting solely from accidents, license.

(3) Any fraternal benefit society, heretofore organized and incorporated and operating within the definitions set forth in sections 8001, 8002, and 8003, providing for

benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this chapter, and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except that the provisions of this chapter requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

HISTORY: New 1956, p. 667, Act 218, Eff. Jan. 1, 1957.

500.8095 Certain provisions of code applicable to nonexempted societies.

Sec. 8095. Fraternal benefit societies transacting business in this state and not exempt from the provisions of this chapter under section 8094, shall also be subject to the following additional chapters and provisions of this code as applicable:

- (1) Chapter 1 (scope of code), except as to section 150 (general penalty).
- (2) Chapter 2 (the insurance commissioner), but the only provision of section 240 (filing, license, miscellaneous fees) that shall be applicable with respect to societies, except as provided in section 5222 (extension of corporate duration), shall be subdivision (1) of subsection (1) (charge for making copies of papers in commissioner's office, and for attaching his certificate thereto).
- (3) Section 476 (retaliatory provision).
- (4) Chapter 9 (investments).
- (5) Section 1456 (embezzlement by agent).
- (6) Sections 1820 through 1832 (unauthorized insurers process act).
- (7) Sections 2001 through 2050 (uniform trade practices act), 2062 (fraudulent reports by insurer prohibited; penalties), 2064 (misrepresenting terms of policy; "twisting"; penalties), 2066 (rebates, illegal inducements prohibited; penalties), 2068 (procedure for revocation of license, certificate, for "twisting", rebating, etc.; appeal), 2069 (misrepresentation, "twisting", rebating—fine or imprisonment), and 2074 (political contributions, employment prohibited; penalties).
- (8) Sections 5222 (extension of corporate duration) and 5256 (records and securities to be kept in Michigan; conditions and exceptions).
- (9) Chapter 78 (liquidations and receiverships).
- (10) Chapter 82 (transformation of fraternal benefit societies).
- (11) Chapter 83 (repeals, saving clause, effective date).

HISTORY: New 1956, p. 667, Act 218, Eff. Jan. 1, 1957;—Am. 1969, p. 677, Act 318, Eff. Mar. 20, 1970.

CHAPTER 82.

TRANSFORMATION OF FRATERNAL BENEFIT SOCIETIES.

500.8204 Fraternal benefit society; reorganization into legal reserve premium company; amendment of articles.

Sec. 8204. Any existing fraternal benefit society may amend its articles of incorporation and bylaws in such a way as to transform itself into a legal reserve level premium company doing business as a mutual company, but only after complying with the provisions of this chapter.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8206 Reorganization; proposed articles and bylaws, filing with insurance commissioner.

Sec. 8206. Whenever any such society shall propose to transform itself into a legal reserve level premium company as herein provided, it shall file with the commissioner, its proposed articles and bylaws, its plan of transformation, setting forth in detail the terms and conditions of such transformation and also the method by which it proposes to protect the interests of its membership.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8208 Reorganization; hearing on petition.

Sec. 8208. The commissioner may proceed to hear and determine such petition without notice, or, if he deems it necessary that such notice should be given in order to conserve the interests of the membership, he shall require the society to first notify, by mail, all of the members of such society of the pendency of such petition, the contents of such notice to be determined by the commissioner.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8210 Reorganization; member's right to appear.

Sec. 8210. When notice shall have been given, as above provided, any member of such society shall have the right to appear before the commissioner and be heard with reference to the petition.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8212 Reorganization; examination, witnesses.

Sec. 8212. The commissioner may also make such examination into the affairs and conditions of the society as he deems proper, and shall have power to summon and compel the attendance and testimony of witnesses, and the production of books and papers, and may administer oaths.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8214 Reorganization; authorization by insurance commissioner, modification.

Sec. 8214. If satisfied that the interests of the membership of said society are properly protected and that no reasonable objection to said petition exists, the commissioner may authorize in writing, such transformation, or may first require such modification thereof as may seem to him necessary for the best interests of such membership.

HISTORY: New 1956, p. 668, Act 218, Eff. Jan. 1, 1957.

500.8216 Reorganization; order, disposition of assets.

Sec. 8216. The commissioner shall make such order and disposition of the assets of any such society as in his judgment may be just and equitable.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8218 Reorganization; submission of plan to governing body of society, meeting.

Sec. 8218. The commissioner shall require the plan of transformation to be submitted to the supreme governing body of such society, to be voted upon. When submitted, it shall be either at a regular meeting of the supreme governing body or at a special meeting of same called for that purpose.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8220 Reorganization; special meeting, notice, approval; required vote, proxies.

Sec. 8220. A notice of said special meeting, in the form approved by the commissioner, shall be given in accordance with the requirement of the bylaws of such society. When so submitted, a majority vote of the supreme governing body present and

voting, as authorized by its articles of incorporation and bylaws, shall be necessary to an approval of such plan of transformation; and no proxies shall in any case be voted.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8224 Reorganization; members, referendum.

Sec. 8224. If the supreme governing body approves the plan of transformation, the board of directors or other managing body of such society shall submit the plan to a referendum vote of the members of such society, and if the result of such vote shall show that the majority of the members of such society has voted to repeal the action of the supreme governing body, then the same shall be considered as repealed by such society and shall be null and of no effect.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8228 Reorganization; plan, approval by insurance commissioner; vote, results.

Sec. 8228. Any such plan of transformation submitted to the supreme governing body as herein contemplated, must first have been approved by the commissioner; and the result of said vote must be filed with such commissioner and be by him determined before any transformation shall be so effective.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8232 Reorganization; plan, adoption requirements.

Sec. 8232. No such transformation shall take place until after its plan has been approved by the commissioner, either with or without a hearing as herein provided, and until such approved plan has been adopted by a majority vote of the board of directors or board of trustees of such society; and, if submitted to the supreme governing body, until such approved plan has also been adopted by a majority vote of the said supreme governing body present and voting.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8240 Inapplicability of chapter.

Sec. 8240. Nothing in sections 8204 through 8232 shall be construed to apply to any association exempt from the provisions of chapter 80 (fraternal benefit societies) in accordance with the provisions of section 8094.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8242 Reorganization; effect; continuation of original corporation, powers, officers.

Sec. 8242. Any such society so transformed, shall incur the obligations and enjoy the benefits thereof the same as though originally thus incorporated, and such corporation, under its charter as thus amended, shall be a continuation of such original corporation, and the officers thereof shall serve through their respective terms as provided in the original charter, but their successors shall be elected and serve as in such amended articles provided. Any society so transformed shall have the power to acquire, own, hold, lease, mortgage, sell and convey personal and real property, and to provide the necessary funds, and to do all things necessary for the purpose of operating and maintaining such hospitals, asylums, sanitariums, schools, or homes as it was operating and maintaining when so transformed and it shall have the power to discontinue operating and maintaining the same and to lease, mortgage, sell and convey the personal and real property acquired for use in connection therewith.

HISTORY: New 1956, p. 669, Act 218, Eff. Jan. 1, 1957.

500.8246 Amendment or reincorporation; saving clause.

Sec. 8246. Such amendment or reincorporation shall not affect existing suits, claims, or contracts.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

500.8250 Liens upon certificates; notices to members; application of section.

Sec. 8250. If any fraternal benefit society, reorganizing under the provisions of this chapter shall have certificates in force, against the equity of which certificates a lien or other form of indebtedness has been placed, the society shall notify each member individually of the amount of his or her lien, and all accumulations thereto, at a date not more than 1 year prior to the effective date of such reorganization, and a similar individual notice shall be given every 5 years thereafter. The provisions of this section shall not apply to policy loans or premium loans, but only to liens or other forms of indebtedness created by the supreme governing body of the society, by a subordinate governing body, or by a vote of the membership during the time that the society was operating as a fraternal benefit society.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

500.8254 Certificates of membership; valuation; reserve, annual statement.

Sec. 8254. The existing certificates of membership of any fraternal benefit society which shall have transformed itself into a legal reserve level premium life insurance company, in conformity with the provisions of this chapter, shall be valued as follows:

(1) Certificates on which rates of contributions are not on the basis of any table of mortality, valued as yearly renewable term policies according to the standard of valuation of life insurance policies prescribed by the laws of this state.

(2) Certificates on which the rates of contribution are based upon a standard table of mortality and specified rate of interest, valued in accordance with such standard. The reserve so ascertained shall be held as a liability by the company in its annual statement rendered to the insurance department.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

CHAPTER 83.**REPEALS, SAVING CLAUSE, EFFECTIVE DATE.****500.8300 Repeals.**

Sec. 8300. Act No. 256 of the Public Acts of 1917, as amended, being sections 501.1 to 548.107, inclusive, of the Compiled Laws of 1948, Act No. 151 of the Public Acts of 1893, being sections 550.151 and 550.152 of the Compiled Laws of 1948, and Act No. 158 of the Public Acts of 1943, being sections 550.201 to 550.213, inclusive, of the Compiled Laws of 1948, are hereby repealed.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

500.8301 Saving clause.

Sec. 8301. This act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

500.8302 Effective date of act.

Sec. 8302. This act shall become effective on January 1, 1957.

HISTORY: New 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

CHAPTERS 501-548. INSURANCE CODE

INSURANCE CODE
Act 256 of 1917

501.1-548.107 Repealed.

501.1-548.107 Repealed. 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

Sections related to insurance code of 1917 and other acts on insurance, some of which were repealed prior to 1956.

CHAPTER 550. INSURANCE CODE—SUPPLEMENTAL CHAPTER; STATE INSURANCE

EMERGENCY INSURANCE LEGISLATION Act 66 of 1933		550.307	Annual report; contents, filing; failure to file, suspension.
550.1	Declaration of emergency.	550.308	Non-profit medical care corporation; board of directors; membership representation, approval.
550.2	Insurance company disbursement limitations.	550.309	Benefits; articles of association or by-laws; limitation, classification; residence.
550.3	Insurance commissioner regulatory powers.	550.310	Physician or surgeon; right of subscriber to choose; registration; penalty for influencing choice.
550.4	Foreign insurance companies; other states' regulations, application.	550.311	Reserve to be maintained by corporation; insurance commissioner's authority; funds, investment.
550.5	Purposes of act.	550.312	Medical care; furnished by physicians and surgeons only.
550.6	Suits against insurance companies; statute of limitations, extension.	550.313	Needy persons; medical care; governmental, private agencies, corporations subscriptions.
550.7	Duration of emergency; proclamations.	550.314	Corporation immunity from certain suits.
550.8	Violation of act; misdemeanor; license revocation, grounds.	550.315	Taxation; corporation assets exempt.
SURETY COMPANIES Act 266 of 1895		550.316	Violation of act; misdemeanor.
550.101	Surety companies; execution of bonds; bail bonds; liquor bonds; commencement of suit; service of process.	DENTAL CARE CORPORATIONS Act 125 of 1963	
550.102	Lawful acceptance of one surety.	550.351	Nonprofit dental care corporations; formation; statutes applicable.
550.103	Surety or guarantor; prerequisites.	550.352	Subscriber contract payment regulations; prohibited provisions.
550.104	Certificate of authority issuance; solvency, proof.	550.353	Supervision by insurance commissioner; incorporation procedures.
550.105	Repealed.	550.354	Articles of incorporation; contents.
550.106	Assets deposit agreement; surety liable.	550.355	Articles of incorporation; execution, filing, fee, approval, amendment.
550.107	Release from liability; procedure.	550.356	Contracts; statement to insurance commissioner; contents, examination.
550.108	Trust execution expense; surety bond fee inclusion.	550.357	Certificate of authority to commence business and issue contracts; requirements.
550.109	Surety company; denial of corporate power.	550.358	Certificate of authority; revocation; liquidation.
550.111	Repealed.	550.359	Corporation examination by insurance commissioner; expenses.
MUTUAL INSURANCE COMPANIES, APPROVAL FEE Act 151 of 1893		550.360	Annual statement; filing.
550.151, 550.152	Repealed.	550.361	Dental care services performed out of state; payment.
UNIFORM INSURERS' LIQUIDATION ACT Act 158 of 1943		550.362	Dental care service contracts; preliminary requirements; payments.
550.201-550.213	Repealed.	550.363	Dental care corporation; board of directors; membership, qualifications.
OFFICE AGENT TAKEN OVER Act 143 of 1935		550.364	Contract limitations; service classes; county residents.
550.231	Office agent of insurance company taken over by insurance commissioner or receiver; off-set for damages.	550.365	Dentists; eligibility; agreements with corporation.
550.232	Applicability of act.	550.366	Subscriber-dentist relationship; corporation's register.
550.233	Construction of act.	550.367	Reserve funds; maintenance; investment.
MEDICAL CARE CORPORATIONS Act 108 of 1939		550.368	Accepted dental practice; corporations.
550.301	Declaration of policy; intent of act.	550.369	Dental care; payment; contracts.
550.302	Non-profit medical care plan incorporators; supervision; inapplicability of statutes.	550.370	Dentist-patient relationship; civil actions.
550.303	Articles of association; contents.	550.371	Previously existing corporations merger; agreement, approval.
550.304	Articles of association; form, approval, filing fee, amendment.		
550.305	Articles of association; filing; plan statement; insurance commissioner's investigation and approval; dissolution, liquidation, insurance commissioner's authority.		
550.306	Insurance commissioner; investigation, examination powers; records access; witnesses' examination; expense.		

550.372	Dental care corporations; tax exemption.	550.608	Evidence of insurance; policy or certificate delivery.
550.373	False statement; penalty.	550.609	Policy or certificate; contents.
HOSPITAL SERVICE CORPORATIONS		550.610	Policy or certificate; delivery to debtor.
Act 109 of 1939		550.611	Policy or certificate; application, contents.
550.501	Non-profit hospital plan; incorporators; supervision; inapplicability of statutes.	550.612	Papers filed with commissioner of issuing state.
550.502	Hospital service corporation; board of directors; members, terms; property management.	550.613	Papers filed with commissioner of issuing state; disapproval.
550.503	Hospitals with which contracts may be made; obligation of hospitals to subscribers; rates.	550.614	Papers filed with commissioner of issuing state; use, hearing, prior written approval.
550.504	Articles of association; contents.	550.615	Papers filed with commissioner of issuing state; withdrawal of approval.
550.505	Articles of association; form, approval, filing fee; amendment.	550.616	Papers filed with commissioner of issuing state; use after withdrawal of approval.
550.506	Articles of association; plan statement; insurance commissioner, investigation, approval; certificate revocation; contracts with hospitals.	550.617	Papers filed with commissioner of issuing state; judicial review.
550.507	Insurance commissioner; authority to investigate and examine, access to records; examination of witnesses; expense.	550.618	Schedule of premium rates; refunds; nonissuance credit.
550.508	Annual report; contents, filing, failure to file, suspension.	550.619	Policies issuable only by authorized insurers.
550.509	Reserve requirements; amount; authority of commissioner; fund investment.	550.620	Payment of claims; claim files; group insurance claims.
550.510	Subscriptions from governmental and private agencies.	550.621	Procurement of insurance by debtor.
550.511	Benefits prohibited; reimbursement for nursing and nonmedical care.	550.622	Rules; violation, notice of hearing, finding, order.
550.511a	Dependent coverage; termination; inapplicability.	550.623	Violation; penalty; license or authority, suspension or revocation.
550.512	Administrative expense; approval.	550.624	Effect of act; scope of act.
550.513	Corporation, hospital disputes; insurance commissioner's findings, effect.	STATE INSURANCE	
550.514	Dissolution or liquidation; insurance commissioner's authority.	Act 388 of 1913	
550.515	Taxation; corporation assets exempt.	550.701	State property insurance; exception; purchase of deductible or catastrophe insurance; premiums, payment.
550.516	Violations of act; misdemeanor.	550.702, 550.703	Repealed.
550.517	Previously existing corporations; requirements, article amendments; failure to comply; suspension.	550.704	Loss in case of damage; fixing amount.
CREDIT INSURANCE ACT		550.705	Loss in case of damage; payment, release of additional amounts necessary to rebuild or restore.
Act 173 of 1958		550.706	Accident fund; assessments for services.
550.601	Credit insurance act; short title.	550.707, 550.708	Repealed.
550.602	Scope of act.	550.709	Self-liquidation projects exempted; applicability of act.
550.603	Credit insurance act; definitions.	550.710	Election of coverage.
550.604	Credit life insurance, credit accident and health insurance; forms.	550.711	State insurance fund abolished; reversion of funds.
550.605	Credit life insurance; amount.	REPAIR OF DESTROYED STATE PROPERTY	
550.606	Periodic indemnity payable.	Act 176 of 1895	
550.607	Term; refund on termination prior to expiration.	550.801-550.805 Repealed.	

Act 66, 1933, p. 76; Imd. Eff. Apr. 28.

AN ACT to regulate insurance corporations, fraternal benefit and other societies and associations doing an insurance business in Michigan during and under certain emergencies, to extend the powers of the commissioner of insurance over such companies and business in such emergencies; to prevent preferences among policyholders and creditors of such companies in the payment of debts and claims and withdrawals of cash; to preserve the solvency and integrity of such companies during such emer-

gencies for the benefit of all policyholders and other obligees of such companies and societies; and to limit certain legal process and proceedings for the period prescribed herein.

The People of the State of Michigan enact:

550.1 Declaration of emergency.

Sec. 1. That an emergency exists in the United States of America and the state of Michigan with respect to its financial and investment institutions and the financial condition of its people generally, such emergency affecting the business of insurance. The provisions of this act are, therefore, deemed to be for the protection of the public as a whole; to preserve the stability of insurance companies; to prevent undue preference among the policyholders of such companies; and to conserve the income and assets of such companies for the benefit of their policyholders and creditors.

HISTORY. CL 1945, 550.1.

550.2 Insurance company disbursement limitations.

Sec. 2. The provisions of any law of this state to the contrary notwithstanding, during any period of public calamity resulting in abnormal financial losses to and unforeseen and excessive disbursements by any insurance company, fraternal benefit society or association (herein referred to as "company" or "companies") doing business in this state, and during any financial emergency, including the emergency referred to in the governor's proclamation of February 14, 1933, and the president's proclamation of March 6, 1933, and other similar emergencies, occurring as the result of financial disturbances in business generally, threatened or actual disaster to the banking and other financial institutions of the United States or of this state, and disruption of business and orderly business process resulting in such unusual demands upon the cash or other assets of insurance companies doing business in this state as to endanger the solvency of or threaten insolvency to any such companies and the consequences thereof, the commissioner of insurance may, by general regulations applicable to all such companies, or by special regulations applicable to any class of insurance companies, prescribe such limits or restrictions upon the disbursements, loans, investment of funds or other disposition of assets of any such companies as in his judgment is or may be necessary for the preservation of the rights of all of the policyholders, beneficiaries or assignees, or other claimants or creditors of such companies, for the purpose of preventing such undue preferential payments to certain policyholders, beneficiaries, claimants and creditors as may or will imperil or prejudice the rights of other policyholders, beneficiaries, claimants and creditors, and for the promotion and maintenance of sound insurance practices. Provided, That no such rules or regulations shall be made in any case to relieve the company from making any loan applied for by the policyholder against the legal reserves on his or her policy for the purpose of paying his or her premium on his or her policy of insurance in such company.

HISTORY. CL 1945, 550.2.

550.3 Insurance commissioner regulatory powers.

Sec. 3. The rules and regulations made by the commissioner of insurance pursuant to this act, when filed with the secretary of the state of Michigan, shall have the force and effect of law; and the said commissioner is hereby granted the power and authority to alter, amend and promulgate all such rules and regulations.

HISTORY. CL 1945, 550.3.

550.4 Foreign insurance companies; other states' regulations, application.

Sec. 4. The said commissioner is hereby authorized and empowered to put into effect, and to enforce as against any foreign insurance company doing business in this

state, any rule or regulation made applicable to any Michigan corporation or society doing an insurance business in the domestic state of such foreign company, during the period of any emergency covered by the provisions of this act. This section shall be in addition to, and not in limitation of, any law of this state requiring or permitting reciprocal application of the laws of this state to foreign insurance companies doing business in Michigan or requiring equal privileges to be extended to Michigan companies operating in other states.

HISTORY: CL 1948, 550.4.

550.5 Purposes of act.

Sec. 5. The purposes of the provisions of this act, among other things, are to preserve as far as possible the solvency of such insurance companies as are qualified and authorized to carry on business in this state, and to prevent the impairment of the obligations of the contracts of such companies as a whole.

HISTORY: CL 1948, 550.5.

550.6 Suits against insurance companies; statute of limitations, extension.

Sec. 6. During the period of any such calamity or emergency no suit at law or in equity shall be commenced or brought on for hearing, in any court of this state, for the enforcement of demands upon or against any insurance company when the payment thereof has been prohibited, suspended, or otherwise regulated by the commissioner of insurance pursuant to this act, nor shall proceedings be taken in any such court or by the state treasurer to satisfy any judgment obtained by any policyholder, or his assignee in any proceeding had or taken to enforce said demands. The commissioner of insurance may intervene in any such suit or proceeding by virtue of his office, and he or the defendant company may plead this statute and any regulation or order made pursuant thereto, in temporary bar or stay of any such action or proceeding. The period of such emergency shall be added to any statute limiting the time for commencement of any action to enforce such policy rights, or the issuance of the writ of execution or other mandatory writ enforcing such rights.

HISTORY: CL 1948, 550.6.

550.7 Duration of emergency; proclamations.

Sec. 7. The emergency referred to in section 1 hereof shall be deemed to continue until March 30, 1935, unless the legislature of this state, if in session, or the governor of this state, if the legislature be not in session, shall by resolution or proclamation officially declare such emergency to have sooner terminated; and as to any other such emergency hereafter occurring, the provisions of this act shall not be effective unless and until the governor of the state shall by proclamation have declared the same to exist and invoke therein the provisions of this act. In any such case, the governor by proclamation shall have the power to declare such emergency terminated at such date certain as he may determine.

HISTORY: CL 1948, 550.7.

550.8 Violation of act; misdemeanor; license revocation, grounds.

Sec. 8. Any person or corporation violating any of the provisions hereof, or any regulation or proclamation made pursuant hereto, shall be deemed guilty of a misdemeanor, and of violating the insurance law of this state; and any such violation by any insurance company or its agent shall be deemed cause for revoking the license of such company or agent, as the case may be, to do an insurance business in this state.

HISTORY: CL 1948, 550.8.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 287, Imd. Eff. May 25.

Act 266, 1895, p. 570; Eff. Aug. 30.

AN ACT relative to bonds and other obligations, with surety or sureties, and the acceptance as surety thereon of companies qualified to act as such, and the release of such surety, and the safe depositing of assets for which such surety may be liable, and to the charging by fiduciaries of the expense of procuring sureties, and repealing all laws in conflict therewith.

The People of the State of Michigan enact:

550.101 Surety companies; execution of bonds; bail bonds; liquor bonds; commencement of suit; service of process.

Sec. 1. Whenever any bond, undertaking, recognizance or other obligation is by the law of the state or by the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, or in any judicial or other proceeding required or permitted to be made, given, tendered or filed with the surety or sureties and whenever the performance of any act, duty or obligation, or refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty, may be executed by a surety company, qualified to act as surety or guarantor as hereinafter provided, and such execution by such company of such bond, undertaking, recognizance, obligation or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule, regulation or order, that such bond, undertaking, obligation or recognizance or guaranty shall be executed by 1 surety, or by 1 or more sureties, or that such sureties shall be residents or householders or freeholders or either or both, or possess any other qualifications: Provided, That such sureties companies shall be accepted as surety on any recognizance for the appearance of persons charged with crime: Provided further, That where any bond is required for the sale of liquors under the laws of this state, such bonds shall not be executed by any surety company as herein provided, except by and with the consent and approval of the township board, or of the board of trustees or of the common council of any village or city, as the case may be, within which said bond is required to be filed: And provided further, That the bond of such surety company shall not be accepted by said township board, common council or a board of trustees, unless such surety company shall be a corporation licensed to do business in the state of Michigan, and with a capital stock of not less than 200,000 dollars: Provided, That whenever a majority of the qualified electors of any township, village or city, equal to a majority of the votes cast for governor at the last general election, shall file a petition with the township board of any township, board of trustees, council or common council of any village or city, protesting against the acceptance of the bonds offered by any individual, firm or corporation proposing to engage in the sale of intoxicating liquors at retail, it shall be unlawful for such township board of such township, board of trustees, council or common council of any village or city to accept such bonds: Provided further, That suits may be commenced in the circuit court in any county where the plaintiff resides, by declaration or writ, and service shall be made in such cases only upon the commissioner of insurance in like manner and with like effect as is provided for the service of process upon societies, orders or associations organized under the laws of any other state, province or territory and doing business in this state, and not having its principal office within this state and, for the purpose of service of process as herein provided, such surety company shall appoint in writing the commissioner of insurance, or his successor in office, to be its true and lawful attorney.

HISTORY Am. 1897, p. 116, Act 108, Imd. Eff. April 29;—CL 1897, 5196;—Am. 1907, p. 455, Act 321, Eff. Sept. 28;—CL 1915, 9219;—Act 1923, p. 399, Act 229, Eff. Aug. 30;—CL 1929, 12414;—Am. 1933, p. 440, Act 256, Imd. Eff. July 12;—CL 1948, 550.101.

The mandatory act of 1897 repealed Act 194 of 1885, being How. 4343a-k, covering the above subject.

SERVICE OF PROCESS: Service on commissioner, see Compilers' §§ 600.1920 and 600.1861.

550.102 Lawful acceptance of one surety.

Sec. 2. In any cause, matter or proceeding where, by the laws of this state, the giving of any bond is required or permitted, and more than 1 surety is required, it shall be lawful for the court, officer or person who is authorized or required by law to approve and accept such bond, to accept and approve a bond with but 1 surety, provided the surety thereto is a corporation qualified to act as surety or guarantor as hereinafter provided.

HISTORY: CL 1897, 5197;—CL 1915, 9220;—CL 1929, 12415;—CL 1948, 550.102.

550.103 Surety or guarantor; prerequisites.

Sec. 3. That such company, to be qualified to so act as surety or guarantor, must be authorized under the laws of the state where incorporated and under its charter to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts other than insurance policies, and to execute bonds and undertakings required or permitted in actions or proceedings or by law allowed; must comply with the requirements of the laws of this state applicable to such company, in doing business therein; must have good available assets in excess of its liabilities, which said liabilities, however, shall for the purposes of this act, be taken to be its capital stock, its outstanding debts, and a premium reserve at the rate of 50 per cent of the annual premium on all outstanding obligations in force; must file with the insurance commissioner a certified copy of its charter or act of incorporation, a written application to be authorized to do business under this act and a statement signed and sworn to by least 2 of its officers, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premium on existing bonds upon which it is surety, the amount of liability for unearned portion of such premiums, estimated at the rate of 50 per centum of the annual premium on all outstanding obligations; stating also the amount of its outstanding debts of all kinds, and such further statement similarly verified as may be by the laws of this state required of such company in transacting business therein. And if such company be organized under the laws of this state, it must have an unimpaired, safely invested capital of at least 200,000 dollars; must have at least 100,000 dollars invested in securities created under or by the laws of the United States, or of this state, the value of which shall be at or above par and shall be deposited with or held by the state treasurer of this state in trust for the benefit of the holders of the obligations of such company; and if such company be organized under the laws of any other state than this state, it must have a fully paid up and safely invested and unimpaired capital of at least 250,000 dollars, and have at least 200,000 dollars in good, dividend paying or interest bearing stock or securities created under or by virtue of the laws of the United States or of the state where it is incorporated, or of good, solvent, dividend paying corporations, or in first mortgages on unincumbered real estate worth at least double the amount loaned thereon, which said stocks, securities or mortgages shall be at or above par in value and be deposited with or held by the state officer or officers of not more than 2 states wherein the company is authorized to do business in trust, for the benefit of the holders of the obligations of such company; must appoint an attorney in this state on whom process of law can be served, and filed, in the office of the insurance commissioner a written statement duly signed and sealed, certifying such appointment and which shall continue until another attorney is substituted.

HISTORY: CL 1897, 5196;—CL 1915, 9221;—CL 1929, 12416;—CL 1948, 550.103.

550.104 Certificate of authority issuance; solvency, proof.

Sec. 4. That upon production of proof to the insurance commissioner by such company that it possesses the qualifications by this act required and has complied therewith, he shall issue to such company and such of its agents in this state, his certificate that such company is for the ensuing year authorized to become and be accepted as sole surety on all bonds, undertakings and obligations, required or permitted by law, or by the charter, ordinances, rules and regulations of any municipality, board, body, organization or public officer, which said certificate shall be conclusive proof of the solvency and credit of such company for all purposes and of its right to be so accepted as such sole surety and its sufficiency as such.

HISTORY: CL 1897, 5199;—CL 1915, 9222;—CL 1929, 12417;—CL 1948, 550.104.

550.105 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided for filing of annual statement by surety companies with insurance commissioner.

550.106 Assets deposit agreement; surety liable.

Sec. 6. That it shall be lawful for any party of whom a bond or undertaking is required and whose surety thereon is such a company, to agree with such surety, for the deposit of any and all moneys and other depositable assets for which such surety is or may be held responsible, with a trust company, safe deposit company or bank, authorized by law to transact business as such in this state, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys and assets or any part thereof except with the written consent of such surety or an order of the court made on such notice to them as such court may direct.

HISTORY: CL 1897, 5201;—CL 1915, 9224;—CL 1929, 12419;—CL 1948, 550.106.

550.107 Release from liability; procedure.

Sec. 7. Such surety or the representative of any such surety upon the bond of any trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary may apply by petition to the court wherein such bond is filed or which may have jurisdiction of such trustee, conservator, guardian, assignee, receiver, executor or administrator, or to a judge of said court praying to be relieved from such liability as such surety, for the acts or omissions of the trustee, conservator, guardians, assignee, receiver, executor or administrator or other fiduciary which may occur after the date of the order relieving such surety, to be granted as herein provided for, and to require such trustee, conservator, guardian, assignee, receiver, executor or administrator, or other fiduciary, to show cause why he should not account, and such surety be relieved from such future liability as aforesaid, and such principal be required to give a new bond, and thereupon, upon the filing of such petition, the court in term time, or a judge thereof in vacation, shall issue an order to show cause, returnable at such time and place and to be served in such manner as such court or judge may direct, and may restrain such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary from acting, except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond, duly approved, then such court or judge may make an order releasing such surety, filing the petition as aforesaid, from liability upon the bond for any subsequent acts or defaults of such principal, and in default of such principal thus accounting and filing such new bond, such court or judge must make an order, directing such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary, to account in due form of law, and that if the trust fund or estate shall be satisfactorily accounted for and delivered or properly secured, such surety shall be discharged from any and all further liability as such, for the subsequent acts or omissions of the trustee, conservator, guardian, assignee, receiver, executor or administrator, or other fiduciary, after the date of such

surety being so relieved and discharged, and discharging such trustee, conservator, assignee, receiver, executor or administrator, or other fiduciary.

HISTORY: CL 1897, 5202;—CL 1915, 9225;—CL 1929, 12420;—CL 1948, 550.107.

550.108 Trust execution expense; surety bond fee inclusion.

Sec. 8. That any receiver, assignee, guardian, conservator, trustee, executor or administrator, or other fiduciary, required by law or the order of any court or judge to give a bond as such, may include, as a part of the lawful expense of executing his trust, such reasonable sum paid a company authorized under this act so to do, for becoming his surety on such bond, as may be allowed by the court in which he is required to account, or a judge thereof, not exceeding, however, 1 per centum per annum of the amount of such bond; and in all actions or proceedings the party entitled to recover costs or disbursements may include therein such reasonable sum as may have been paid such company for executing or guaranteeing any bond, undertaking, recognizance or other obligation therein.

HISTORY: CL 1897, 5203;—CL 1915, 9226;—CL 1929, 12421;—CL 1948, 550.108.

550.109 Surety company; denial of corporate power.

Sec. 9. That no company, having signed such a bond, undertaking or obligation, shall be permitted to deny its corporate power to execute such instrument or incur such liability in any proceedings to enforce liability thereunder.

HISTORY: CL 1897, 5204;—CL 1915, 9227;—CL 1929, 12422;—CL 1948, 550.109.

Sec. 10. (This was a repeal section.)

HISTORY: CL 1897, 5204n;—CL 1915, 9228;—CL 1929, 12423;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

550.111 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided for filing by sureties with state treasurer as condition precedent to renewal of annual certificate of annual statement of guarantees and bonds issued.

550.151, 550.152, 550.201-550.213 Repealed. 1956, p. 670, Act 218, Eff. Jan. 1, 1957.

Sections related to mutual insurance companies' approval fee and uniform insurers' liquidation, rehabilitation, reorganization or conservation act.

Act 143, 1935, p. 221; Imd. Eff. Jun. 4.

AN ACT relative to the payment of the unpaid balance owed by an insurance agent to an insurance company taken over by the commissioner of insurance or in the hands of a receiver; to authorize as a set-off thereof damages incurred to the business of any such agent on account of the taking over by the commissioner of insurance of such insurance company, or of the placing of same into the hands of a receiver; and to declare the effect of this act.

The People of the State of Michigan enact:

550.231 Office agent of insurance company taken over by insurance commissioner or receiver; off-set for damages.

Sec. 1. Any insurance agent, who has been the office agent of an insurance company taken over by the commissioner of insurance or an insurance company in the hands of a receiver, may off-set against any balance unpaid and owing such insurance company the damages resulting to such agent, and his insurance business, due to the taking over of such company by the commissioner of insurance or the placing of such company in the hands of a receiver.

HISTORY: CL 1948, 550.231.

550.232 Applicability of act.

Sec. 2. The provisions of this act shall apply to any balances unpaid and owing any such insurance companies at the time this act shall take effect, as represented in moneys uncollected by the agent and moneys collected by the agent and deposited in banks now closed, and shall apply to all actions at law or in equity to recover said unpaid balances which are pending in the courts of this state at the time this act shall take effect.

HISTORY: CL 1948, 550.232.

550.233 Construction of act.

Sec. 3. This act shall be construed as supplemental to the existing laws of this state governing insurance companies and insurance agents, and insofar as inconsistent shall supersede said laws.

HISTORY: CL 1948, 550.233.

Act 108, 1939, p. 192; Imd. Eff. May 17.

AN ACT to provide for and to regulate the incorporation of non-profit medical care corporations; to provide for the supervision and regulation of such corporations by the state commissioner of insurance; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

550.301 Declaration of policy; intent of act.

Sec. 1. It is the purpose and intent of this act, and the policy of the legislature, to promote a wider distribution of medical care and to maintain the standing and promote the progress of the science and art of medicine in this state.

HISTORY: CL 1948, 550.301.

CITED IN OTHER SECTIONS: Sections 550.301 to 550.316 are cited in § 550.353.

550.302 Non-profit medical care plan incorporators; supervision; inapplicability of statutes.

Sec. 2. Any number of persons not less than 7, all of whom shall be residents of the state, may form a corporation, under and in conformity with the provisions of this act, for the purpose of establishing, maintaining and operating a voluntary nonprofit medical care plan, whereby medical care is provided at the expense of such corporation to such persons or groups of persons as shall become subscribers to such plan, under contracts which will entitle each such subscriber to definite medical and surgical care, appliances and supplies, by licensed and registered doctors of medicine, doctors of surgical chiropody or podiatry, or doctors of chiropractic, in their offices, in hospitals, and in the home. Such other benefits may be added from time to time as the corporation may determine, with the approval of the commissioner of insurance. No contract by or on behalf of any nonprofit medical care corporation shall provide for the payment of any cash or other material benefit by that corporation to the subscriber or his estate on account of death, illness or injury, nor be in any way related to the payment of any such benefit by any other agency. Medical care shall not be construed to include hospital service.

Any such nonprofit medical care corporation shall be subject to regulation and supervision by the commissioner of insurance as hereinafter provided. Any nonprofit medical care corporation shall not be subject to the laws of this state with respect to insurance corporations or with respect to corporations except as provided in this act governed by the corporation laws, and no nonprofit medical care corporation may be incorporated in this state except under and in accordance with the provisions of this

act. The provisions of sections 117 to 132 of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.117 to 450.132 of the Compiled Laws of 1948, shall be applicable to all corporations formed under or governed by this act, except as herein otherwise specifically provided.

HISTORY: CL 1948, 550.302;—Am. 1965, p. 682, Act 346, Imd. Eff. Jul. 23;—Am. 1970, p. 676, Act 251, Imd. Eff. Dec. 31.

550.303 Articles of association; contents.

Sec. 3. The persons so associating shall subscribe to articles of association which shall contain:

First, The names of the associates, and their places of residence;

Second, The location of the principal office for the transaction of business in this state;

Third, The name by which the corporation shall be known, such name not to include the words insurance, casualty, surety, health and accident, mutual or other words descriptive of the insurance or surety business, and such name shall not be sufficiently similar to that of any insurance or surety company doing business in this or other states at the time of incorporation, to tend to create confusion in identity therewith, in the judgment of the commissioner of insurance;

Fourth, The purposes of the corporation;

Fifth, The term of existence of the corporation, which shall be for 30 years, or any multiple of 30 years, or in perpetuity;

Sixth, The time for the holding of the annual meeting of the corporation;

Seventh, Any terms and conditions of membership therein which the incorporators may have agreed upon, and which they may deem it important to have set forth in said articles;

Eighth, Any other terms and conditions, not inconsistent with the provisions of this act, necessary for the conduct of the affairs of the corporation.

HISTORY: CL 1948, 550.303.

550.304 Articles of association; form, approval, filing fee, amendment.

Sec. 4. Such articles shall be acknowledged by the persons signing the same before some officer of this state authorized to take acknowledgments of deeds, who shall append thereto his certificate of acknowledgment. All such articles shall be in triplicate and upon proper forms as prescribed by the commissioner of insurance. Before said articles of association shall be effective for any purpose, the same shall be submitted to the attorney general for his examination, and if found by him to be in compliance with this act, he shall so certify to the commissioner of insurance. Each corporation shall pay to the attorney general for the examination of its articles of association, or any amendments thereto, the sum of \$5.00. Each corporation shall pay to the commissioner of insurance a filing fee for its articles of association, or any amendments thereto, the sum of \$10.00. Such fees shall be covered into the state treasury for the benefit of the general fund.

Any corporation subject to the provisions of this act may, in its discretion, with the approval of the commissioner of insurance, and in the manner provided in its articles, amend its articles of association in any manner not inconsistent with the provisions of this act.

HISTORY: CL 1948, 550.304.

550.305 Articles of association; filing; plan statement; insurance commissioner's investigation and approval; dissolution, liquidation, insurance commissioner's authority.

Sec. 5. The persons so associating, before entering into any contracts or securing any applications of subscribers, shall file in the office of the commissioner of insurance, to—

gether with triplicate copies of the said articles of association with the certificate of the attorney general annexed thereto, a statement showing in full detail the plan upon which it proposes to transact business, a copy of by-laws, a copy of contracts to be issued to subscribers, a copy of its prospectus, and proposed advertising to be used in the solicitation of contracts of subscribers. The commissioner of insurance shall examine the statements and documents so presented to him by the persons so associating, and shall have the power to conduct any investigation which he may deem necessary, and to hear such incorporators, and to examine under oath any persons interested or connected with the said proposed corporation. If, in the opinion of the commissioner of insurance, the incorporation or solicitation of contracts would work a fraud upon the persons so solicited, he shall have authority to refuse to license the said corporation to proceed in the organization and promotion of the association. If, upon examination of the said articles of association, the documents and instruments above mentioned, and such further investigation as the commissioner of insurance shall make, he is satisfied that (a) the solicitation of subscriptions would not work a fraud upon the persons so solicited; (b) the rates to be charged and the benefits to be provided are fair and reasonable; (c) the amount of money actually available for working capital is sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of issuance of the certificate of authority, and is not less than the sum of \$10,000.00; (d) the amounts contributed as the working capital of the corporation are repayable only out of surplus earnings of such corporation, and (e) adequate and reasonable reserves to insure the maturity of the contracts are provided, he shall return to such incorporators 1 copy of such articles of association, certified for filing with the county clerk of the county in which said corporation proposes to maintain its principal business office, and 1 copy to be certified by the commissioner of insurance for the records of the corporation itself, and shall retain 1 copy for his office files, and he shall deliver to such corporation a certificate of authority to commence business and issue contracts entitling subscribers to definite medical and surgical care, which contracts have been approved by him.

The said commissioner of insurance shall have power and authority, at any time to revoke, after reasonable notice and hearing, any certificate, order or consent made by him to the said corporation, to proscribe applications for membership, upon being satisfied that the further solicitation of subscribers will work a fraud upon the persons so solicited, and he shall have authority to make such investigation from time to time as he may deem best, and grant hearings to such incorporators in their relation thereto. The commissioner of insurance shall have the same authority in respect to taking over and/or liquidating corporations formed and/or doing business under this act as is provided by chapter 3 of part 1 of Act No. 256 of the Public Acts of 1917, as amended.

Any dissolution or liquidation of a corporation subject to the provisions of this act shall be conducted under the supervision of the commissioner of insurance, who shall have all power with respect thereto granted to him under the provisions of law with respect to the dissolution and liquidation of insurance companies.

HISTORY: CL 1949, 550.305.

NOTE: Ch. 3, pt. 1, Act 256, 1917, above referred to, is Compilers' repealed § 503.1 et seq. See § 500.7800 et seq.

550.306 Insurance commissioner; investigation, examination powers; records access; witnesses' examination; expense.

Sec. 6. The commissioner of insurance, or any deputy or examiner or any other person whom he shall appoint, shall have the power of visitation and examination into the affairs of any such corporation and free access to all of the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath, to examine its officers, agents or employes or any other persons having knowledge of the affairs, transactions and conditions of the corporation. The

per diem, traveling and other necessary expenses in connection therewith shall be paid by the corporation.

HISTORY: CL 1948, 550.306.

550.307 Annual report; contents, filing; failure to file, suspension.

Sec. 7. Each such corporation shall annually on or before the first day of March of each year file in the office of the commissioner of insurance a sworn statement verified by at least 2 of the principal officers of said corporation showing its condition on the thirty-first day of December, then next preceding, which shall be in such form and shall contain such matters as the commissioner of insurance shall prescribe. In case any such corporation shall fail to file any such annual statement as herein required, the said commissioner of insurance shall be authorized and empowered to suspend the certificate of authority issued to such corporation until such statement shall be properly filed.

HISTORY: CL 1948, 550.307.

550.308 Non-profit medical care corporation; board of directors; membership representation, approval.

Sec. 8. The board of directors of a non-profit medical care corporation shall have representation from the public and the medical profession of the state: Provided, That a majority of the directors shall be at all times persons approved by the officers of the medical profession duly organized to promote state-wide the science and art of medicine.

HISTORY: CL 1948, 550.308.

550.309 Benefits; articles of association or by-laws; limitation, classification; residence.

Sec. 9. A medical care corporation may, in its discretion, by its articles of association or its by-laws limit the benefits that it will furnish, and may divide such benefits as it elects to furnish into classes or kinds. In the absence of any such limitation or division of service, a non-profit medical care corporation shall be authorized to provide both general and special medical and surgical care benefits, including such service as may be necessarily incident to such medical care. A medical care corporation may, in its discretion, limit the issuance of contracts to residents of counties as specified by the by-laws.

HISTORY: CL 1948, 550.309.

550.310 Physician or surgeon; right of subscriber to choose; registration; penalty for influencing choice.

Sec. 10. Each doctor of medicine, licensed and registered under Act No. 237 of the Public Acts of 1899, as amended, being sections 338.51 to 338.59 of the Compiled Laws of 1948, or each doctor of surgical chiropody or podiatry licensed and registered under Act No. 115 of the Public Acts of 1915, as amended, being sections 338.301 to 338.308a of the Compiled Laws of 1948, or each doctor of chiropractic licensed and registered under Act No. 145 of the Public Acts of 1933, as amended, being sections 338.151 to 338.159 of the Compiled Laws of 1948, practicing legally in this state shall have the right to register with the corporation for general or special medical care. A nonprofit medical care corporation shall impose no restrictions on the doctors of medicine or surgical chiropody or podiatry, or chiropractic, who treat its subscribers as to methods of diagnosis or treatment. The private physician-patient relationship shall be maintained and the subscriber shall at all times have free choice of doctor of medicine or surgical chiropody or podiatry, or doctors of chiropractic. Any employee, agent, officer or member of the board of directors of any such corporation who shall influence or attempt to influence any person in the choosing and selecting of his own phy-

sician, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 550.310;—Am. 1965, p. 682, Act 346, Imd. Eff. Jul. 23;—Am. 1970, p. 676, Act 251, Imd. Eff. Dec. 31.

550.311 Reserve to be maintained by corporation; insurance commissioner's authority; funds, investment.

Sec. 11. A non-profit medical care corporation shall, before beginning business, and at all times thereafter while engaged in business, maintain reserves in such form and amount as the commissioner of insurance may determine. Provided, That the funds of any such corporation shall be invested only in securities permitted by the laws of this state for the investment of assets of life insurance companies.

HISTORY: CL 1948, 550.311.

550.312 Medical care; furnished by physicians and surgeons only.

Sec. 12. All medical care rendered on behalf of a nonprofit medical care corporation shall be in accordance with the accepted medical practice in the community at all times.

A nonprofit medical care corporation shall not furnish medical care otherwise than through doctors of medicine, or surgical chiropody or podiatry, or doctors of chiropractic licensed and registered under Act No. 237 of the Public Acts of 1899, as amended, or Act No. 115 of the Public Acts of 1915, as amended, or Act No. 145 of the Public Acts of 1933, as amended.

HISTORY: CL 1948, 550.312;—Am. 1965, p. 682, Act 346, Imd. Eff. Jul. 23;—Am. 1970, p. 676, Act 251, Imd. Eff. Dec. 31.

550.313 Needy persons; medical care; governmental, private agencies, corporations subscriptions.

Sec. 13. Each non-profit medical care corporation may, in its discretion, receive and accept from governmental agencies payments covering all or part of the cost of subscriptions to provide medical care for needy persons. Each non-profit medical care corporation may in its discretion receive and accept from private agencies, corporations, associations, groups, or individuals, payments covering all or part of the cost of subscriptions to provide medical care for needy and other persons. All contracts for medical care shall be between the medical care corporation and the person to receive such care.

HISTORY: CL 1948, 550.313.

550.314 Corporation immunity from certain suits.

Sec. 14. No action at law based upon or arising out of the physician-patient relationship shall be maintained against a non-profit medical care corporation.

HISTORY: CL 1948, 550.314.

550.315 Taxation; corporation assets exempt.

Sec. 15. Each corporation subject to the provisions of this act is hereby declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation by the state, or any political subdivision thereof.

HISTORY: CL 1948, 550.315.

550.316 Violation of act; misdemeanor.

Sec. 16. Any person, or any agent or officer of a corporation, who violates any of the provisions of this act, or who shall make any false statement with respect to any report or statement required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 550.316.

Sec. 17. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 125, 1963, p. 172; Eff. Sep. 6.

AN ACT to provide for the incorporation, supervision and regulation of nonprofit dental care corporations; to prescribe the functions of the commissioner of insurance as to such corporations; and to prescribe penalties for violations of this act.

The People of the State of Michigan enact:

550.351 Nonprofit dental care corporations; formation; statutes applicable.

Sec. 1. Any number of persons, not less than 3, all of whom shall be residents of this state may form a nonprofit corporation, under and in conformity with the provisions of this act, for the purpose of establishing, maintaining and operating nonprofit dental care plans by which professional dental services are provided at the expense of such corporation to persons who become subscribers to such plans under contracts which entitle the subscribers to certain professional dental services by dentists licensed under Act No. 122 of the Public Acts of 1939, as amended, being sections 338.201 to 338.221 of the Compiled Laws of 1948.

Sections 117 to 132 of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.117 to 450.132 of the Compiled Laws of 1948, are applicable to all corporations formed under this act, except as herein otherwise specifically provided.

HISTORY: New 1963, p. 172, Act 125, Eff. Sep. 6.

550.352 Subscriber contract payment regulations; prohibited provisions.

Sec. 2. No contract shall provide for the payment of any cash or other material benefits to a subscriber or to his estate on account of death, illness or injury, or be in any way related to the payment of any such benefit by any other agency.

HISTORY: New 1963, p. 173, Act 125, Eff. Sep. 6.

550.353 Supervision by insurance commissioner; incorporation procedures.

Sec. 3. A nonprofit dental care corporation is subject to regulation and supervision by the commissioner of insurance as hereinafter provided. Any law of this state now or hereafter in force relating to insurance or corporations engaged in the business of insurance shall not apply unless such law specifically, in exact terms, applies to nonprofit dental care corporations. A nonprofit dental care corporation may not be incorporated in this state except under the provisions of this act, but nothing herein contained limits the corporations formed under Act No. 108 of the Public Acts of 1939, being sections 550.301 to 550.316 of the Compiled Laws of 1948, in providing care to subscribers.

HISTORY: New 1963, p. 173, Act 125, Eff. Sep. 6.

550.354 Articles of incorporation; contents.

Sec. 4. Any persons associating as a nonprofit dental care corporation shall qualify under this act by subscribing to and filing articles of incorporation as provided in section 5. The articles shall contain:

- (a) The names of the incorporators and their places of residence.
- (b) The location of the principal office of the corporation for the transaction of business in this state.
- (c) The name by which the corporation shall be known, which shall not include the words insurance, casualty, surety, health and accident, mutual or other words descriptive of the insurance or surety business. The corporation shall not assume any name likely to mislead the public, or any name already in use by another existing corporation of this state, or corporation lawfully carrying on business in this state, or so nearly similar thereto as to lead to confusion or deception.

- (d) The purposes of the corporation.
- (e) The term of existence of the corporation, which shall be for not more than 30 years.
- (f) The time for holding the annual meeting of members of the corporation.
- (g) Any terms and conditions of membership in the corporation which the incorporators wish set forth in the articles.
- (h) Any other terms and conditions, not inconsistent with the provisions of this act, necessary for the conduct of the affairs of the corporation.

HISTORY: New 1963, p. 173, Act 125, Eff. Sep. 6.

550.355 Articles of incorporation; execution, filing, fee, approval, amendment.

Sec. 5. The articles shall be acknowledged before a notary public of this state by at least 1 of the persons signing them. The articles shall be filed in triplicate in the form prescribed by the commissioner of insurance. A corporation shall pay to the commissioner a \$10.00 fee for filing its articles or any amendments. The fees shall be paid into the state treasury to the credit of the general fund.

If the commissioner approves the corporation, he shall return to the incorporators 1 copy of the articles certified for filing with the county clerk of the county in which the corporation proposes to maintain its principal business office, and 1 copy certified by the commissioner for the records of the corporation, and he shall retain 1 copy for his office files.

A corporation, with the approval of the commissioner and in the manner provided in its articles, may amend its articles in any manner not inconsistent with this act.

HISTORY: New 1963, p. 173, Act 125, Eff. Sep. 6.

550.356 Contracts; statement to insurance commissioner; contents, examination.

Sec. 6. Before a corporation shall enter into or solicit contracts to provide dental services at the expense of such corporation to persons who shall become subscribers, it shall file a statement with the commissioner of insurance showing in full detail:

- a) The plan on which it proposes to transact business.
- b) A copy of its bylaws.
- c) A copy of the contract to be issued to subscribers.
- d) A copy of its prospectus and advertising proposed to be used in the solicitation of contracts and subscribers.

The commissioner shall examine the statements and the documents so filed with him, and may conduct any investigation he deems necessary, and examine under oath any persons interested in or connected with the proposed corporation. If in the opinion of the commissioner the incorporation or solicitation of contracts would work a fraud upon the persons so solicited, he may refuse to license the corporation.

HISTORY: New 1963, p. 174, Act 125, Eff. Sep. 6.

550.357 Certificate of authority to commence business and issue contracts; requirements.

Sec. 7. If the commissioner is satisfied that:

- (a) The solicitation of subscriptions would not work a fraud upon the persons so solicited,
- (b) The rates to be charged and the benefits to be provided are fair and reasonable,
- (c) The amount of money available for working capital is not less than \$5,000.00,
- (d) The amounts contributed as the working capital of the corporation are repayable only out of surplus earnings of such corporation,

(e) Adequate and reasonable reserves to insure the maturity of the contracts are provided,

he shall issue and deliver to the corporation a certificate of authority to commence business and issue contracts under this act.

HISTORY: New 1963, p. 174, Act 125, Eff. Sep. 6.

550.358 Certificate of authority; revocation; liquidation.

Sec. 8. The commissioner of insurance, after reasonable notice and hearing, may revoke a certificate, order or consent, made by him and forbid applications for membership, upon being satisfied that further solicitation of subscribers would work a fraud upon the persons so solicited. He may make such investigations from time to time as he deems best and grant hearings to the incorporators. He shall have the same authority in respect to taking over or liquidating a corporation formed or doing business under this act as is provided by chapter 78 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.7800 to 500.7868 of the Compiled Laws of 1948.

A dissolution or liquidation of a corporation shall be conducted under the supervision of the commissioner, who shall have the same power with respect thereto as granted to him under provisions of the law for the dissolution and liquidation of insurance companies.

HISTORY: New 1963, p. 174, Act 125, Eff. Sep. 6.

550.359 Corporation examination by insurance commissioner; expenses.

Sec. 9. The commissioner of insurance, or any deputy, examiner or other person whom he shall appoint, may visit and examine into the affairs of a corporation and have free access to all of the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath, and examine its officers, agents, employees or other persons having knowledge of its affairs, transactions and conditions. Per diem, travel and other necessary expenses in connection therewith shall be paid by the corporation.

HISTORY: New 1963, p. 174, Act 125, Eff. Sep. 6.

550.360 Annual statement; filing.

Sec. 10. A corporation, annually on or before March 1 of each year, shall file in the office of the commissioner of insurance a sworn statement verified by at least 2 of its principal officers showing its condition on the preceding December 31, which shall be in such form and contain such matters as the commissioner shall prescribe. If a corporation fails to file such annual statement, the commissioner may suspend the certificate of authority issued to the corporation until such statement shall be properly filed.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.361 Dental care services performed out of state; payment.

Sec. 11. A dental care corporation may provide dental services to persons domiciled outside the state who are eligible under contracts entered into under section 19. If a subscriber regularly domiciled within the state or his dependent entitled to dental services, employs dental services within the meaning of this act while absent from the state, the corporation to which he is a subscriber, if satisfied as to the necessity of such services and that the subscriber would have been entitled to such services under similar circumstances in this state, may pay to the dentist who renders the services such fees and charges as would have been payable if services had been rendered in this state. Operations of the corporation without the state are subject at all times to the provisions of this act.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.362 Dental care service contracts; preliminary requirements; payments.

Sec. 12. A dental care corporation before entering into a contract with an applicant or group of applicants for dental services may require:

(a) A physical examination of the applicant and each of his dependents and proof of their substantial freedom from any disease or condition requiring immediate dental service.

(b) A reasonable waiting period after a contract is entered into before the subscriber is entitled to dental service.

(c) Payment by or for the subscriber of the stated fee for dental services for the care of any given illness, injury or other condition requiring dental service.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.363 Dental care corporation; board of directors; membership, qualifications.

Sec. 13. The board of directors of a dental care corporation shall consist of not more than 25 members and shall have representation from the general public and from among the various classes of subscribers enumerated in section 19 of this act and from the Michigan state dental association or its successor, but at least 40 per cent and not more than 60% of the directors shall be duly licensed dentists who are approved by the Michigan state dental association or its successor.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.364 Contract limitations; service classes; county residents.

Sec. 14. A dental care corporation, by its articles of incorporation or bylaws, may limit the care that it will furnish, and may divide such care as it elects to furnish into classes or kinds. A corporation by its bylaws may limit the issuance of contracts to residents of certain counties.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.365 Dentists; eligibility; agreements with corporation.

Sec. 15. A licensed dentist in this state is eligible to render professional services to subscribers upon compliance with uniform requirements prescribed by the dental care corporation. At least one fourth of the licensed dentists resident and practicing in this state shall execute and maintain agreements with the corporation to render dental care to the subscribers of the corporation in order for the corporation to qualify and continue operating under this act.

HISTORY: New 1963, p. 175, Act 125, Eff. Sep. 6.

550.366 Subscriber-dentist relationship; corporation's register.

Sec. 16. The relation between a subscriber or any of his dependents and a dentist shall be identical with the relation that ordinarily exists in the community between a dentist and his patient. A dental care corporation, its officers, agents or employees shall not interfere with or influence a patient's choice of his dentist, but a corporation may refuse to place the name of a dentist upon its register or remove the name of a dentist from its register, after due notice and hearing for cause satisfactory to the corporation.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.367 Reserve funds; maintenance; investment.

Sec. 17. A dental care corporation, before beginning business and at all times while engaged in business, shall maintain reserves in such form and amount as the commissioner of insurance may determine. Reserve funds shall be invested only in securities permitted by the laws of this state for the investment of assets of life insurance companies.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.368 Accepted dental practice; corporations.

Sec. 18. Dental care rendered on behalf of a dental care corporation shall be in accordance with the accepted dental practice in the community at all times. A corporation shall not furnish dental care otherwise than through dentists licensed and registered under Act No. 122 of the Public Acts of 1939, as amended, except as provided under section 10 hereof.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.369 Dental care; payment; contracts.

Sec. 19. A dental care corporation may receive and accept from governmental or private agencies, corporations, associations, groups or individuals payments covering all or part of the costs of subscriptions to provide dental care for needy and other persons. Contracts for dental care shall be between the corporation and the person to receive such care.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.370 Dentist-patient relationship; civil actions.

Sec. 20. A civil action based upon or arising out of the dentist-patient relationship shall not be maintained against a dental care corporation.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.371 Previously existing corporations merger; agreement, approval.

Sec. 21. A nonprofit corporation heretofore incorporated under Act No. 327 of the Public Acts of 1931, as amended, engaged in operations prior to the effective date of this act and offering dental care contracts to persons or groups by the terms of which contracts dental services by licensed dentists are made available to such persons or groups at the expense of such persons or groups, or at the expense of others on their behalf, under an agreed-upon fee schedule, may be merged into a dental care corporation organized under this act under such terms as shall be specified in an agreement of merger. The corporation organized under this act is the surviving corporation. A majority of directors or trustees of each corporation desiring to merge, may enter into and sign the agreement, under the corporate seals of the corporations, prescribing the terms and conditions of merger and the mode of carrying the same into effect. The agreement shall also state such other facts required or permitted by Act No. 327 of the Public Acts of 1931, as amended, as it applies to nonprofit corporation articles in the case of a merger, stated in such altered form as the circumstances of the case required. It shall also state the manner of converting the shares or memberships of each of the constituent corporations into shares or memberships of the surviving corporation, with such other details and provisions as are deemed necessary, including provisions as to conversion of contracts with subscribers. No vote or consent shall be required of the members or shareholders of either of the corporations and no notice need be given or published as otherwise required by the laws of this state relating to merger of corporations. The agreement shall be effective upon the date of its approval by and filing with the commissioner of insurance and filing by the Michigan corporation and securities commission, whichever is later.

HISTORY: New 1963, p. 176, Act 125, Eff. Sep. 6.

550.372 Dental care corporations; tax exemption.

Sec. 22. A corporation subject to the provisions of this act is declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation by the state, or any political subdivision.

HISTORY: New 1963, p. 177, Act 125, Eff. Sep. 8.

550.373 False statement; penalty.

Sec. 23. Any person, or any agent or officer of a corporation, who violates any of the provisions of this act or who makes a false statement with respect to any report or statement required by this act is guilty of a misdemeanor.

HISTORY: New 1963, p. 177, Act 125, Eff. Sep. 8.

Act 109, 1939, p. 196; Imd. Eff. May 17.

AN ACT to provide for and to regulate the incorporation of non-profit hospital service corporations; to provide for the supervision and regulation of such corporations by the state commissioner of insurance; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

550.501 Non-profit hospital plan; incorporators; supervision; inapplicability of statutes.

Sec. 1. Any number of persons, not less than 7, may form a corporation, under and in conformity with the provisions of this act, for the purpose of establishing, maintaining and operating a non-profit hospital service plan, whereby hospital service may be provided by any hospital or group of hospitals with which such corporation has a contract for such purpose, to such of the public as become subscribers to said plan under a contract with such corporation which entitles each subscriber to certain hospital care. Any such non-profit hospital service corporation shall be subject to regulation and supervision by the commissioner of insurance, as hereinafter provided. Any such non-profit hospital service corporation shall not be subject to the laws of this state with respect to insurance corporations except as provided in this act or with respect to general corporations governed by the corporation laws, and no such non-profit hospital service corporation may be incorporated in this state except under and in accordance with the provisions of this act: Provided, however, That the provisions of sections 117 to 132, inclusive, of Act No. 327 of the Public Acts of 1931, as amended, and as hereafter amended, shall be applicable to all corporations formed under or governed by this act, except as herein otherwise specifically provided.

Nothing in this act shall be construed so as to permit a hospital or other corporation to engage in the practice of medicine in violation of Act No. 237 of the Public Acts of 1899, as amended, being sections 6737 to 6747, inclusive, of the Compiled Laws of 1929, or to engage in the practice of osteopathy in violation of Act No. 162 of the Public Acts of 1903, as amended, being sections 6757 to 6764, inclusive, of the Compiled Laws of 1929, and Act No. 184 of the Public Acts of 1935, as amended, or to contract to furnish the services of a physician for subscribers.

The term "subscriber" may include dependents, such as spouse, children, and others, as set forth in the contract between the corporation and the subscriber. A subscriber to a plan under the provisions of this act shall not thereby be considered a member of the corporation.

HISTORY: Am. 1941, p. 490, Act 277, Eff. Jan. 10, 1942;—CL 1948, 550.501.

ACTS. SECS. 117-132, Act 327, 1931, above referred to, are Compilers' §§ 450.117-450.132. Act 237, 1899, is Compilers' § 338.51 et seq. Act 162, 1903, is Compilers' § 338.101 et seq. Act 184, 1935, contains amendments to Compilers' § 338.101 et seq.

550.502 Hospital service corporation; board of directors; members, terms; property management.

Sec. 2. The property and lawful business of the corporation shall be held and managed by a board of trustees or directors with such powers and authority as shall be necessary to the complete execution of the purposes of each such corporation as limited by the articles or the by-laws duly made. No such board shall be less than 9 in number and the participating hospitals, the physicians as registered under Act No. 237 of the Public Acts of 1899 or by Act No. 162 of the Public Acts of 1903, as amended, and the public shall each be represented on such board. Each such trustee or director shall be elected for 1 year unless a longer term is prescribed in the articles or the by-laws.

HISTORY: CL 1948, 550.502.

REFERENCES: See note under Sec. 1.

550.503 Hospitals with which contracts may be made; obligation of hospitals to subscribers; rates.

Sec. 3. Any such corporation may enter into contracts for the rendering of hospital service to any of its subscribers only with hospitals maintained by the state, or any of its political subdivisions, or the board of regents of the university of Michigan, or maintained by a non-profit corporation organized for hospital purposes. All contracts issued by such corporation to the subscribers shall constitute direct obligations of the hospital or hospitals with which such corporation has contracted for hospital service. The rates charged to the subscribers for hospital service, and the rates of payment by such corporation to the contracting hospitals, shall at all times be subject to the approval of the commissioner of insurance.

HISTORY: Am. 1941, p. 481, Act 277, Eff. Jan. 10, 1942;—CL 1948, 550.503.

550.504 Articles of association; contents.

Sec. 4. The persons so associating shall subscribe to articles of association which shall contain:

First, The names of the associates, and their places of residence;

Second, The location of the principal office for the transaction of business in this state;

Third, The name by which the corporation shall be known, such name not to include the words insurance, casualty, surety, health and accident, mutual or other words descriptive of the insurance or surety business, and such name shall not be sufficiently similar to that of any insurance or surety company doing business in this or other states at the time of incorporation, to tend to create confusion in identity therewith, in the judgment of the commissioner of insurance;

Fourth, The purposes of the corporation;

Fifth, The term of existence of the corporation, which shall be for 30 years, or any multiple of 30 years, or in perpetuity;

Sixth, Any terms and conditions of membership therein which the incorporators may have agreed upon, and which they may deem important to have set forth in said articles;

Seventh, Any other terms and conditions, not inconsistent with the provisions of this act, necessary for the conduct of the affairs of the corporation.

HISTORY: CL 1948, 550.504.

550.505 Articles of association; form, approval, filing fee; amendment.

Sec. 5. Such articles shall be acknowledged by the persons signing the same before some officer of this state authorized to take acknowledgments of deeds, who shall append thereto his certificate of acknowledgment. All such articles shall be in triplicate and upon proper forms as prescribed by the commissioner of insurance. Before said ar-

articles of association shall be effective for any purpose, the same shall be submitted to the attorney general for his examination, and if found by him to be in compliance with this act, he shall so certify to the commissioner of insurance. Every non-profit hospital service corporation shall pay to the attorney general for the examination of its articles of association, or any amendments thereto, the sum of \$5.00. Every corporation shall pay to the commissioner of insurance a filing fee for filing its articles of association, as hereinafter provided, or any amendments thereto, the sum of \$10.00. Such fees shall be covered into the state treasury for the benefit of the general fund.

Any corporation subject to the provisions of this act, may, with the approval of the attorney general and the commissioner of insurance, amend its articles of association by the vote of a majority of the members of the corporation entitled to vote.

HISTORY: CL 1948, 550.505.

550.506 Articles of association; plan statement; insurance commissioner, investigation, approval; certificate revocation; contracts with hospitals.

Sec. 6. The persons so associating, before entering into any contracts or securing any applications of members, shall file in the office of the commissioner of insurance, together with triplicate copies of the said articles of association with the certificate of the attorney general annexed thereto, a statement showing in full detail the plan upon which it proposes to transact business, a copy of all proposed contracts between the corporation and participating hospitals, a copy of by-laws, a copy of contracts to be issued to subscribers, a copy of its prospectus, and proposed advertising to be used in the solicitation of contracts of members. The commissioner of insurance shall examine the statements and documents so presented to him by the persons so associating, and shall have the power to conduct any investigation which he may deem necessary, and to hear such incorporators, and to examine under oath any persons interested or connected with the said proposed corporation. If, in the opinion of the said commissioner of insurance, the incorporation or solicitation of contracts for service would work a fraud upon the persons so solicited, he shall have authority to refuse to license the said corporation to proceed in the organization and promotion of the association. If, upon examination of the said articles of association, the documents and instruments above mentioned, and such further investigation as the said commissioner of insurance shall make, he is satisfied that (a) the subscriptions to membership or for hospital service contracts would not work a fraud upon the persons so solicited to become purchasers of hospital service contracts; (b) the rates to be charged and the benefits to be provided are fair and reasonable; (c) the amount of money actually available for working capital is sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the certificate of authority, and is not less than the sum of \$10,000.00; (d) the amounts contributed as the working capital of the corporation are repayable only out of earned surplus; and (e) adequate and reasonable reserves to insure the maturity of the contracts are provided, he shall return to such incorporators 1 copy of such articles of association certified for filing with the county clerk of the county in which said corporation proposes to maintain its principal business office, and 1 copy to be certified by the commissioner of insurance for the records of the corporation itself, and shall retain 1 copy for his office files, and he shall then issue a certificate authorizing said incorporators to proceed with the organization.

The commissioner of insurance shall have power and authority, at any time, to revoke any certificate, order or consent made by him to the said corporation, to prescribe applications for membership, upon being satisfied that the further solicitation of members will work a fraud upon the persons so solicited, and he shall have authority

to make such investigation from time to time as he may deem best, and grant hearings to such incorporators in their relation thereto.

Such contracts for hospital service between the corporation and the participating hospitals shall obligate each hospital particularly to render hospital service to which each subscriber may be entitled under the terms and conditions of the contracts issued to subscribers. Such contracts may provide for furnishing hospital service to subscribers in cases of emergency in hospitals which are not parties thereto.

HISTORY: CL 1948, 550.506.

550.507 Insurance commissioner; authority to investigate and examine, access to records; examination of witnesses; expense.

Sec. 7. The commissioner of insurance, or any deputy or examiner or any other person whom he shall appoint, shall have the power of visitation and examination into the affairs of any such corporation and free access to all of the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath, to examine its officers, agents or employes or any other persons having knowledge of the affairs, transactions and conditions of the corporation. The per diem, traveling and other necessary expenses in connection therewith shall be paid by the corporation.

HISTORY: CL 1948, 550.507.

550.508 Annual report; contents, filing, failure to file, suspension.

Sec. 8. Every such corporation shall annually on or before the first day of March of each year file in the office of the commissioner of insurance a sworn statement verified by at least 2 of the principal officers of said corporation showing its condition on the thirty-first day of December, then next preceding, which shall be in such form and shall contain such matters as the commissioner of insurance shall prescribe. In case any such corporation shall fail to file any such annual statement as herein required, the said commissioner of insurance shall be authorized and empowered to suspend the certificate of authority issued to such corporation until such statement shall be properly filed.

HISTORY: CL 1948, 550.508.

550.509 Reserve requirements; amount; authority of commissioner; fund investment.

Sec. 9. A non-profit hospital service corporation shall, before beginning business, and at all times thereafter while engaged in business, maintain reserves in such form and amount as the commissioner of insurance may determine: Provided, That the funds of any such corporation shall be invested only in securities permitted by the laws of this state for the investment of assets of life insurance companies.

HISTORY: CL 1948, 550.509.

550.510 Subscriptions from governmental and private agencies.

Sec. 10. Each non-profit hospital service corporation may receive and accept lump or per capita sums from governmental or private agencies, associations or groups, in payment of the subscriptions of persons or groups of persons in need of hospital care, who cannot pay the cost of subscription: Provided, That all contracts for hospital service shall be between the corporation or the corporation as agent for the participating hospitals and the persons to receive such service.

HISTORY: CL 1948, 550.510.

550.511 Benefits prohibited; reimbursement for nursing and nonmedical care.

Sec. 11. No contract by or on behalf of any non-profit hospital service corporation shall provide for the payment of any cash or other material benefit by that corporation

to the subscriber or his estate on account of death, illness or injury, nor be in any way related to the payment of any such benefit by any other agency: Provided, however, For cases where persons entitled to hospital service under a contract with such service corporation are unable to obtain admittance to any particular hospital because of lack of facilities or accommodations, such contract may provide a method by which such persons may be reimbursed in whole or in part for the expense of nursing and other non-medical care, restricted to the equivalent of hospital care, required from the illness or injury entitling such person to hospital service.

HISTORY: Am. 1943, p. 373, Act 229, Imd. Eff. April 21;—CL 1948, 550.511.

550.511a Dependent coverage; termination; inapplicability.

Sec. 11a. Any certificate issued by a corporation organized under this act, or by any other similar association or organization providing prepaid hospital care in this state, which provides that coverage of a dependent of the policyholder terminates at a specified age shall not so terminate with respect to an unmarried child who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such policyholder for support and maintenance, if the policyholder within 31 days of the dependent's attainment of the limiting age has submitted proof of the dependent's incapacity.

HISTORY: Add. 1966, p. 396, Act 275, Imd. Eff. Jul. 12.

550.512 Administrative expense; approval.

Sec. 12. All acquisition and administrative expenses in connection with such hospital service plan shall at all times be subject to the approval of the commissioner of insurance.

HISTORY: CL 1948, 550.512.

550.513 Corporation, hospital disputes; insurance commissioner's findings, effect.

Sec. 13. Any dispute arising between a corporation subject to the provisions of this act and any hospital with which such corporation has a contract for hospital service may be submitted to the commissioner of insurance for his decision with respect thereto. Any decisions and findings of the commissioner of insurance made under the provisions of this section shall not be a bar to legal procedure for the settlement of such disputes in a court of competent jurisdiction.

HISTORY: CL 1948, 550.513.

550.514 Dissolution or liquidation; insurance commissioner's authority.

Sec. 14. Any dissolution or liquidation of a corporation subject to the provisions of this act shall be conducted under the supervision of the commissioner of insurance, who shall have all power with respect thereto granted to him under the provisions of law with respect to the dissolution and liquidation of insurance companies.

HISTORY: CL 1948, 550.514.

550.515 Taxation; corporation assets exempt.

Sec. 15. Every corporation subject to the provisions of this act is hereby declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation.

HISTORY: CL 1948, 550.515.

550.516 Violations of act; misdemeanor.

Sec. 16. Any person, or any agent or officer of a corporation, who violates any of the provisions of this act, or who shall make any false statement with respect to any report or statement required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 550.516.

550.517 Previously existing corporations; requirements, article amendments; failure to comply; suspension.

Sec. 17. Every non-profit hospital service corporation heretofore incorporated which if now incorporated would be required to incorporate under and be subject to this act shall hereafter be subject to the provisions of this act without formal reorganization hereunder; and such corporation shall be deemed to exist under this act. Each such corporation, however, within 90 days from the effective date of this act, shall amend its articles of incorporation and by-laws to conform to all of the requirements of this act, and shall, within said period, file with the commissioner of insurance a certified copy of its articles of incorporation and the statement and documents required to be filed in section 6 hereof, and obtain from the commissioner of insurance the certificate of authority provided for in said section 6. If any such corporation fails to comply with the provisions of this section, the commissioner of insurance shall be authorized to issue an order suspending the right and privilege of such corporation to transact further business until such provisions have been fully complied with and a certificate of authority issued. No such corporation shall sell or issue any new contracts to subscribers, from and after the effective date of this act, until all of the requirements of this act have been complied with. The corporate existence of said corporation shall be deemed to be extended and its powers in all other respects undiminished during said maximum period of 90 days.

HISTORY: CL 1948, 550.517.

Sec. 18. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 173, 1958, p. 194; Eff. Sep. 13.

AN ACT to provide for the regulation of credit life insurance and credit accident and health insurance; to define the powers and duties of the state commissioner of insurance; and to provide penalties for violations of this act.

The People of the State of Michigan enact:

550.601 Credit insurance act; short title.

Sec. 1. This act shall be known and may be cited as "credit insurance act".

HISTORY: New 1958, p. 194, Act 173, Eff. Sep. 13.

CITED IN OTHER SECTIONS: Sections 550.601 to 550.624 are cited in § 493.13a.

550.602 Scope of act.

Sec. 2. All life insurance and all accident and health insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this act except such insurance sold in connection with loans on dwellings or mobile homes where the term of the loan is in excess of 5 years.

HISTORY: New 1958, p. 194, Act 173, Eff. Sept. 13;—Am. 1968, p. 153, Act 97, Imd. Eff. Jun. 7.

550.603 Credit insurance act; definitions.

Sec. 3. As used in this act:

1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

2) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

3) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction or any successor to the right, title or interest of any such lender, vendor or lessor.

4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

6) "Commissioner" means state insurance commissioner.

HISTORY: New 1956, p. 194, Act 173, Eff. Sep. 13.

550.604 Credit life insurance, credit accident and health insurance; forms.

Sec. 4. Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

- a) Individual policies of life insurance issued to debtors on the term plan;
- b) Individual policies of accident and health insurance issued to debtors on a term plan or disability provisions in individual policies of credit life insurance;
- c) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
- d) Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability provisions in group life policies to provide such coverage.

HISTORY: New 1956, p. 195, Act 173, Eff. Sep. 13.

550.605 Credit life insurance; amount.

Sec. 5. The amount of credit life insurance shall not exceed the indebtedness. Where indebtedness repayable in substantially equal installments is secured by an individual policy of credit life insurance the amount of insurance shall not exceed the approximate unpaid indebtedness on the date of death and, where secured by a group policy of credit life insurance shall not exceed the exact amount of unpaid indebtedness on such date.

HISTORY: New 1956, p. 195, Act 173, Eff. Sep. 13.

550.606 Periodic indemnity payable.

Sec. 6. The amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness and shall not exceed the original indebtedness divided by the number of periodic installments.

HISTORY: New 1956, p. 195, Act 173, Eff. Sep. 13.

550.607 Term; refund on termination prior to expiration.

Sec. 7. The term of any credit life insurance or credit accident and health insurance shall commence, subject to acceptance by the insurer, on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. The term of such insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity

date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 18.

HISTORY: New 1958, p. 195, Act 173, Eff. Sep. 13.

550.608 Evidence of insurance; policy or certificate delivery.

Sec. 8. All credit life insurance and credit accident and health insurance sold shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

HISTORY: New 1958, p. 195, Act 173, Eff. Sep. 13.

550.609 Policy or certificate; contents.

Sec. 9. Each individual policy or group certificate of credit life insurance, and credit accident and health insurance in addition to other requirements of law, shall set forth the name and home office address of the insurer, and the identity by name or otherwise of the person or persons insured, the amount of payment separately in connection with credit life insurance and credit accident and health insurance if an identifiable charge is made to the debtor, a description of the coverage including any exceptions, limitations or restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.610 Policy or certificate; delivery to debtor.

Sec. 10. The individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.611 Policy or certificate; application, contents.

Sec. 11. If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the rate of premium, or at the option of the creditor or debtor, the amount of payment separately in connection with credit life insurance and credit accident and health insurance coverage, and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement unless the information required by this section is set forth therein. Upon acceptance of the insurance and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that, upon acceptance by the insurer, the insurance shall become effective as of the date the indebtedness is incurred.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.612 Papers filed with commissioner of issuing state.

Sec. 12. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, binder, endorsements and riders shall be filed with the commissioner of the state in which the policy is issued.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.613 Papers filed with commissioner of issuing state; disapproval.

Sec. 13. The commissioner within 30 days after the filing of all policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements and riders, in addition to other requirements of law, may disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.614 Papers filed with commissioner of issuing state; use, hearing, prior written approval.

Sec. 14. If the commissioner notifies the insurer that the form does not comply with this subsection, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, binder, endorsement or rider, shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.615 Papers filed with commissioner of issuing state; withdrawal of approval.

Sec. 15. The commissioner, at any time after a hearing, of not less than 20 days written notice to the insurer, may withdraw his approval of any such form on any of such grounds.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.616 Papers filed with commissioner of issuing state; use after withdrawal of approval.

Sec. 16. It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal of approval.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.617 Papers filed with commissioner of issuing state; judicial review.

Sec. 17. Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.618 Schedule of premium rates; refunds; nonissuance credit.

Sec. 18. Each insurer issuing credit life insurance or credit accident and health insurance shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise such schedules from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by sections 12 to 17. Each individual policy, group certificate or notice of proposed insurance of credit life insurance and credit accident and health insurance

shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium due shall be paid or credited promptly to the person entitled thereto: Provided, however, That the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with the commissioner. If a creditor requires a debtor to make a payment in connection with credit life insurance and credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.619 Policies issuable only by authorized insurers.

Sec. 19. All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.620 Payment of claims; claim files; group insurance claims.

Sec. 20. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; but a group policyholder, by arrangement with the group insurer, may draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.621 Procurement of insurance by debtor.

Sec. 21. When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor, upon request to the creditor, shall have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

HISTORY: New 1958, p. 197, Act 173, Eff. Sep. 13.

550.622 Rules; violation, notice of hearing, finding, order.

Sec. 22. The commissioner, after notice and hearing, may issue such rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as he deems appropriate for the supervision of this act. Whenever the commissioner finds that there has been a violation of this act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. The order shall be binding on the insurer and other person authorized or licensed by

the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.623 Violation; penalty; license or authority, suspension or revocation.

Sec. 23. In addition to any other penalty provided by law, any person who violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state a sum not to exceed the \$250.00 which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed the \$1,000.00. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person guilty of such violation.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

550.624 Effect of act; scope of act.

Sec. 24. This act shall not alter or amend any provision of Act No. 21 of the Public Acts of 1939, as amended, being sections 493.1 to 493.26 of the Compiled Laws of 1948, or permit any premium, contribution or other charge to be collected for credit life or health and accident insurance in connection with loans made by licensees under said act: Provided, however, That if section 13 of said Act No. 21 of the Public Acts of 1939, as amended, is amended to permit licensees to collect premiums from borrowers for credit life insurance or credit health and accident insurance in addition to the maximum rate of charge authorized by said section 13, this act shall apply to licensees as provided by such amendment to section 13.

HISTORY: New 1958, p. 196, Act 173, Eff. Sep. 13.

Act 388, 1913, p. 739; Eff. Aug. 14.

AN ACT to provide for state insurance on state property and against liability arising or that may arise under the provisions of Act No. 10 of the first special session of 1912.

The People of the State of Michigan enact:

550.701 State property insurance; exception; purchase of deductible or catastrophe insurance; premiums, payment.

Sec. 1. No officer or agent of this state and no person or persons having charge of any state owned and state used buildings or property of the state except steam boilers shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning, windstorm, explosion, riot, riot attending a strike, civil commotion, falling aircraft, hail (not to apply to growing crops) and smoke, caused from faulty operation of a heating plant using oil or gas fuel, or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the buildings, furniture, fixtures, or property of any kind whatever belonging to the state, or against any liability arising or that may arise under the provisions of Act No. 10 of the First Extra Session of 1912, as amended, being sections 411.1 to 417.14a of the Compiled Laws of 1948, except in a manner hereinafter provided. If a state agency which has charge of such property determines that state owned properties in a single building represent an abnormal concentration of values, or are without adequate fire protection, or are highly combustible or highly inflammable, the controller, after review, approval or modification of the determination by the state agency, and after approval by the state administrative board, shall arrange for the insurance of the property against the perils above named in companies authorized to operate in the state.

The state administrative board, after such investigation as it deems necessary may direct the controller to call for bids and purchase deductible or catastrophe fire, lightning, windstorm, explosion, riot, riot attending a strike, civil commotion, falling aircraft, hail and smoke insurance, covering any or all state property, with insurance companies duly authorized to do business in the state of Michigan. An amount sufficient to pay the premiums on all insurance authorized to be purchased from private companies under the provisions of this section is appropriated from the applicable fund.

HISTORY: CL 1915, 9268;—CL 1929, 12690;—Am. 1945, p. 538, Act 314, Imd. Eff. May 25;—Am. 1946, 1st Ex. Ses., p. 64, Act 28, Imd. Eff. Feb. 26;—Am. 1947, p. 241, Act 173, Eff. Oct. 11;—Am. 1948, 1st Ex. Ses., p. 97, Act 40, Imd. Eff. May 10;—CL 1948, 550.701;—Am. 1951, p. 249, Act 197, Imd. Eff. Jun. 8;—Am. 1965, p. 719, Act 365, Imd. Eff. Jul. 23.

550.702, 550.703 Repealed. 1965, p. 721, Act 365, Imd. Eff. Jul. 23.

Sections provided for state insurance fund and for investment of moneys therein.

550.704 Loss in case of damage; fixing amount.

Sec. 4. In case any buildings or property of the state other than those insured under the provisions of section 1 shall be damaged by fire, lightning, windstorm, explosion, riot, riot attending a strike, civil commotion, falling aircraft, hail (except growing crops) and smoke, caused from faulty operation of a heating plant using oil or gas fuel the controller, within 30 days or as soon as possible thereafter, shall ascertain and fix the amount of such damage. The ascertained amount of such damage shall in no case be less than the amount necessary to rebuild, repair or replace the property so damaged.

HISTORY: CL 1915, 9271;—CL 1929, 12683;—Am. 1945, p. 539, Act 314, Imd. Eff. May 25;—CL 1948, 550.704;—Am. 1965, p. 720, Act 365, Imd. Eff. Jul. 23.

550.705 Loss in case of damage; payment, release of additional amounts necessary to rebuild or restore.

Sec. 5. When the amount of loss has been fixed and determined to be \$50,000.00 or less by the controller, the amount so determined is appropriated in the applicable fund to be used by the state administrative board, for the rebuilding or restoring of the property damaged, and to be disbursed in such manner as other state funds are paid out. If during the rebuilding or restoring of such property damaged it shall be necessary in the opinion of the state administrative board to expend any additional amounts over and above the amounts certified by the controller, an additional amount equal to 10% of such previously determined amount is appropriated, but in no case to exceed \$50,000.00 to be paid out in the same manner as provided for the payments made from the original appropriation. When the amount of loss has been fixed and determined to be more than \$50,000.00, not to exceed a total of \$5,000.00 is appropriated to be used under the supervision of the state administrative board for preliminary expenses connected with the loss, to be disbursed in such manner as other state funds are paid out. No payment in excess of \$5,000.00 for any such loss shall be made until authorized and provided for by either the legislature or the special commission on appropriations created under the provisions of Act No. 120 of the Public Acts of 1937, as amended, being sections 5.1 to 5.5 of the Compiled Laws of 1948.

HISTORY: CL 1915, 9272;—CL 1929, 12684;—Am. 1945, p. 539, Act 314, Imd. Eff. May 25;—CL 1948, 550.705;—Am. 1955, p. 305, Act 203, Imd. Eff. Jun. 17;—Am. 1965, p. 720, Act 365, Imd. Eff. Jul. 23.

550.706 Accident fund; assessments for services.

Sec. 6. Upon July 1, 1951, and annually thereafter, the state accident fund shall determine in such detail as the state controller may require the premium or assessment necessary to pay all benefits accruing under Act No. 10 of the First Extra Session of 1912, as amended, to persons in the service of the state, which shall be transmitted to the controller, who shall then order the state treasurer to credit to the "state accident fund" created by the above mentioned act the total amount so determined. The con-

troller shall charge the amounts so determined to the appropriations made for this purpose and for the purposes of this act the state shall be entitled to all of the benefits and subject to all of the liabilities of an individual employer who has availed himself of the provisions of part 5 of Act No. 10 of the First Extra Session of 1912, as amended. Any credits that may be due the state under such act shall be credited to the respective funds or accounts contributing to the accident fund.

HISTORY. CL 1915, 9273;—CL 1929, 12685;—CL 1948, 550.706;—Am. 1951, p. 45, Act 44, Eff. Sep. 28;—Am. 1965, p. 720, Act 365, Imd. Eff. Jul. 23.

550.707, 550.708 Repealed. 1965, p. 721, Act 365, Imd. Eff. Jul. 23.

Sections related to duties of commissioner of insurance in administering state insurance act.

550.709 Self-liquidation projects exempted; applicability of act.

Sec. 9. The provisions of this act shall not have application to any structure, building, or the contents thereof, acquired, purchased or erected as self-liquidating projects pursuant to the terms of Act No. 15 of the Public Acts of 1937, as amended, being sections 390.451 to 390.456, inclusive, of the Compiled Laws of 1948, or Act No. 9 of the Public Acts of the Extra Session of 1938, as amended, being sections 390.371 to 390.375, inclusive, of the Compiled Laws of 1948, where the state board of education or the board of control of Michigan college of mining and technology has arranged for insuring such property against the perils designated in section 1 hereof in companies authorized to operate in the state of Michigan, in such amounts as such board shall deem adequate.

HISTORY. Add. 1949, p. 106, Act 100, Eff. Sep. 23.

Original section 9 of Act 388 of 1913, p. 739, was a repeal section and was repealed by Act 267 of 1945.

550.710 Election of coverage.

Sec. 10. An institution, agency, authority or instrumentality of the state which, under the constitution or laws of the state, has control and direction of the expenditures of its funds may elect to be covered under the provisions of this act.

HISTORY. Add. 1965, p. 721, Act 365, Imd. Eff. Jul. 23.

Original section 10 of Act 388 of 1913, p. 739, provided for assessments and was repealed by Act 314 of 1945.

550.711 State insurance fund abolished; reversion of funds.

Sec. 11. The state insurance fund is abolished on June 30, 1965, and any unencumbered balance in the fund at that time shall revert to the several state funds in the same proportion as the last previous premium assessments against such funds.

HISTORY. Add. 1965, p. 721, Act 365, Imd. Eff. Jul. 23.

550.801-550.805 Repealed. 1965, p. 604, Act 318, Imd. Eff. Jul. 22.

Sections authorized rebuilding, repair or replacement of state property destroyed, damaged or lost.

CHAPTER 551. MARRIAGE

MARRIAGE AND SOLEMNIZATION THEREOF
Ch. 83, R.S. 1846

- 551.1 Repealed.
- 551.2 Marriage; civil contract status; consent; license, solemnization.
- 551.3 Incapacity; persons man cannot marry.
- 551.4 Incapacity; persons woman cannot marry.
- 551.5 Bigamy prohibited.
- 551.6 Marriage between mental or venereal diseased persons prohibited; penalty; validates white-African marriages; competency of witness.
- 551.7 Marriages; who may solemnize; non-resident ministers records.
- 551.8 Marriages; prior examination of party on oath.
- 551.9 Marriage; form, declaration by parties, witnesses.
- 551.14 Unlawful marriage; justice or minister, penalty.
- 551.15 Ceremony performance with knowledge of lack of authority or legal impediment; penalty.
- 551.16 Lack of authority to marry; effect on marriage.
- 551.17 Denominational modes of solemnization; effect of chapter.
- 551.18 Certificate and records as evidence.

FEMALE UNDER SIXTEEN
Act 352 of 1921

- 551.51 Female age of consent; effect of act; probate judge's power.

CIVIL LICENSE
Act 128 of 1887

- 551.101 Marriage license; requirements; place to obtain, delivery to person officiating.
- 551.102 Marriage license forms; preparation, distribution, contents; parties competency; affidavit.
- 551.103 Marriage license; minimum age; application, proof of age, county clerk; consent for under age female; fee; record; report. Fee for license; nonresident; record, report.
- 551.103a Marriage license; time of delivery to applicant, order by probate judge; time use limitation.
- 551.104 Certificate completion; officiating person duty; original license return; record.
- 551.105 County clerk; violation of act, misdemeanor, penalty.
- 551.106 Person officiating at marriage; violation of act, misdemeanor, penalty.
- 551.107 Failure to return certificate; misdemeanor, penalty.
- 551.108 Marriage license; false statement in application, perjury.
- 551.109 Reports of marriage to secretary of state; preservation, record.
- 551.110 License, certificate or certified copy record as evidence.
- 551.111 License or certificate errors; evidence correction.

ANTENUPTIAL EXAMINATION
Act 207 of 1937

- 551.151 Antenuptial examination for venereal disease; certificate, laboratory tests, health commissioner authority.
- 551.151a Antenuptial examination; noncommunicable case; special certificate, application to health commissioner, reexamination; records.
- 551.151b Antenuptial examination; special certification for marriage license in certain cases.
- 551.152 Unlawful license issuance or test disclosure; misdemeanor.
- 551.153 Physician's false statement; misdemeanor.
- 551.154 Violation of act; misdemeanor.

SECRET MARRIAGES
Act 180 of 1897

- 551.201 Marriage license issuance without publicity; procedure, marriage, minors, grounds, notice, consent.
- 551.202 License application; form, fee, probate judge duty; ceremony performance by another person; permit, certificate.
- 551.203 Papers; private filing, duplicate disposal, inspection order.
- 551.204 Knowledge of facts deemed privileged communication; violation of confidence; failure to make return of papers; penalties, civil liability.

LEGAL STATUS OF MARRIED MINORS
Act 160 of 1919

- 551.251 Legal marriage of minor; parental and marital rights and duties; guardian ad litem.

FOREIGN MARRIAGES
Act 168 of 1939

- 551.271 Marriages solemnized in another state validated.

SEPARATE RESIDENCE, MARRIED WOMEN
Act 265 of 1931

- 551.291, 551.292 Repealed.

ALIENATION OF AFFECTIONS
Act 127 of 1935

- 551.301 Alienation of affections, criminal conversation, seduction and breach of contract to marry; abolition of civil causes of action.
- 551.302 Alienation of affections; suit exception.
- 551.303 Alienation of affections; agreements, satisfaction and compromise unlawful.
- 551.304 Alienation of affections; co-respondent.
- 551.305 Alienation of affections; witness; court discretion; construction of section.
- 551.306 Alienation of affections; body executions abolished.
- 551.307 Violation of act; penalty.
- 551.308 Prior causes of action; applicability of act.
- 551.309 Prior causes of action; time limit for filing.
- 551.311 Repeal.

CIRCUIT COURT MARRIAGE COUNSELING SERVICE ACT Act 155 of 1964	
551.331	Circuit court marriage counseling service act; short title.
551.332	Marriage counseling service; establishment, multiple-county circuits, participation.
551.333	Marriage counseling service; merger with other services, separate maintenance.
551.334	Marriage counseling service; director and staff, compensation.
551.335	Marriage counseling service; professional and clerical staff, merit system.
551.336	Marriage counseling service; eligibility for counseling, priority.
551.337	Marriage counseling service; referral of spouses to outside services; conciliation conferences.
551.338	Marriage counseling service; determination of causes of friction; reconciliation.
551.339	Marriage counseling service; privileged communication; director's report.
551.340	Marriage counseling service; fee schedule, approval; payment to outside agencies.
551.341	Marriage counseling service; research, educational efforts, public information service.
551.342	Effect of act.
551.343	Multiple-judge circuit; majority of judges.
551.344	Act not compulsory.

R.S. 1846, Ch. 83.

MARRIAGE AND THE SOLEMNIZATION THEREOF.

551.1 Repealed. 1951, p. 40, Act 37, Eff. Sep. 28.

Section fixed ages for capability of contracting marriage, if otherwise competent.

551.2 Marriage; civil contract status; consent; license, solemnization.

Sec. 2. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of parties capable in law of contracting, is essential. Consent alone will not be enough to effectuate a legal marriage from and after January 1, 1957. Consent must be followed by the issuance of a license as provided for by section 1 of Act No. 128 of the Public Acts of 1887, as amended, being section 551.101 of the Compiled Laws of 1948, or as provided for by section 1 of Act No. 180 of the Public Acts of 1897, as amended, being section 551.201 of the Compiled Laws of 1948, and solemnization, as authorized by sections 7 to 18, inclusive, of this act.

HISTORY: CL 1857, 3205;—CL 1871, 4720;—How. 6210;—CL 1897, 8589;—CL 1915, 11363;—CL 1929, 12691;—CL 1948, 551.2;—Am. 1956, p. 131, Act 44, Eff. Aug. 11.

See *Clayton v. Wordell*, 4 Comstock (N.Y.) 230.

551.3 Incapacity; persons man cannot marry.

Sec. 3. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, nor his sister, brother's daughter, sister's daughter, father's sister, or mother's sister, or cousin of the first degree.

HISTORY: CL 1857, 3206;—CL 1871, 4721;—How. 6211;—CL 1897, 8590;—Am. 1903, p. 424, Act 257, Eff. Sept. 17;—CL 1915, 11364;—CL 1929, 12692;—CL 1948, 551.3. By the amendment of 1903, cousins of the first degree were added to the prohibited class.

VALIDITY OF MARRIAGE: See Compilers' § 552.1.

CITED IN OTHER SECTIONS: The above section is cited in § 750.333.

551.4 Incapacity; persons woman cannot marry.

Sec. 4. No woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, nor her brother, brother's son, sister's son, father's brother, mother's brother, or cousin of the first degree.

HISTORY: CL 1857, 3207;—CL 1871, 4722;—How. 6212;—CL 1897, 8591;—Am. 1903, p. 424, Act 257, Eff. Sept. 17;—CL 1915, 11365;—CL 1929, 12693;—CL 1948, 551.4.

CITED IN OTHER SECTIONS: The above section is cited in § 750.333.

551.5 Bigamy prohibited.

Sec. 5. No marriage shall be contracted whilst either of the parties has a former wife or husband living, unless the marriage with such former wife or husband, shall have been dissolved.

HISTORY: CL 1857, 3206;—CL 1871, 4723;—How. 6213;—CL 1897, 8592;—CL 1915, 11366;—CL 1929, 12694;—CL 1948, 551.5.

See *Commonwealth v. Putnam*, 1 Pick. (18 Mass.) 136; *Putnam v. Putnam*, 8 Pick. (25 Mass.) 433.

BIGAMY. Penalty, see *Compilers' § § 750.439-750.441*.

VALIDITY OF MARRIAGE: See *Compilers' § 552.1*.

551.6 Marriage between mental or venereal diseased persons prohibited; penalty; validates white-African marriages; competency of witness.

Sec. 6. No insane person, idiot, or person who has been afflicted with syphilis or gonorrhea and has not been cured of the same, shall be capable of contracting marriage. All marriages heretofore contracted between white persons and those wholly or in part of African descent are hereby declared valid and effectual in law for all purposes; and the issues of such marriages shall be deemed and taken as legitimate as to such issue and as to both of the parents. Any person who has been afflicted with syphilis or gonorrhea and has not been cured of same, who shall marry is guilty of a felony and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00, or by imprisonment in the state prison not more than 5 years, or by both such fine and imprisonment. In all prosecutions under this act a husband shall be examined as a witness against his wife and a wife shall be examined as a witness against her husband whether such husband or wife consent or not. In all cases arising under this act any physician who has attended or prescribed for any husband or wife for either of the diseases above mentioned shall be compelled to testify to any facts found by him from such attendance. No person who has been confined in any public institution or asylum as a feeble-minded, imbecile or insane patient, or who has been adjudged insane, feeble-minded or an imbecile by a court of competent jurisdiction, shall be capable of contracting marriage without, before the issuance by the county clerk of the license to marry, filing in the office of the county clerk a verified certificate from 2 regularly licensed physicians of this state that such person has been completely cured of such insanity, imbecility or feeble-mindedness and that there is no probability that such person will transmit any of such defects or disabilities to the issue of such marriage. Any person of sound mind who shall intermarry with such insane person or idiot or person who has been so confined as a feeble-minded, imbecile or insane patient, or who has been so adjudged insane, feeble-minded or an imbecile, except upon the filing of certificate as herein provided, with knowledge of the disability of such person, or who shall advise, aid, abet, cause, procure or assist in procuring any such marriage contrary to the provisions of this section, is guilty of a felony and on conviction thereof in any court of competent jurisdiction shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the state prison not less than 1 year nor more than 5 years, or by both such fine and imprisonment.

HISTORY: CL 1857, 3209;—CL 1871, 4724;—Am. 1883, p. 16, Act 23, Imd. Eff. April 11;—How. 6214;—CL 1897, 8593;—Am. 1899, p. 24, Act 23;—Am. 1905, p. 185, Act 136, Eff. Sept. 16;—CL 1915, 11367;—Am. 1923, p. 9, Act 7, Eff. Aug. 30;—CL 1929, 12695;—CL 1948, 551.6;—Am. 1962, p. 96, Act 107, Eff. Mar. 28, 1963.

INSANITY. Validity of marriage of insane person, see *Compilers' § 552.1*. For right to marry inmate of state hospital see *Compilers' § 552.8*.

WITNESS. For general rule as to competency of one spouse to testify against the other see *Compilers' § 600.2162*. As to general rule governing the right of physician to testify, see *Compilers' § 600.2157*.

551.7 Marriages; who may solemnize; non-resident ministers records.

Sec. 7. Marriages may be solemnized by any justice of the peace, municipal judge or judge of probate in the county in which he was chosen, and they may be solemnized throughout the state by any minister of the gospel who has been ordained or authorized to solemnize marriages according to the usages of his denomination, and who is a

pastor of any church or churches in this state, or who shall continue to preach the gospel in this state or by any minister of the gospel not a resident of this state who is authorized to solemnize marriages under the laws of the state in which he resides: Provided, That all non-resident ministers of the gospel, who are authorized by this act to solemnize marriages, shall keep proper records and make returns as required by section 4 of Act No. 128 of the Public Acts of 1887, being section 12709 of the Compiled Laws of 1929.

HISTORY: CL 1857, 3210;—CL 1871, 4725;—Am. 1873, p. 120, Act 85, Eff. July 31;—How. 6215;—CL 1897, 8594;—Am. 1903, p. 173, Act 139, Eff. Sept. 17;—Am. 1909, p. 419, Act 235, Eff. Sept. 1;—CL 1915, 11368;—CL 1929, 12696;—Am. 1931, p. 42, Act 28, Imd. Eff. April 21;—Am. 1937, p. 55, Act 42, Eff. Oct. 29;—CL 1948, 551.7.

NOTE: Sec. 4, Act 128, 1887, above referred to, is Compilers' § 551.104.

551.8 Marriages; prior examination of party on oath.

Sec. 8. All justices of the peace and ministers of the gospel, are hereby authorized and required, before solemnizing any marriage, to examine at least 1 of the parties on oath, which oath they are hereby authorized to administer, as to the legality of such intended marriage.

HISTORY: CL 1857, 3211;—CL 1871, 4726;—How. 6216;—CL 1897, 8595;—CL 1915, 11369;—CL 1929, 12697;—CL 1948, 551.8.

The questions of competency to marry are now determined by the clerk before issuance of the marriage license. See Compilers' § 551.101 et seq.

551.9 Marriage; form, declaration by parties, witnesses.

Sec. 9. In the solemnization of marriage, no particular form shall be required, except that the parties shall solemnly declare, in the presence of the magistrate or minister, and the attending witnesses, that they take each other as husband and wife; and in every case, there shall be at least 2 witnesses, besides the minister or magistrate, present at the ceremony.

HISTORY: CL 1857, 3212;—CL 1871, 4727;—How. 6217;—CL 1897, 8596;—CL 1915, 11370;—CL 1929, 12698;—CL 1948, 551.9.

Secs. 10-13.

HISTORY: CL 1857, 3213-16. These sections were repealed by Act 194 of 1867. See notes to Compilers' § 551.18. They dealt with marriage certificates and records and provided a penalty on the justice, minister or county clerk who neglected his duty. For present law on the same subject see Compilers' § 551.101 et seq.

551.14 Unlawful marriage; justice or minister, penalty.

Sec. 14. If any justice of the peace, or minister of the gospel, shall join any persons in marriage contrary to the provisions of this chapter, he shall forfeit for every such offense a sum not exceeding 500 dollars.

HISTORY: CL 1857, 3217;—CL 1871, 4728;—How. 6218;—CL 1897, 8597;—CL 1915, 11371;—CL 1929, 12699;—CL 1948, 551.14.

PENALTY: See also Compilers' § 551.106.

551.15 Ceremony performance with knowledge of lack of authority or legal impediment; penalty.

Sec. 15. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, or knowing of any legal impediment to the proposed marriage, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not more than 1 year, or by a fine not less than 50 nor more than 500 dollars, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1857, 3218;—CL 1871, 4729;—How. 6219;—CL 1897, 8598;—CL 1915, 11372;—CL 1929, 12700;—CL 1948, 551.15.

PENALTY: See Compilers' § 551.106.

551.16 Lack of authority to marry; effect on marriage.

Sec. 16. No marriage solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or

authority in such supposed justice or minister, provided the marriage be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

HISTORY: CL 1857, 3219;—CL 1871, 4730;—How. 6220;—CL 1897, 8599;—CL 1915, 11373;—CL 1929, 12701;—CL 1948, 551.16.

551.17 Denominational modes of solemnization; effect of chapter.

Sec. 17. The preceding provisions of this chapter, so far as they relate to the manner of solemnizing marriages, shall not affect marriages among the people called Friends or Quakers; nor marriages among people of any other particular denomination, having, as such, any peculiar mode of solemnizing marriages; but such marriages may be solemnized in the manner heretofore used and practiced in their respective societies or denominations.

HISTORY: CL 1857, 3220;—CL 1871, 4731;—How. 6221;—CL 1897, 8600;—CL 1915, 11374;—CL 1929, 12702;—CL 1948, 551.17.

551.18 Certificate and records as evidence.

Sec. 18. The original certificates and records of marriage made by the minister or justice as prescribed in this chapter, and the record thereof made by the county clerk, or a copy of such record duly certified by such clerk, shall be received in all courts and places, as presumptive evidence of the fact of such marriage.

HISTORY: CL 1857, 3221;—CL 1871, 4732;—How. 6222;—CL 1897, 8601;—CL 1915, 11375;—CL 1929, 12703;—CL 1948, 551.18.

PRESCRIBED IN THIS CHAPTER: Secs. 10 and 11 of this chapter (supra) provided that ministers and the persons solemnizing marriages shall make and keep a record thereof. These sections however, were repealed by Act 194 of 1867 (CL 1897, 4606 et seq.), which in turn was repealed by CL 1929, 120. This section, however, is re-enacted in a large part and perhaps superseded by the Jud. Act. See Compilers' § 551.12.

Act 352, 1921, p. 643; Imd. Eff. May 18.

AN ACT to prohibit the marriage of a female under the full age of 16 years and to declare such marriage void.

The People of the State of Michigan enact:

551.51 Female age of consent; effect of act; probate judge's power.

Sec. 1. No marriage, common law or ceremonial, in this state shall be contracted where the female is under the full age of 16 years, and any such marriage, if entered into, shall be void: Provided, however, That this act shall not prohibit probate judges from exercising their powers to perform marriages as now provided by Act No. 180 of the Public Acts of 1897, being sections 11387 to 11390 inclusive of the Compiled Laws of 1915.

HISTORY: CL 1929, 12704;—CL 1948, 551.51.

NOTE: Act 190 of 1897, above referred to, is Compilers' §§ 551.201 to 551.204.

NOTE OF CONSENT: See Compilers' 551.103.

Act 128, 1887, p. 142; Eff. Sep. 28.

AN ACT establishing the minimum ages for contracting marriages, for the requiring of a civil license in order to marry, and the due registration of the same, and to provide a penalty for the violation of the provisions of the same. Am. 1951, p. 39, Act 37, Eff. Sep. 25.

The People of the State of Michigan enact:

551.101 Marriage license; requirements; place to obtain, delivery to person officiating.

Sec. 1. It shall be necessary for all parties intending to be married to obtain a marriage license from the county clerk of the county in which either the man or woman

resides and to deliver the said license to the clergyman or magistrate who is to officiate, before the marriage can be performed. If both parties to be married are non-residents of the state it shall be necessary to obtain such license from the county clerk of the county in which the marriage is to be performed.

HISTORY: How. 6222a;—Am. 1889, p. 378, Act 256, Imd. Eff. July 3;—CL 1897, 8602;—CL 1915, 11376;—CL 1929, 12705;—CL 1945, 551.101.

CITED IN OTHER SECTIONS: The above section is cited in § 551.2.

551.102 Marriage license forms; preparation, distribution, contents; parties competency; affidavit.

Sec. 2. Blank forms for marriage license and certificate, and also proper books of registration ruled for the items contained in said forms shall be prepared by the secretary of state, and shall be furnished by him to the county clerks of the various counties of the state in quantities needed. The blank forms for license and certificate shall be made in duplicate and shall provide spaces for the entry of the following items, to wit: The full name, age, place of residence, place of birth, occupation, and if known, the father's name, and mother's maiden name, of each of the parties to be married; the number of times either of the parties may have been previously married; the bride's maiden name, in case she is a widow; the date of the giving of the license; the signature of the county clerk; the date and place of the marriage; the names and residences of 2 witnesses to the marriage, and the certification of the officiating clergyman or magistrate, that the marriage contemplated by the license has been performed by him. The secretary of state shall also furnish to the county clerks of the various counties of the state, blank forms of affidavit, containing the requisite allegations, under the laws of this state, of the competency of the parties to unite in the bonds of matrimony, and any party applying for license to marry, shall cause such an affidavit to be made and filed with the county clerk, as a basis for the issuing of the license; and such affidavit, together with the license, shall be made a matter of record of said clerk's office.

HISTORY: How. 6222b;—CL 1897, 8603;—CL 1915, 11377;—CL 1929, 12706;—CL 1948, 551.102;—Am. 1965, p. 198, Act 127, Eff. Mar. 31, 1966.

551.103 Marriage license; minimum age; application, proof of age, county clerk; consent for under age female; fee; record; report.

Sec. 3. (1) Every male or female who shall have attained the full age of 18 years shall be capable by law of contracting marriage. Every female who has attained the full age of 16 years but is less than 18 years of age shall be capable of contracting marriage as hereinafter provided. As proof of age of the parties to the intended marriage in addition to the statement of ages in the application, when requested by the county clerk, the applicant shall submit birth certificates or proof of age of the parties. The county clerk on application being made to him shall fill out the blank spaces of the license according to the sworn answers of the applicant, taken before him or some person duly authorized by law to administer oaths. Whenever it appears from the affidavit that the applicant applies for a license for the marriage of a female who has not attained the age of 18 years, then the county clerk shall require that there first be produced the written consent of 1 of the parents of the female or of her legal guardian to the marriage, and to the issuing of the license for which application is made which consent shall be given personally in the presence of the county clerk or be acknowledged before a notary public or other officer authorized to administer oaths unless the female has no parent or guardian living. No license shall be issued by the county clerk in such cases until the requirement is complied with. The written consent shall be preserved on file in the office of the county clerk. If it appears that the parties are legally entitled to be married, the county clerk shall sign the license in certification of the fact that it is properly issued, and he shall make a correct copy thereof in the books of registration.

Fee for license; nonresident; record, report.

2) A fee of \$5.00 shall be paid by the party applying for the license which shall be paid by the county clerk into the general fund of the county. If both parties named in the application are nonresidents of the state, an additional fee of \$10.00 shall be paid by the party applying for the license which shall be deposited by the county clerk into the general fund of the county. The county clerk shall send to the probate court of the county of the male's residence, or marriage bureau, indicating application has been filed. He shall give the license thus filled out and signed by him, together with the blank form of certificate, to the party applying for delivery to the clergyman or magistrate who is to officiate at the marriage. On the return of the license to the county clerk, with the certificate of the clergyman or magistrate that the marriage has been performed, he shall record in the book of registration in their proper places of entry the date and place of the marriage, the names and residences of 2 witnesses to the marriage, and the name of the officiating clergyman or magistrate. All licenses and certificates so issued and returned shall be preserved on file in the office of the county clerk, and he shall as often as once in 3 months make a faithful report to the state department of public health of all licenses and certificates issued and received by him.

HISTORY: How. 6222c;—Am. 1895, p. 536, Act 243, Eff. Aug. 30;—CL 1897, 8604;—CL 1915, 11378;—Am. 1917, p. 387, Act 195, Eff. Oct. 10;—CL 1948, 551.103;—Am. 1951, p. 39, Act 37, Eff. Sep. 28;—Am. 1953, p. 27, Act 31, Eff. Oct. 2;—Am. 1963, p. 153, Act 112, Eff. Nov. 6;—Am. 1967, p. 33, Act 23, Imd. Eff. Jun. 2;—Am. 1968, p. 514, Act 304, Eff. Nov. 15.

The title and enacting section of the amendatory act of 1917 erroneously described this section as CL 1915, 1137;—CL 1929, 12707.

551.103a Marriage license; time of delivery to applicant, order by probate judge; time use limitation.

Sec. 3a. No license to marry shall be delivered within a period of 3 days including the date of application therefor: Provided, however, That the judge of probate of each county, for good and sufficient cause shown, may, by an order in writing signed by him, authorize the county clerk to deliver such license immediately following the application therefor. Every marriage license hereafter issued shall be void, unless a marriage is solemnized thereunder, within 30 days after the issuance thereof.

HISTORY: Add. 1925, p. 146, Act 107, Eff. Aug. 27;—CL 1929, 12708;—Am. 1947, p. 152, Act 112, Eff. Oct. 11;—CL 1948, 551.103a;—Am. 1955, p. 339, Act 227, Eff. Oct. 14.

551.104 Certificate completion; officiating person duty; original license return; record.

Sec. 4. It shall be the duty of the clergyman or magistrate, officiating at a marriage, to fill in the spaces of the certificate left blank for the entry of the time and place of the marriage, the names and residences of 2 witnesses, and his own signature in certification that the marriage has been performed by him and any and all information required to be filled in in the spaces left blank in the certificate shall be typewritten or legibly printed. He shall separate the duplicate license and certificate, and deliver the half part designated duplicate to 1 of the parties, so joined in marriage, and within 10 days return the original to the county clerk issuing the same. It shall be the duty of such clergyman or magistrate to keep an accurate record of all marriages solemnized in a book used expressly for that purpose.

HISTORY: How. 6222d;—CL 1897, 8605;—Am. 1913, p. 465, Act 244, Eff. Aug. 14;—CL 1915, 11379;—CL 1929, 12709;—CL 1948, 551.104;—Am. 1955, p. 146, Act 96, Eff. Oct. 14.

551.105 County clerk; violation of act, misdemeanor, penalty.

Sec. 5. Any county clerk who shall refuse to give a license to persons properly applying and legally entitled to be married, or who shall violate any of the provisions of this act, shall be adjudged guilty of a misdemeanor, and shall be punished by a fine of not less than 25 dollars or more than 100 dollars, or in default of payment thereof, by imprisonment in the county jail for a term of 30 days.

HISTORY: How. 6222e;—CL 1897, 8606;—CL 1915, 11380;—CL 1929, 12710;—CL 1948, 551.105.

551.106 Person officiating at marriage; violation of act, misdemeanor, penalty.

Sec. 6. Any clergyman or magistrate who shall join together in marriage, parties who have not delivered to him a properly issued license, as provided for in this act, or who shall violate any of the provisions of this act, shall be adjudged guilty of a misdemeanor and shall be punished by a fine of 100 dollars, or, in default of payment thereof, by imprisonment in the county jail for a term of 90 days.

HISTORY: How. 6222f;—CL 1897, 8607;—CL 1915, 11381;—CL 1929, 12711;—CL 1948, 551.106.

551.107 Failure to return certificate; misdemeanor, penalty.

Sec. 7. Any person, whose duty it shall be to return a marriage certificate to the county clerk, who shall neglect to return said certificate, shall be adjudged guilty of a misdemeanor, and shall be punished by a fine of not exceeding 100 dollars or 90 days imprisonment, or both, in the discretion of the court.

HISTORY: How. 6222g;—CL 1897, 8608;—CL 1915, 11382;—CL 1929, 12712;—CL 1948, 551.107.

551.108 Marriage license; false statement in application, perjury.

Sec. 8. Any person applying for a marriage license, who shall swear to a false statement therein, shall be guilty of perjury and shall be prosecuted therefor under the general laws of the state.

HISTORY: How. 6222h;—CL 1897, 8609;—CL 1915, 11383;—CL 1929, 12713;—CL 1948, 551.108.

PERJURY: Punishment, see Compilers' § 750.422 et seq.

551.109 Reports of marriage to secretary of state; preservation, record.

Sec. 9. All reports of marriage sent by the county clerks of the various counties of the state to the office of the secretary of state, shall be preserved on file in that office, and a proper record thereof shall be made and kept.

HISTORY: How. 6222i;—CL 1897, 8610;—CL 1915, 11384;—CL 1929, 12714;—CL 1948, 551.109.

SECRETARY OF STATE: The powers and duties of the secretary of state in connection with "the recording of marriages" are now vested in the commissioner of health. See Act 170 of 1921, being Compilers' §§ 326.61 and 326.62.

551.110 License, certificate or certified copy record as evidence.

Sec. 10. The record of any license to marry, or of any marriage certificate, in any county clerk's office, or a certified copy thereof, shall be prima facie evidence in any court or proceedings in this state, with the same force and effect as if the original were produced, both as to the facts therein contained and as to the genuineness of the signatures thereto.

HISTORY: How. 6222j;—CL 1897, 8611;—CL 1915, 11385;—CL 1929, 12715;—CL 1948, 551.110.

This section is perhaps superseded by Sec. 43 of Ch. 17 of the Jud. Act, see Compilers' § 617.43.

551.111 License or certificate errors; evidence, correction.

Sec. 11. Whenever it is alleged that the facts are not correctly stated in any certificate or license of marriage heretofore registered in this state, the county clerk of the county in which the certificate or license of marriage has been recorded shall require such evidence to be presented in the form of an affidavit or otherwise as may be necessary to establish the alleged facts and when so established the original record shall be changed to accord with the same. Such evidence shall be approved by the circuit court by ex parte order.

HISTORY: Add. 1969, p. 378, Act 196, Imd. Eff. Aug. 6.

Original section 11 of Act 128 of 1887, p. 142, was a repeal section and was repealed by Act 267 of 1945.

Act 207, 1937, p. 331; Eff. Oct. 29.

AN ACT to provide for an antenuptial physical examination; to provide a penalty for the violation of the provisions of this act; and to declare the effect of this act.

The People of the State of Michigan enact:

551.151 Antenuptial examination for venereal disease; certificate, laboratory tests, health commissioner authority.

Sec. 1. All persons making application for license to marry shall at any time within 30 days prior to such application be examined as to the existence or non-existence in such person of any syphilis, gonorrhea or chancroid, and except as herein otherwise provided, it shall be unlawful for the county clerk of any county to issue a license to marry to any person who fails to present and file with such county clerk a certificate setting forth that such person is free from syphilis, gonorrhea and chancroid. In order to obtain a certificate as required in this act, both parties to a proposed marriage shall, within 30 days prior to making application for license to marry, submit to medical examination for the presence of syphilis, gonorrhea or chancroid. All laboratory tests required by this act shall be made by the Michigan department of health or a laboratory which is approved by the state commissioner of health. The state commissioner of health may establish standards for the equipment and operation of approved laboratories, and may remove a laboratory from the approved list if it shall be established to the satisfaction of said commissioner that such laboratory is inadequately equipped or improperly operated. Such tests as may be made by the Michigan department of health shall be free of charge. Laboratory tests shall include a serological test approved by the state commissioner of health, a dark field test where indicated and a microscopic test for gonococci when indicated, the specimens for which shall be submitted in a manner prescribed by the state commissioner of health. Such certificates of negative findings as to each of the parties to a proposed marriage, or certificate issued by the state commissioner of health as provided in section 1a of this act, shall be filed with the county clerk at the time application for a license to marry is made.

HISTORY: Am. 1939, p. 204, Act 112, Imd. Eff. May 19;—CL 1948, 551.151.

551.151a Antenuptial examination; non-communicable case; special certificate, application to health commissioner, re-examination; records.

Sec. 1a. If it shall be found, on the basis of the laboratory and clinical findings that the applicant is not free, or question exists as to such freedom, from 1 or more of said diseases, but that, in the opinion of the examining physician the said disease, or diseases, is in a non-communicable stage, the applicant may apply to the commissioner of health for a certificate setting forth that the applicant has been qualified according to law under special dispensation provided by this act for marriage. Such certification may be issued, providing in the opinion of the state commissioner of health and other examining physician or physicians as may be designated by said commissioner of health to re-examine, that such applicant would not endanger the health of the other party to a proposed marriage or the health of the issue of such marriage, providing further that the reason for such special certification shall be explained to the proposed marital partner. Such appointee or appointees may include the physician performing the original examination. Any re-examination of the applicant for a certificate from the state commissioner of health shall be made within 30 days prior to the making of an application for a license to marry by the applicant.

Any certificate issued in accordance with the provisions of this section shall be kept by the county clerk separate and apart from all other records of his office pertaining to said marriage; and all information upon which decision for approving or not approving the special license of the applicant was made shall be placed in permanent file in the state department of health. Such certificates and information are hereby declared not to be public records. It shall be unlawful for any person to disclose the contents of any certificate issued in accordance with this section except to the Michigan department of health or to the local health officers or proposed marital partner.

All applications made to the said commissioner of health for a certificate in accordance with the provisions of this section shall be made upon an application form provided by the Michigan department of health which shall be accompanied by the examining physician's report of his examination stating the result of the laboratory and clinical findings and the reason or reasons why it is deemed that the disease, or diseases, with which applicant is infected is in a non-communicable stage.

HISTORY: Add. 1939, p. 204, Act 112, Imd. Eff. May 19;—CL 1948, 551.151a.

551.151b Antenuptial examination; special certification for marriage license in certain cases.

Sec. 1b. If the woman concerned in the proposed marriage contract be demonstrated to be pregnant, and either or both parties are affected with a venereal disease, special certification for a marriage license may be issued by the state health commissioner to either or both parties concerned irrespective of the stage of the infection or degree of infectiousness. It shall be, however, the duty of the department of health to see that such individual secures treatment adequate to protect the unborn child and to render the individual noninfectious.

HISTORY: Add. 1945, p. 324, Act 230, Imd. Eff. May 24;—CL 1948, 551.151b.

551.152 Unlawful license issuance or test disclosure; misdemeanor.

Sec. 2. Any county clerk who shall unlawfully issue a license to marry to any person who fails to present and file a certificate as required by sections 1 or 1a of this act, or any party or parties having knowledge of any matter relating or pertaining to the examination of any applicant for license to marry or clinical and laboratory tests taken by any party to a proposed marriage, who shall disclose the same, or any portion thereof, except as may be required by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: Am. 1939, p. 205, Act 112, Imd. Eff. May 19;—CL 1948, 551.152.

551.153 Physician's false statement; misdemeanor.

Sec. 3. Any physician who shall knowingly and willfully make any false statement in any certificate given by such physician under this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 551.153.

551.154 Violation of act; misdemeanor.

Sec. 4. Any person who shall violate any of the provisions of this act, for which a penalty is not specifically provided, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 551.154.

Act 180, 1897, p. 230; Eff. Aug. 30.

AN ACT to provide for the protection of the reputation and good name of certain persons.

The People of the State of Michigan enact:

551.201 Marriage license issuance without publicity; procedure, marriage, minors, grounds, notice, consent.

Sec. 1. The judge of probate of each county in the state shall have authority to issue, without publicity, a marriage license to any female making application to him, under oath, containing a statement that she is with child, which if born alive before her marriage will become a bastard, or has lived with a man and has been considered as his wife, or for other good reason, expressed in such application and deemed to be suffi-

ent by the judge of probate, which female desires to keep the exact date of the marriage a secret, to protect the good name of herself and the reputation of her family. The judge of probate shall have authority to marry persons under marriageable age, where the female is with child, or where she has been living with some man as his wife, in cases in which the application for such license is accompanied by the written request of all of the natural or adopting living parents of both parties, and their guardian or guardians if either or both of the parents are dead, or by the written request of the parent or guardian of the one under marriageable age, where only one is under the marriageable age now fixed by the statute, when, according to his judgment, such marriage would be a benefit to public morals. Where the noncustodial parent has been given notice of the request for consent by personal service or registered mail at his last known address and the noncustodial parent fails to enter an objection within 5 days of notice then the consent shall be required only of a parent to whom custody of a child has been awarded by a court. The consent shall not be required of a parent confined under sentence in a state or federal penal institution or confined in a mental hospital, under adjudication of mental incompetency by a court of competent jurisdiction or upon the return of process by the sheriff of the county in which the parent was last known to reside made not less than 5 nor more than 14 days after issuance thereof certifying that after diligent search such parent cannot be found within his county. The judge of probate may authorize an order nunc pro tunc regarding the date to appear on the marriage license. The judge of probate may, in his discretion, require a certificate from some duly licensed physician practicing in his county that the applicant, according to an examination made by the physician, is pregnant.

HISTORY: CL 1907, §612;—Am. 1899, p. 364, Act 232, Eff. Sept. 23;—CL 1915, 11387;—CL 1929, 12717;—Am. 1939, p. 465, Act 251, Eff. Sept. 29;—CL 1949, 551.201;—Am. 1957, p. 265, Act 209, Eff. Sep. 27;—Am. 1967, p. 237, Act 175, Imd. Eff. Jun. 30.

CITED IN OTHER SECTIONS: The above section is cited in § 551.2.

551.202 License application; form, fee, probate judge duty; ceremony performance by another person; permit, certificate.

Sec. 2. All applications made under this act for a marriage license shall be in the usual form, certifying that she is with child, and shall be accompanied by a fee of 3 dollars, 2 dollars of which the judge of probate shall keep for his services and he shall forward 1 dollar to the secretary of state as his fee for performing the service required of him by this act. The judge of probate is hereby authorized and empowered, and it shall, upon the filing of such application, become the duty of such judge of probate to perform the ceremony of marriage: Provided, That in case the applicant or either of the parties to said marriage shall desire to have said marriage ceremony performed by some person other than the judge of probate competent to perform the marriage ceremony, said judge of probate shall issue a written permit to the person designated by said applicant or contracting party, directing him to perform said marriage ceremony; and the party so designated, if he be competent to perform the marriage ceremony under the laws of this state, is hereby empowered to perform said marriage ceremony, but no record, except the record made by said judge of probate in pursuance of the provisions of this act, shall be made thereof. Upon the performance of such marriage ceremony the party so performing it shall return the marriage certificate to the judge of probate, who shall attach the license and certificate to such application. All of such papers shall be executed in duplicate and the person performing such marriage ceremony shall deliver a certificate of such marriage to the bride.

HISTORY: CL 1907, §613;—Am. 1899, p. 364, Act 232, Eff. Sept. 23;—Am. 1909, p. 766, Act 312, Eff. Sept. 1;—Am. 1911, p. 394, Act 174, Eff. Aug. 1;—CL 1915, 11398;—CL 1929, 12718;—CL 1948, 551.202.

551.203 Papers; private filing, duplicate disposal, inspection order.

Sec. 3. The judge of probate shall file a complete set of all papers in each case in a private file, and shall within 10 days after the marriage forward the duplicate thereof

to the secretary of state, who shall file such duplicate in a private file and record the same in a private register. Such file in the probate court, and the duplicate and record thereof in the office of the secretary of state, shall be open to inspection only upon the written order of the judge of any circuit or the supreme court of this state, and only for such use as is designated in such order. Such order shall be made only upon the written request of the person or persons who were so married, or when necessary to the protection of property rights arising from or affected by such marriage.

HISTORY: CL 1897, 8614;—Am. 1899, p. 364, Act 232, Eff. Sept. 23;—CL 1915, 11389;—CL 1929, 12719;—CL 1948, 551.203.

SECRETARY OF STATE: The powers and duties of this officer in respect to the recording of marriages were transferred to the commissioner of health by Act 170 of 1921, being Compilers' §§ 326.61 and 326.62.

551.204 Knowledge of facts deemed privileged communication; violation of confidence; failure to make return of papers; penalties, civil liability.

Sec. 4. All knowledge of any facts which shall come to the judge of probate, secretary of state or their deputies or assistants, the physicians indorsing the application, or the witnesses to said marriage under the license issued pursuant to the provisions of this act shall be deemed to be privileged communications. Any violation of confidence by the judge of probate, secretary of state or their deputies or assistants, the physician aforesaid, or the witnesses aforesaid, shall upon conviction thereof be deemed to be a misdemeanor, and shall be punished by a fine of not less than 25 dollars nor more than 100 dollars and the costs of such prosecution, and in default thereof imprisonment in the county jail not to exceed 3 months. Any editor, publisher or proprietor of any newspaper or publication within this state giving publicity to any license or marriage held under the provisions of this act shall upon conviction thereof be deemed guilty of a misdemeanor, and be subject to a fine of not less than 50 nor more than 100 dollars, and the costs of prosecution and in default of the payment thereof shall be imprisoned not to exceed 30 days in the county jail, and in addition thereto such editor, publisher or proprietor shall be liable in an action of libel to the parties married under such license. In case the judge of probate performing the marriage ceremony under a license issued under this act shall neglect to make proper return he shall upon conviction thereof be fined in addition to the penalties prescribed in the general laws of this state, not to exceed 50 dollars in the discretion of the court.

HISTORY: CL 1897, 8615;—CL 1915, 11390;—CL 1929, 12720;—CL 1948, 551.204.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1915, 11391;—CL 1929, 12721;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 160, 1919, p. 297; Eff. Aug. 14.

AN ACT to release legally married minors from parental control and to determine their marital rights and duties.

The People of the State of Michigan enact:

551.251 Legal marriage of minor; parental and marital rights and duties; guardian ad litem.

Sec. 1. Hereafter the legal marriage of a minor shall release such minor from parental control; and the husband or wife of a minor, so released, shall be entitled to the same rights, benefits and privileges, and such minor shall be subject to the same duties, liabilities and responsibilities, as such husband or wife, as if such minor husband or wife were of legal age at the time of such marriage.

Hereafter it shall be unnecessary in any divorce suit commenced by or against a legally married minor to have a next friend or guardian ad litem appointed for such minor unless the circuit judge shall require it; and such minor shall be entitled to prose-

cute or defend any such action in the same manner and with the same effect as if he or she were of legal age.

HISTORY: CL 1929, 12722;—Am. 1945, p. 287, Act 215, Eff. Sept. 6;—CL 1948, 551.251.

Act 168, 1939, p. 328; Imd. Eff. Jun. 6.

AN ACT to validate certain marriages heretofore contracted by residents of this state, and solemnized in another state by persons authorized to solemnize marriages under the laws of said state.

The People of the State of Michigan enact:

551.271 Marriages solemnized in another state validated.

Sec. 1. All marriages heretofore contracted by residents of this state and who were, at the time of such marriages, legally competent to contract marriage according to the laws of this state, and which said marriages have been solemnized in any other state within the United States and by any clergyman, magistrate or other person legally authorized to solemnize marriages within said state, are hereby declared to be and remain valid and binding marriages under the laws of this state to the same effect and extent as if solemnized within this state and according to the laws thereof.

HISTORY: CL 1948, 551.271.

551.291, 551.292 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections declared rights of married women to maintain separate places of residence for political purposes.

Act 127, 1935, p. 201; Eff. Sep. 21.

AN ACT in relation to declaring and carrying into effect the public policy of the state with respect to causes of action for alienation of affections, criminal conversation, seduction and breach of contract to marry, actions thereon, contracts with respect thereto and actions and proceedings in connection therewith; certain pleadings, evidence and procedure in actions of divorcement and action for separate maintenance; to prescribe penalties for the violation thereof; and to repeal certain acts and parts of acts. Am. 1941, p. 37, Act 39, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

551.301 Alienation of affections, criminal conversation, seduction and breach of contract to marry; abolition of civil causes of action.

Sec. 1. All civil causes of action for alienation of affections, criminal conversation, and seduction of any person of the age of 18 years or more, and all causes of action for breach of contract to marry are hereby abolished.

HISTORY: CL 1948, 551.301.

551.302 Alienation of affections; suit exception.

Sec. 2. It shall be unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed, in any court in this state, any pleading or paper setting forth or seeking to recover upon any civil cause of action based upon alienation of affections, criminal conversation, seduction of any person of the age of 18 years or more, or breach of contract to marry, whether such cause of ac-

tion arose within or without this state: Provided, however, That the provisions of this act shall not apply to suits for alienation of the affections of a husband or wife against a defendant who is a parent, brother, sister or person in loco parentis of the plaintiff's spouse.

HISTORY: CL 1948, 551.302.

551.303 Alienation of affections; agreements, satisfaction and compromise unlawful.

Sec. 3. All contracts and instruments of every kind which may hereafter be executed within this state in payment, satisfaction, settlement or compromise of any claim or cause of action enumerated in the preceding sections, whether such claim or cause of action arose within or without this state, are hereby declared to be contrary to the public policy of this state and absolutely void. It shall be unlawful to cause, induce or procure any person to execute such a contract or instrument; or cause, induce or procure any person to give, pay, transfer or deliver any money or thing of value in payment, satisfaction, settlement or compromise of any such claim or cause of action; or to receive, take or accept any such money or thing of value in such payment, satisfaction, settlement or compromise. It shall also be unlawful to commence or cause to be commenced, either as litigant or attorney, in any court of this state, any proceeding or action seeking to enforce or recover upon any such contract or instrument, knowing it to be such, whether the same shall have been executed within or without this state: Provided, however, That this section shall not apply to the payment, satisfaction, settlement or compromise of any of the above enumerated causes of action which have accrued prior to the effective date of this act nor to any contracts or instruments heretofore executed, or to the bona fide holder in due course of any negotiable instrument which may be executed hereafter.

HISTORY: CL 1948, 551.303.

551.304 Alienation of affections; co-respondent.

Sec. 4. In any action for divorce, separate maintenance, annulment of marriage, or custody or care of children, or in any citation or proceeding ancillary or subsequent to such an action, it shall be unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file or threaten to cause to be filed in any court of this state, any pleading or paper naming or describing in such manner as to identify any person as co-respondent or participant in marital misconduct of the adverse party: Provided, however, That the provisions of this section shall not apply to such description or designation made in pursuance of an order of court after motion by the adverse party to make the pleading or paper more definite and certain.

HISTORY: CL 1948, 551.304.

551.305 Alienation of affections; witness; court discretion; construction of section.

Sec. 5. In any action enumerated in the preceding section, or in any citation ancillary or subsequent to such action, it shall be unlawful for any witness, including a party who may be a witness, testifying on behalf of the party asserting misconduct by the adverse party, either in court or by deposition, to name or identify any third person charged as co-respondent or as participant in marital misconduct of such adverse party: Provided, That if the court in the exercise of a sound discretion shall so order, and such naming or identifying is made upon cross examination by counsel for the party alleged to be guilty of misconduct, and in answer to questions specifically requiring identification, the provisions of this section shall not apply. The discretion vested in the court by this section shall be exercised in such manner as to avoid injustice to litigants, while at the same time avoiding so far as possible the public revelation of the name or identity of such third person, and to this end the court may, in all such

cases, impound pleadings or other documents in the case and hear such testimony in chambers. This section shall not be construed to change the grounds for divorce or impair the substantive rights of parties in any such cases, but to regulate pleading, practice and testimony therein so as to eliminate extortion and public scandal.

HISTORY: CL 1948, 551.305.

551.306 Alienation of affections; body executions abolished.

Sec. 6. The right to issue or enforce executions against the body on any judgment heretofore rendered based on any of the causes of action specified in section 1 is hereby abolished.

HISTORY: CL 1948, 551.306.

551.307 Violation of act; penalty.

Sec. 7. Any person who shall violate any of the provisions of this act shall be punished by a fine of not more than 5,000 dollars, or be imprisoned for a term of not less than 1 year nor more than 5 years, or be both fined and imprisoned in the discretion of the court.

HISTORY: CL 1948, 551.307.

551.308 Prior causes of action; applicability of act.

Sec. 8. Nothing contained in this act shall be held to apply to any civil cause of action for alienation of affections, criminal conversation, seduction or breach of contract to marry which has accrued prior to the effective date of this act, nor to contracts to marry existing at the effective date of this act.

HISTORY: CL 1948, 551.308.

551.309 Prior causes of action; time limit for filing.

Sec. 9. All causes of action abolished by this act, which have heretofore accrued, shall be commenced within 90 days after this act goes into effect, and if not so commenced shall be completely barred.

HISTORY: CL 1948, 551.309.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

551.311 Repeal.

Sec. 11. All acts and parts of acts in conflict with any provision of this act are hereby repealed to the extent of such conflict, but in all other respects this act shall be deemed supplemental to existing acts. Nothing in this act shall be construed to repeal any of the criminal acts of this state.

HISTORY: CL 1948, 551.311.

Act 155, 1964, p. 147; Eff. Aug. 28.

AN ACT to establish circuit court marriage counseling services and to provide for their powers and duties; to provide for the employment of directors of marriage counseling and for the selection of their staffs; to provide for the confidentiality of communications between marriage counselors and clients; and to provide for payment of fees by persons counseled.

The People of the State of Michigan enact:

551.331 Circuit court marriage counseling service act; short title.

Sec. 1. This act shall be known and may be cited as the "Circuit court marriage counseling service act".

HISTORY: New 1964, p. 147, Act 155, Eff. Aug. 28.

551.332 Marriage counseling service; establishment, multiple-county circuits, participation.

Sec. 2. For the purpose of preserving and improving marriages through competent family counseling, the office of the circuit court marriage counseling service may be created as provided in this section. Upon recommendation of the circuit court, the board of supervisors may create a marriage counseling service and may appropriate such sums of money as may be deemed sufficient by the board of supervisors for the establishment and maintenance of such service. In a judicial circuit including more than a single county, each county board of supervisors may participate in the service and make a suitable appropriation therefor or may refrain from participation and from making any appropriation. In multiple-county circuits, the various boards of supervisors may agree as to participation and as to the appropriations which each will make and such agreement may provide for varying rather than equal contributions from each county.

HISTORY: New 1964, p. 147, Act 155, Eff. Aug. 28.

551.333 Marriage counseling service; merger with other services, separate maintenance.

Sec. 3. The circuit court marriage counseling service is an arm of the circuit court. It may be merged with other court services or maintained separately, as the court may determine.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.334 Marriage counseling service; director and staff, compensation.

Sec. 4. The chief executive officer of the circuit court marriage counseling service is the director. He shall be qualified by training and experience to render family counseling service and shall be employed by, and serve at the pleasure of, the circuit court. The compensation of the director and his staff shall be fixed by the board of supervisors and paid from the general fund of the county. In multiple-county circuits the compensation shall be fixed by the participating boards of supervisors and paid from the general funds of the participating counties as the same may be appropriated.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.335 Marriage counseling service; professional and clerical staff, merit system.

Sec. 5. The director of any circuit court marriage counseling service may hire professional and clerical staff with the approval of the circuit court, and within the funds appropriated by the board or boards of supervisors: Provided, however, That in counties having a merit system, the board of supervisors shall have the power to place employment of clerical employees under the merit system.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.336 Marriage counseling service; eligibility for counseling, priority.

Sec. 6. The circuit court shall prescribe rules and standards of eligibility for counseling. First priority for service shall be given to domestic relations actions in which a complaint or motion has been filed in the circuit court. A family is eligible for counseling by the marriage counseling service if at least 1 of the spouses has the residential requirements to file a complaint or a motion in a domestic relations action in the court.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.337 Marriage counseling service; referral of spouses to outside services; conciliation conferences.

Sec. 7. The director shall advise spouses fully of the existence of qualified marriage counseling services outside the court so that they may freely make an informed choice of such outside service. In order to assure maximum use of community resources, re-

referrals to agencies outside the court shall be made unless otherwise requested. The marriage counseling service may hold conciliation conference with the spouse, spouses or members of the family, or may refer parties to other qualified marriage counselors or marriage counseling agencies, family agencies or social welfare agencies, religious agencies or advisors, physicians, psychiatrists, private agencies, or other persons qualified to assist in reconciling the spouses. Such referrals shall be made, whenever in the judgment of the director, the interest of the family would thereby be as well or better served.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.338 Marriage counseling service; determination of causes of friction; reconciliation.

Sec. 8. The circuit court marriage counseling service shall determine the sources and causes of friction and disputes between spouses, or between a spouse or spouses and other family members, and assist such persons in the resolution of the same. The director and professional staff shall provide skilled family counseling with, and advice to members of, families having marital problems with a view to restoring family harmony. Reconciliations of marital disputes are to be sought by the director and staff. They shall seek to preserve and encourage the continuation of marriages and shall give substantial consideration to the continuation of marriages as promoting the welfare of children.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.339 Marriage counseling service; privileged communication; director's report.

Sec. 9. A communication between a counselor in the marriage counseling service and a person who is counseled is confidential. The secrecy of such a communication shall be preserved inviolate as a privileged communication which privilege cannot be waived. Such a communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between spouses and counselors to whom they have been referred by the court or the court's marriage counseling service: Provided, That in cases counseled in the court's service the director of the marriage counseling service may submit to the circuit court a written evaluation of the prospects or prognosis of a particular marriage without divulging facts or revealing confidential disclosures. Attorneys representing spouses who are the subject of such an evaluation shall have the right to receive a copy of the same under terms and conditions prescribed by the court.

HISTORY: New 1964, p. 148, Act 155, Eff. Aug. 28.

551.340 Marriage counseling service; fee schedule, approval; payment to outside agencies.

Sec. 10. The marriage counseling service may charge fees for its counseling in accordance with a fee schedule prescribed by the circuit court with the advice and consent of the board of supervisors. The board of supervisors may designate any committee of its members to act in its stead in approving such fee schedule. The schedule may be based on ability to pay and may be waived by the court, the presiding judge, or the judge to whom the case may be assigned, for good cause shown. Revenues from fees shall be paid into the county general fund. In multiple-county circuits revenues shall be returned to counties in accordance with their proportionate contributions to the creation and maintenance of the service. The board of supervisors or its designated committee of its members may make provision for payment to agencies outside the court for marriage counseling services rendered to spouses in impecunious cases.

HISTORY: New 1964, p. 149, Act 155, Eff. Aug. 28.

551.341 Marriage counseling service; research, educational efforts, public information service.

Sec. 11. The marriage counseling service may engage in such research, educational efforts, public information service, or other endeavor related to the purpose and policy of this act as may be approved by the circuit court.

HISTORY: New 1964, p. 149, Act 155, Eff. Aug. 28.

551.342 Effect of act.

Sec. 12. Nothing in this act shall change or affect grounds for divorce, separation or other statutory provisions relating to domestic relations actions. Conferences or interviews with marriage counselors or any persons or agencies to whom parties may be referred shall not be considered as condonation by either spouse of the conduct of the other spouse.

HISTORY: New 1964, p. 149, Act 155, Eff. Aug. 28.

551.343 Multiple-judge circuit; majority of judges.

Sec. 13. In a multiple-judge circuit any act, decision or recommendation by the circuit court, provided for by this act, shall be deemed accomplished by a vote of a majority of the judges of the circuit.

HISTORY: New 1964, p. 149, Act 155, Eff. Aug. 28.

551.344 Act not compulsory.

Sec. 14. The provisions of this act shall not be construed to require any person to submit to marriage counseling who objects thereto.

HISTORY: New 1964, p. 149, Act 155, Eff. Aug. 28.

CHAPTER 552. DIVORCE

DIVORCE

R.S. 1846, Ch. 84

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- 552.251 Friend of court; appointment, duties, legal assistance, removal.
- 552.252 Friend of court; duties.
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- 552.253 Friend of court; powers; dependent minor children; investigation and recommendation; enforcement; referee; report.
- 552.254 Friend of court; compensation.
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PROPERTY AND MAINTENANCE FOR WIVES

Act 243 of 1889

- 552.301 Commission of offense entitling wife to divorce and nonsupport; petition of wife, evidence, alimony, appeal.
- 552.302 Commission of offense entitling wife to divorce, and nonsupport; order for husband's appearance, injunction, execution on estate of husband.

PROPERTY AND MAINTENANCE FOR WIVES

Act 152 of 1873

- 552.333 Care, custody and maintenance of children; possession of husband's estate; sum for support; enforcement of decree; change of allowance.

CHANGE OF NAME OF DIVORCED WOMAN

Act 299 of 1905

- 552.391 Divorced woman; name change, effect of issue.

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Act 138 of 1966

- 552.451 Complaint by married women living separate from father of children; conditions.
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- 552.452 Hearing; order; contents; burden of proving inability to support.
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R.S. 1846, Ch. 84.

DIVORCE.

552.1 Invalidity of marriages; relationship of parties, bigamy, insanity, idiocy; legitimacy of issue.

Sec. 1. All marriages which are prohibited by law on account of consanguinity or affinity between the parties, or on account of either of them having a wife or husband then living, and all marriages solemnized when either of the parties was insane or an idiot, shall, if solemnized within this state, be absolutely void. The issue of such marriage shall be deemed legitimate.

HISTORY: CL 1857, 3222;—CL 1871, 4733;—How. 6223;—Am. 1883, p. 17, Act 24, Imd. Eff. April 11;—CL 1897, 8616;—CL 1915, 11392;—CL 1929, 12723;—CL 1948, 552.1;—Am. 1967, p. 338, Act 229, Eff. Nov. 2.

INCESTUOUS MARRIAGE: What are such marriages, see Compilers' §§ 551.3 and 551.4.

Penalty, see Compilers' §§ 750.333 and 750.334.

BIGAMOUS MARRIAGE: What are such marriages, see Compilers' § 551.5.

Penalty, see Compilers' §§ 750.439-750.441.

552.2 Invalidity of marriages; marriage of person under age of consent, marriage by fraud, lack of cohabitation.

Sec. 2. In case of a marriage solemnized when either of the parties was under the age of legal consent, if they shall separate during such non-age, and not cohabit together afterwards, or in case the consent of 1 of the parties was obtained by force or

fraud, and there shall have been no subsequent voluntary cohabitation of the parties, the marriage shall be deemed void, without any decree of divorce or other legal process.

HISTORY: CL 1857, 3223;—CL 1871, 4734;—How. 6224;—CL 1897, 8617;—CL 1915, 11393;—CL 1929, 12724;—CL 1948, 552.2.

552.3 Marriage of doubtful validity; procedure to annul.

Sec. 3. When a marriage is supposed to be void, or the validity thereof is doubted, for any of the causes mentioned in the 2 preceding sections; either party, excepting in the cases where a contrary provision is hereinafter made, may file a petition or bill in the circuit court of the county, where the parties or 1 of them, reside, or in the court of chancery for annulling the same and such petition or bill shall be filed and proceedings shall be had thereon as in the case of a petition or bill filed in said court for a divorce; and upon due proof of the nullity of the marriage, it shall be declared void by a decree or sentence of nullity.

HISTORY: CL 1857, 3224;—CL 1871, 4735;—How. 6225;—CL 1897, 8618;—CL 1915, 11394;—CL 1929, 12725;—CL 1948, 552.3.

See *Barradaile v. Barradaile*, 1 Edwards (N.Y.) 40.

ANNULMENT: See Compilers' § 552.34 et seq.

552.4 Marriage of doubtful validity; procedure to affirm.

Sec. 4. When the validity of any marriage shall be denied or doubted by either of the parties, the other party may file a bill or petition in the matter aforesaid, for affirming the marriage; and upon due proof of the validity thereof, it shall be declared valid by a decree or sentence of the court; and such decree, unless reversed on appeal, shall be conclusive upon all persons concerned.

HISTORY: CL 1857, 3225;—CL 1871, 4736;—How. 6226;—CL 1897, 8619;—CL 1915, 11395;—CL 1929, 12726;—CL 1948, 552.4.

552.5 Repealed. 1951, p. 13, Act 14, Eff. Sep. 28.

Section declared that sentence of life imprisonment on either party dissolved marriage without decree of divorce or other legal process, and that no pardon would restore party so sentenced to his or her conjugal rights.

552.6 Divorce from bonds of matrimony; jurisdiction to grant, grounds.

Sec. 6. A divorce from the bonds of matrimony may be decreed by the circuit court of the county where the parties, or 1 of them, reside, or by the court of chancery, on the application by petition, or bill of the aggrieved party, in either of the following cases:

1. Whenever adultery has been committed by any husband, or wife,
2. When 1 of the parties was physically incompetent at the time of the marriage,
3. When 1 of the parties has been sentenced to imprisonment in any prison, jail or house of correction for 3 years or more, and no pardon granted to the party so sentenced, after a divorce for that cause, shall restore such party to his, or her conjugal rights;
4. When either party shall desert the other for the term of 2 years
5. When the husband, or wife, shall have become an habitual drunkard
6. And the circuit courts may, in their discretion, upon application, as in other cases, divorce from the bonds of matrimony any party who is a resident of this state, and whose husband, or wife, shall have obtained a divorce in any other state.

HISTORY: Am. 1847, p. 168, Act 105, Eff. May 16;—Am. 1848, p. 194, Act 150, Imd. Eff. March 30;—Am. 1851, p. 71, Act 64, Eff. July 5;—CL 1857, 3227;—CL 1871, 4738;—How. 6228;—CL 1897, 8621;—CL 1915, 11397;—CL 1929, 12728;—CL 1948, 552.6.

RECORDS OF DIVORCES: Duty of circuit court clerks to make returns to state health commissioner, see Compilers' § 326.51.

552.7 Divorce from bed and board; grounds.

Sec. 7. A divorce from bed and board forever, or for a limited time may be decreed for the cause of extreme cruelty, whether practiced by using personal violence, or by

any other means; or for utter desertion by either of the parties for the term of 2 years; and a like divorce may be decreed on the complaint of the wife, when the husband, being of sufficient ability to provide a suitable maintenance for her, shall grossly or wantonly and cruelly refuse or neglect so to do.

HISTORY: Am. 1847, p. 168, Act 105, Eff. May 16;—Am. 1848, p. 194, Act 150, Imd. Eff. March 30;—CL 1857, 3228;—CL 1871, 4739;—How. 6229;—CL 1897, 8622;—CL 1915, 11398;—CL 1929, 12729;—CL 1948, 552.7.

FORMER LAW: Law prior to 1846, see Sec. 4, Ch. 2, Title VII, Part 2d, R.S. 1838, as Am. 1844, p. 74, Act 80, Imd. Eff. March 9.

552.8 Divorce from bonds of matrimony; additional grounds in discretion of court, bill of complaint.

Sec. 8. A divorce from the bonds of matrimony may be decreed for either of the causes mentioned in the preceding section whenever, in the opinion of the court, the circumstances of the case shall be such that it will be discreet and proper so to do; but no divorce from the bonds of matrimony for either of the causes mentioned in the preceding section shall be entered in any case where the same is not asked for by the complainant in the bill of complaint filed therein, or by the defendant on a cross-bill unless the court hearing the evidence shall deem it for the best interests of the parties to grant a divorce from the bonds of matrimony and in that event the court may grant such divorce.

HISTORY: CL 1857, 3229;—CL 1871, 4740;—How. 6230;—CL 1897, 8623;—Am. 1905, p. 185, Act 135, Eff. Sept. 16;—Am. 1907, p. 462, Act 324, Imd. Eff. June 28;—CL 1915, 11399;—CL 1929, 12730;—CL 1948, 522.8.

See notes to preceding section.

552.9 Divorce; residence, place of marriage.

Sec. 9. No decree of divorce shall be granted by any court in this state in any case unless:

(1) The party applying therefor shall have resided in this state for 1 year immediately preceding the time of filing the bill of complaint therefor; or

(2) The marriage which it is sought to dissolve was solemnized in this state, and the party applying for such divorce shall have resided in this state from the time of such marriage until the time of bringing such suit for divorce; and

(3) The complainant or defendant, or both of them, shall have resided in the county in which the bill of complaint is filed for 10 days immediately preceding the filing of the bill of complaint therefor.

HISTORY: CL 1857, 3230;—CL 1871, 4741;—How. 6231;—Am. 1887, p. 151, Act 137, Eff. Sep. 28;—Am. 1895, p. 371, Act 202, Eff. Aug. 30;—Am. 1897, p. 126, Act 116, Eff. Aug. 30;—CL 1897, 8624;—Am. 1899, p. 321, Act 210, Eff. Sep. 23;—CL 1915, 11400;—CL 1929, 12731;—Am. 1931, p. 217, Act 139, Imd. Eff. May 21;—Am. 1941, p. 4, Act 2, Eff. Jan. 10, 1942;—Am. 1947, p. 538, Act 323, Eff. Oct. 11;—CL 1948, 552.9;—Am. 1953, p. 213, Act 174, Eff. Oct. 2;—Am. 1956, p. 182, Act 95, Eff. Aug. 11;—Am. 1957, p. 314, Act 257, Eff. Sep. 27;—Am. 1958, p. 358, Act 227, Imd. Eff. May 26;—Am. 1959, p. 249, Act 174, Eff. Mar. 19, 1960.

552.9a Divorce; domicile of defendant; service of process.

Sec. 9a. No decree of divorce shall be granted in any case except when one of the following facts exist;

(1) The defendant is domiciled in this state at the time the bill of complaint for divorce is filed; or

(2) The defendant shall have been domiciled in this state when the cause for divorce alleged in the bill or petition arose; or

(3) The defendant shall have been brought in by publication or shall have been personally served with process in this state, or shall have been personally served with a copy of the order for appearance and publication within this state or elsewhere, or has voluntarily appeared in such action or proceeding. Whenever any such order shall be served outside this state, proof of such service shall be made by the affidavit of the

person who shall serve the same, made before a justice of the peace or notary public, and when such affidavit shall be made outside this state it shall have attached thereto the certificate of the clerk of a court of record, certifying to the official character of the justice or notary and the genuineness of his signature to the jurat of the affidavit.

HISTORY: Add. 1957, p. 314, Act 257, Eff. Sep. 27;—Am. 1958, p. 358, Act 227, Imd. Eff. May 26.

552.9b, 552.9c Repealed. 1958, p. 359, Act 227, Imd. Eff. May 26.

Sections provided that actions for divorce should be commenced by filing praecipe for summons with clerk, set forth requirements for filing, and provided for motion or petition for immediate relief.

552.9d Divorce; desertion, domicile, intent.

Sec. 9d. In all cases where divorce is asked on the ground of desertion, the desertion shall be deemed to have occurred in this state for the purpose of this act, when the parties, complainant and defendant, shall have been actually and in good faith domiciled in this state at the time the defendant actually abandoned the complainant, without proof of his or her actual intent at the time of such abandonment.

HISTORY: Add. 1957, p. 315, Act 257, Eff. Sep. 27.

552.9e Divorce; cause occurring out of state, residence.

Sec. 9e. Whenever the cause for divorce charged in the bill or petition has occurred out of this state, no decree of divorce shall be granted unless the complainant or defendant shall have resided in this state 1 year immediately preceding the filing of the bill of complaint for the divorce. Absence from this state for not to exceed 90 days shall not be construed as to interfere with the fulfillment of the 1-year residence requirement provided in the case of causes for divorce occurring without this state.

HISTORY: Add. 1957, p. 315, Act 257, Eff. Sep. 27;—Am. 1958, p. 359, Act 227, Imd. Eff. May 26.

552.9f Divorce; taking of testimony; minor children; perpetuating testimony; nonresident defendant, residence of plaintiff.

Sec. 9f. No proofs or testimony shall be taken in any case for divorce until the expiration of 60 days from the time of filing the bill of complaint, except where the cause for divorce is desertion, or when the testimony is taken conditionally for the purpose of perpetuating such testimony. In every case where there are dependent minor children under the age of 18 years, no proofs or testimony shall be taken in such cases for divorce until the expiration of 6 months from the day the bill of complaint is filed. In cases of unusual hardship or such compelling necessity as shall appeal to the conscience of the court, upon petition and proper showing, it may take testimony at any time after the expiration of 60 days from the time of filing the bill of complaint. Testimony may be taken conditionally at any time for the purpose of perpetuating such testimony. When the defendant in any case for divorce is not domiciled in this state at the time of commencing the suit or shall not have been domiciled herein at the time the cause for divorce arose, before any decree of divorce shall be granted the complainant must prove that the parties have actually lived and cohabited together as husband and wife within this state, or that the complainant has in good faith resided in this state for 1 year immediately preceding the filing of the bill of complaint for divorce.

HISTORY: Add. 1957, p. 315, Act 257, Eff. Sep. 27;—Am. 1958, p. 359, Act 227, Imd. Eff. May 26.

552.10 Divorce; effect of collusion or misconduct by each party, form of oath denying collusion.

Sec. 10. No divorce shall be decreed in any case when it shall appear that the petition or bill therefor was founded in or exhibited by collusion between the parties; and the oath or affirmation administered to the complainant in swearing to such petition or bill shall, in addition to all other legal requirements, recite the following: "And you do solemnly swear (or affirm), that there is no collusion, understanding or agreement whatever between yourself and the defendant herein, in relation to your application

for divorce." And no divorce shall be decreed in any case where the party complaining shall be guilty of the same crime or misconduct charged against the respondent.

HISTORY: CL 1857, 3221;—CL 1871, 4742;—How. 6232;—Am. 1887, p. 152, Act 137, Eff. Sept. 28;—CL 1897, 8625;—CL 1915, 11401;—CL 1929, 12732;—CL 1948, 552.10.

552.11 Suit; petition, answer without oath.

Sec. 11. A petition or bill for a divorce may be exhibited by a wife in her own name, as well as a husband; and in all cases the respondent may answer such bill without oath or affirmation.

HISTORY: CL 1857, 3232;—CL 1871, 4743;—How. 6233;—CL 1897, 8626;—CL 1915, 11402;—CL 1929, 12733;—CL 1948, 552.11.

552.12 Suit; conduct, power of court.

Sec. 12. Suits to annul or affirm a marriage, or for a divorce, shall be conducted in the same manner as other suits in courts of equity; and the courts shall have the power to award issues, to decree costs, and to enforce its decrees, as in other cases.

HISTORY: CL 1857, 3233;—CL 1871, 4744;—How. 6234;—CL 1897, 8627;—CL 1915, 11403;—CL 1929, 12734;—CL 1948, 552.12.

552.13 Alimony, expenses, cost.

Sec. 13. In every action brought, either for a divorce, or for a separation, the court, in its discretion, may require either party to pay alimony for the suitable maintenance of the adverse party, to pay such sums as shall be deemed proper and necessary to conserve any real or personal property owned by the parties, or either of them, and to pay any sums necessary to enable the adverse party to carry on or defend the action, during its pendency; and it may award costs against either party, and award execution for the same, or it may direct such costs to be paid out of any property sequestered, or in the power of the court, or in the hands of a receiver.

HISTORY: CL 1857, 3234;—CL 1871, 4745;—How. 6235;—CL 1897, 8628;—CL 1915, 11404;—CL 1929, 12735;—CL 1948, 552.13;—Am. 1951, p. 23, Act 18, Imd. Eff. Apr. 5;—Am. 1970, p. 543, Act 182, Imd. Eff. Aug. 3.

ALIMONY: See Compilers' § 552.23.

552.14 Suit; prohibits restraint on wife's liberty by court order.

Sec. 14. After the exhibiting of a petition or bill in a suit to annul a marriage, or for a divorce, whether from the bond of matrimony, or from bed and board, the court may at any time, either in term or vacation, on the petition of the wife, prohibit the husband from imposing any restraint on her personal liberty during the pendency of the suit.

HISTORY: CL 1857, 3235;—CL 1871, 4746;—How. 6236;—CL 1897, 8629;—CL 1915, 11405;—CL 1929, 12736;—CL 1948, 552.14.

552.15 Custody and maintenance of children pending decree; waiver of jurisdiction.

Sec. 15. The court may, in like manner, on the application of either party, make such order concerning the care and custody of the minor children of the parties, and their suitable maintenance, during the pendency of such suit, as shall be deemed proper and necessary, and for the benefit of the children: Provided, That the court is hereby authorized to waive jurisdiction of any minor children under the age of 17 during the pendency of such suit to the probate court of the county to be governed by the laws of this state with respect to dependent and neglected children under the age of 17 years.

HISTORY: CL 1857, 3236;—CL 1871, 4747;—How. 6237;—CL 1897, 8630;—CL 1915, 11406;—CL 1929, 12737;—Am. 1939, p. 247, Act 134, Eff. Sept. 29;—CL 1948, 552.15.

552.16 Custody and maintenance of children after decree; waiver of jurisdiction; bond for support.

Sec. 16. Upon pronouncing a sentence or decree of nullity of a marriage, and also upon decreeing a divorce, whether from the bond of matrimony or from bed and board, the court may make such further decree as it shall deem just and proper, concerning the care, custody and maintenance of the minor children of the parties, and may determine with which of the parents the children, or any of them, shall remain:

Provided, That the court is hereby authorized to waive jurisdiction of any minor children under the age of 17 in the decree of divorce, or after the decree of divorce, to the probate court of the county to be governed by the laws of this state with respect to dependent and neglected children under the age of 17 years. The court may, also, in granting a decree of divorce require the husband to file a bond with 1 or more sufficient sureties in a sum to be fixed by the court guaranteeing the payment of allowance ordered in the decree for the support of his minor child or children.

HISTORY: CL 1857, 3237;—CL 1871, 4748;—How. 6238;—CL 1897, 8631;—CL 1915, 11407;—Am. 1929, p. 616, Act 254, Eff. Aug. 28;—CL 1929, 12738;—Am. 1939, p. 247, Act 134, Eff. Sept. 29;—CL 1948, 552.16.

552.17 Custody and maintenance of children; decree alteration or revision; new decree.

Sec. 17. The court may, from time to time afterwards, on the petition of either of the parents, revise and alter such decree concerning the care, custody and maintenance of the children, or any of them, and make a new decree concerning the same, as the circumstances of the parents, and the benefit of the children shall require.

HISTORY: CL 1857, 3238;—CL 1871, 4749;—How. 6239;—CL 1897, 8632;—CL 1915, 11408;—CL 1929, 12739;—CL 1948, 552.17.

552.17a Jurisdiction of court; modification of judgment, waiver of contempt.

Sec. 17a. The court shall have jurisdiction in making such order or judgment relative to the minor children of such parties as authorized in this chapter to award custody of each child to 1 of the parties or a third person until each child has attained the age of 18 years and may require either parent to pay such allowance as may be deemed proper for the support of each child until each child shall have attained that age and may in case of exceptional circumstances, require payment of such allowance for any child after he attains that age. However, on application for modification of a judgment or order where applicant is in contempt, for cause shown, the court may waive the contempt and proceed to a hearing without prejudice to applicant's rights and render a determination on the merits.

HISTORY: Add. 1939, p. 471, Act 255, Eff. Sep. 29;—CL 1948, 552.17a;—Am. 1954, p. 4, Act 2, Eff. Aug. 13;—Am. 1970, p. 543, Act 182, Imd. Eff. Aug. 3.

552.18 Disposition of property to wife; real estate.

Sec. 18. Whenever the nullity of a marriage, or a divorce from the bond of matrimony for any cause excepting that of adultery committed by the wife, shall be decreed, and when the husband shall be sentenced to imprisonment for life, and also upon every divorce from bed and board, the wife shall be entitled to the immediate possession of all her real estate, in like manner as if her husband were dead.

HISTORY: CL 1857, 3239;—CL 1871, 4750;—How. 6240;—CL 1897, 8633;—CL 1915, 11409;—CL 1929, 12740;—CL 1948, 552.18.

See also Compilers' § 552.101 et seq.

552.19 Disposition of marital property.

Sec. 19. Upon every such dissolution of a marriage as is specified in section 18, and also upon every divorce from bed and board, the court may make a further judgment for restoring to either party the whole, or such parts as it shall deem just and reasonable, of the real and personal estate that shall have come to either party by reason of the marriage, or for awarding to either party the value thereof, to be paid by either party in money.

HISTORY: CL 1857, 3240;—CL 1871, 4751;—How. 6241;—CL 1897, 8634;—CL 1915, 11410;—CL 1929, 1274;—CL 1948, 552.19;—Am. 1970, p. 543, Act 182, Imd. Eff. Aug. 3.

552.20 Delivery of property to trustee; investment, application of income.

Sec. 20. Upon every divorce, and upon every divorce from bed and board for any cause, when any real and personal estate of either party, or money in lieu thereof, shall be awarded to either party, as provided in section 19, the court, instead of ordering it to be delivered or paid into the hands of either party, may order it to be delivered or

paid into the hands of a trustee or trustees, to be appointed by the court, upon trust to invest it, and to apply the income thereof to the support and maintenance of either party, and of the minor children of the marriage, or any of them, in such manner as the court shall direct.

HISTORY: CL 1857, 3241;—CL 1871, 4752;—How. 6242;—CL 1897, 8635;—CL 1915, 11411;—CL 1929, 12742;—CL 1948, 552.20;—Am. 1970, p. 543, Act 182, Imd. Eff. Aug. 3.

552.21 Payment of principal sum on court order; bonds.

Sec. 21. Such trustees shall also pay over the principal sum to either party and children of the marriage, when ordered by the court, in such proportions, and at such times as the court shall direct, regard being had, in the disposition of the income, as well as of the principal sum, to the situation and circumstances of either party and their children; and the trustees shall give such bonds as the court shall require, for the faithful performance of their trust.

HISTORY: CL 1857, 3243;—CL 1871, 4753;—How. 6243;—CL 1897, 8636;—CL 1915, 11412;—CL 1929, 12743;—CL 1948, 552.21;—Am. 1970, p. 543, Act 182, Imd. Eff. Aug. 3.

552.22 Disclosure of property.

Sec. 22. Whenever the court shall think proper to award to either party any of the real and personal estate of either party, or any money in lieu thereof, such court may require either party to disclose on oath, what real and personal estate has come to either party by reason of the marriage, and how it has been disposed of, and what portion thereof still remains in the hands of either party.

HISTORY: CL 1857, 3243;—CL 1871, 4754;—How. 6244;—CL 1897, 8637;—CL 1915, 11413;—CL 1929, 12744;—CL 1948, 552.22;—Am. 1970, p. 544, Act 182, Imd. Eff. Aug. 3.

552.23 Alimony; fees, disposition, payments.

Sec. 23. Upon every divorce from the bond of matrimony and also upon every divorce from bed and board if the estate and effects awarded to either party shall be insufficient for the suitable support and maintenance of either party and such children of the marriage as shall be committed to the care and custody of either party, the court may further award to either party such part of the real and personal estate of either party and such alimony out of the estate real and personal, to be paid to either party in gross or otherwise as it shall deem just and reasonable, having regard to the ability of either party and the character and situation of the parties, and all the other circumstances of the case.

To reimburse the county for the cost of handling alimony or support money payments, the court shall order the payment or [sic] \$1.50 per month, payable semiannually on January 2 and July 2 thereafter, to the friend of the court or county clerk. Such fees shall be paid by the person ordered to pay such alimony or support money. The fee shall be computed from the beginning date of the support order and shall continue while the order is operative. The service charges shall be paid 6 months in advance on each due date, except for the first payment, which shall be paid at the same time the support order is filed, and shall cover the period of time from that month until the next calendar due date. Every order or judgment for the payment of temporary or permanent alimony or support money shall provide for the payment of such fees. Any order or judgment for the payment of temporary or permanent alimony or support money, entered before January 1, 1968, may be amended by the court, upon its own motion, to provide for the payment of the fees, upon proper notice to the person ordered to pay the alimony or support money. Such fees shall be turned over to the county treasurer and credited to the general fund. Where the court appoints the friend of the court custodian, receiver, trustee or escrow agent of assets owned by the husband and wife, or either of them, the court may fix the amount of the fee for such service, to be turned over to the county treasurer and credited to the general fund.

HISTORY: CL 1857, 3244;—CL 1871, 4755;—Am. 1877, p. 72, Act 91, Eff. Aug. 21;—How. 6245;—CL 1897, 8638;—CL 1915, 11414;—CL 1929, 12745;—Am. 1947, p. 182, Act 133, Eff. Oct. 11;—CL 1948, 552.23;—Am. 1951, p. 162, Act 130, Eff. Sep. 28;—Am. 1958, p. 88, Act 81, Eff. Sep. 13;—Am. 1964, p. 17, Act 11, Eff. Aug. 28;—Am. 1967, p. 91, Act 73, Eff. Jan. 1, 1968;—Am. 1970, p. 544, Act 182, Imd. Eff. Aug. 3.

552.24 Dower; right of wife.

Sec. 24. When the marriage shall be dissolved by the husband being sentenced to imprisonment for life, and when a divorce shall be decreed for the cause of adultery committed by the husband, or for the misconduct or habitual drunkenness of the husband, or on account of his being sentenced to imprisonment for a term of 3 years or more, the wife shall be entitled to her dower in his lands, in the same manner as if he were dead; but she shall not be entitled to dower in any other case of divorce.

HISTORY: Am. 1850, p. 159, Act 165, Eff. March 28;—CL 1857, 3245;—CL 1871, 4756;—How. 6246;—CL 1897, 8639;—CL 1915, 11415;—CL 1929, 12746;—CL 1946, 552.24.

Secs. 25-26.

HISTORY: CL 1857, 3246-3247;—CL 1871, 4757-4758;—Rep. 1877, p. 28, Act 39, Eff. Aug. 21.

These sections dealt with disposition of the wife's estate when divorce was granted because of her adultery.

552.27 Alimony or allowance for support; lien; foreclosure.

Sec. 27. In all cases where alimony or allowance for the support and education of minor children shall be awarded to either party, the amount thereof shall constitute a lien upon such of the real and personal estate of the adverse party as the court by its judgment shall direct, and in default of payment of the amount so awarded the court may order the sale of the property against which such lien is adjudged in the same manner and upon like notice as in suits for the foreclosure of mortgage liens; or the court may award execution for the collection of the judgment, or the court may sequester the real and personal estate of either party and may appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate to be applied to the payment thereof or the court in lieu of a money allowance may award such a division between the husband and wife of the real and personal estate of either party or of the husband and wife by joint ownership or right as he shall deem to be equitable and just.

HISTORY: CL 1857, 3248;—Am. 1865, p. 529, Act 255, Eff. Jun. 22;—CL 1871, 4759;—Am. 1877, p. 32, Act 44, Eff. Aug. 21;—How. 6247;—Am. 1897, p. 252, Act 197, Eff. Aug. 30;—CL 1897, 8640;—CL 1915, 11416;—CL 1929, 12747;—CL 1946, 552.27;—Am. 1970, p. 544, Act 182, Imd. Eff. Aug. 3.

552.28 Judgment for alimony or allowance; revision or alteration.

Sec. 28. After a judgment for alimony or other allowance, for either party and children, or any of them, and also after a judgment for the appointment of trustees, to receive and hold any property for the use of either party or children as before provided the court may, from time to time, on the petition of either of the parties, revise and alter such judgment, respecting the amount of such alimony or allowance and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment respecting any of the matters which such court might have made in the original suit.

HISTORY: CL 1857, 3249;—CL 1871, 4760;—How. 6249;—CL 1897, 8641;—CL 1915, 11417;—CL 1929, 12748;—CL 1946, 552.28;—Am. 1970, p. 544, Act 182, Imd. Eff. Aug. 3.

552.29 Legitimacy of issue; divorce for adultery of wife.

Sec. 29. A divorce for the cause of adultery committed by the wife, shall not effect the legitimacy of the issue of the marriage, but the legitimacy of such children, if questioned, may be determined by the court upon the proofs in the cause; and in every case, the legitimacy of all children begotten before the commencement of the suit shall be presumed, until the contrary be shown.

HISTORY: CL 1857, 3250;—CL 1871, 4761;—How. 6249;—CL 1897, 8642;—CL 1915, 11418;—CL 1929, 12749;—CL 1946, 552.29.

552.30 Legitimacy of issue; dissolution of marriage on other grounds.

Sec. 30. Upon the dissolution of a marriage on account of the non-age, insanity or idiocy of either party, the issue of the marriage shall be deemed to be in all respects

the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

HISTORY: CL 1857, 3251;—CL 1871, 4762;—How. 6250;—CL 1897, 8643;—CL 1915, 11419;—CL 1929, 12750;—CL 1948, 552.30.

552.31 Legitimacy of issue; dissolution of bigamous marriage entered into in good faith.

Sec. 31. When a marriage is dissolved on account of a prior marriage of either party, and it shall appear that the second marriage was contracted in good faith, and with the full belief of the parties that the former wife or husband was dead, that fact shall be stated in the decree of divorce or nullity; and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

HISTORY: CL 1857, 3252;—CL 1871, 4763;—How. 6251;—CL 1897, 8644;—CL 1915, 11420;—CL 1929, 12751;—CL 1948, 552.31.

Sec. 32.

HISTORY: CL 1857, 3253;—CL 1871, 4764;—How. 6252;—Rep. 1883, p. 17, Act 24, Imd. Eff. April 11.

This section provided for the legitimacy of issue in cases of dissolution of incestuous or miscegenetic marriages.

Sec. 33.

HISTORY: CL 1857, 3254;—CL 1871, 4765;—How. 6253;—CL 1897, 8645;—CL 1915, 11421;—CL 1929, 12752;—Rep. 1931, p. 738, Act 328, Eff. Sept. 18.

This section prohibited the cohabitation of divorced persons. For present law, see Compilers' § 750.32.

552.34 Marriage annulment; person to exhibit bill in case of minor.

Sec. 34. A bill to annul a marriage on the ground that 1 of the parties was under the age of legal consent, may be exhibited by the parent or guardian entitled to the custody of such minor or by the next friend of such minor; but in no case shall such marriage be annulled on the application of a party who was of the age of legal consent at the time of the marriage, nor when it shall appear that the parties, after they had attained the age of consent, had freely cohabited as man and wife.

HISTORY: Am. 1847, p. 169, Act 105, Eff. May 16;—Am. 1848, p. 194, Act 150, Imd. Eff. March 30;—CL 1857, 3255;—CL 1871, 4766;—How. 6254;—CL 1897, 8646;—CL 1915, 11422;—CL 1929, 12753;—CL 1948, 552.34.

See Compilers' §§ 551.1 and 552.2.

552.35 Marriage annulment; person to exhibit bill in case of insanity or idiocy.

Sec. 35. A bill to annul a marriage on the ground of insanity or idiocy, may be exhibited by any person admitted by the court to prosecute as the next friend of such idiot or lunatic.

HISTORY: CL 1857, 3256;—CL 1871, 4767;—How. 6255;—CL 1897, 8647;—CL 1915, 11423;—CL 1929, 12754;—CL 1948, 552.35.

552.36 Marriage annulment; application of lunatic after restoration of reason.

Sec. 36. The marriage of a lunatic may also be declared void, upon the application of the lunatic, after the restoration of reason; but in such case, no sentence of nullity shall be pronounced, if it shall appear that the parties freely cohabited as husband and wife, after the lunatic was restored to a sound mind.

HISTORY: CL 1857, 3257;—CL 1871, 4768;—How. 6256;—CL 1897, 8648;—CL 1915, 11424;—CL 1929, 12755;—CL 1948, 552.36.

552.37 Marriage annulment; ground of force or fraud; effect of voluntary cohabitation.

Sec. 37. No marriage shall be annulled on the ground of force or fraud, if it shall appear that, at anytime before the commencement of the suit, there was a voluntary cohabitation of the parties as husband and wife.

HISTORY: CL 1857, 3258;—CL 1871, 4769;—How. 6257;—CL 1897, 8649;—CL 1915, 11425;—CL 1929, 12756;—CL 1948, 552.37.

See Compilers' §§ 552.2 and 552.3.

552.38 Marriage annulment; ground of force or fraud; custody and maintenance of issue.

Sec. 38. If there shall be any issue of a marriage, annulled on the ground of force or fraud, the court shall decree their custody to the innocent parent, and may also decree a provision for their education and maintenance out of the estate and property of the guilty party.

HISTORY: CL 1857, 3259;—CL 1871, 4770;—How. 6258;—CL 1897, 8650;—CL 1915, 11426;—CL 1929, 12757;—CL 1948, 552.38.

552.39 Marriage annulment; ground of physical incapacity; party to maintain; time limitation of suit.

Sec. 39. A suit to annul a marriage, on the ground of the physical incapacity of 1 of the parties shall only be maintained by the injured party, against the party whose incapacity is alleged; and shall in all cases, be brought within 2 years from the solemnization of the marriage.

HISTORY: CL 1857, 3260;—CL 1871, 4771;—How. 6259;—CL 1897, 8651;—CL 1915, 11427;—CL 1929, 12758;—CL 1948, 552.39.

552.40 Divorce decree; evidence, testimony taken outside of court when party in armed service.

Sec. 40. No decree of divorce shall be made solely on the declarations, confessions, or admissions of the parties, but the court shall require other evidence of the facts alleged in the bill for that purpose, but either party may, if he or she elect, testify in relation to such facts. The testimony of either party to the action shall be taken only in open court, and such testimony shall not be received in support of a charge of adultery. Should it appear that one of the parties to the action is in the armed services of the United States, the testimony of such party may be taken outside of court, in such manner as the court may direct.

HISTORY: CL 1857, 3261;—CL 1871, 4772;—Am. 1883, p. 167, Act 155, Eff. Sep. 8;—How. 6260;—CL 1897, 8652;—CL 1915, 11428;—CL 1929, 12759;—Am. 1945, p. 28, Act 32, Imd. Eff. March 13;—CL 1948, 552.40;—Am. 1959, p. 123, Act 121, Eff. Mar. 19, 1960.

Amendatory act of 1883 erroneously cites this section as number 39.

552.41 Adultery; grounds for suit, denial basis.

Sec. 41. In any suit brought for a divorce on the ground of adultery, although the fact of adultery be established, the court may deny a divorce in the following cases:

1. When the offense shall appear to have been committed by the procurement, or with the connivance of the complainant;
2. When the offense charged shall have been forgiven by the injured party, and such forgiveness be proved by express proof, or by the voluntary cohabitation of the parties, with the knowledge of the offense;
3. When there shall have been no express forgiveness, and no voluntary cohabitation of the parties, but the suit shall not have been brought within 5 years after the discovery by the complainant of the offense charged.

HISTORY: CL 1857, 3262;—CL 1871, 4773;—How. 6261;—CL 1897, 8653;—CL 1915, 11429;—CL 1929, 12760;—CL 1948, 552.41.

552.42 Divorce from bed and board; application; order for maintenance of wife and children.

Sec. 42. In case of an application for a divorce from bed and board, although a decree for such divorce be not made, the court may make such order or decree for the support and maintenance of the wife and children, or any of them, by the husband, or out of his property, as the nature of the case may render suitable and proper.

HISTORY: CL 1857, 3263;—CL 1871, 4774;—How. 6262;—CL 1897, 8654;—CL 1915, 11430;—CL 1929, 12761;—CL 1948, 552.42.

552.43 Divorce from bed and board; decree; limited time, revocation.

Sec. 43. When a decree of divorce from bed and board forever, or for a limited time, shall have been pronounced, it may be revoked at any time thereafter, under such regulations and restrictions as the court may impose, upon the joint application of the parties, and their producing satisfactory evidence of their reconciliation.

HISTORY: CL 1857, 3264;—CL 1871, 4775;—How. 6263;—CL 1897, 8655;—CL 1915, 11431;—CL 1929, 12762;—CL 1948, 522.43.

552.44 Testimony taken before circuit court commissioner; questioning witness.

Sec. 44. In all suits for divorce, if any of the testimony in the case is taken before a circuit court commissioner, or by stipulation before any other officer, it shall be the duty of such commissioner, or other officer, to ask of each and every witness sworn by and before him in such cause the following question, which shall be reduced to writing in the testimony: "Do you know of any fact, matter or circumstance, which will in any way tend to weaken complainant's case for divorce? If so, state the same particularly and fully;" and the answer of the witness to such question shall be reduced to writing by the said commissioner, or other officer, verbatim as far as possible, and the question and answer shall be returned to the court with the other testimony in the case.

HISTORY: Add. 1887, p. 152, Act 137, Eff. Sept. 28;—How. 6263a;—CL 1897, 8656;—CL 1915, 11432;—CL 1929, 12763;—CL 1948, 552.44.

552.45 Children; enumeration in complaint; notice to prosecutor of friend of court; decree opposition, fee; interest of prosecutor or partners in case.

Sec. 45. Every bill of complaint filed shall set forth the names and ages of all children of the marriage, and when there are children under 17 years of age a copy of the summons issued in the cause shall be served upon the the [sic] prosecuting attorney of the county where suit is commenced, or upon the friend of the court in those counties having a population of 500,000 or more which have a friend of the court. The prosecuting attorney or friend of the court so served shall enter his appearance in the cause, and when, in his judgment, the interest of the children or the public good so requires, he shall introduce evidence and appear at the hearing and oppose the granting of a decree of divorce. In any case wherein there are no children the issue of such marriage under the age of 17 years, when it shall appear to the court that the public good so requires, an order may be entered requiring the prosecuting attorney or friend of the court in counties having a population of 500,000 or more to appear and oppose the granting of a decree of divorce. For every case which the prosecuting attorney investigates, and in which he appears by and with the consent of the court, he shall receive the sum of \$5.00, to be paid by the county treasurer upon the certificate of the circuit judge that such services have been performed. Nothing in this act contained shall be construed as preventing prosecuting attorneys or their partners from acting as solicitors or counsel for either party to the suit. If a prosecuting attorney or friend of the court is in any way interested as solicitor or counsel for either of the parties the court shall appoint some reputable attorney to perform the services of prosecuting attorney, as provided in this act, who shall receive the compensation provided for such service.

HISTORY: Add. 1887, p. 152, Act 137, Eff. Sept. 28;—How. 6263b;—CL 1897, 8657;—Am. 1907, p. 446, Act 315, Eff. Sept. 28;—Am. 1909, p. 642, Act 284, Eff. Sept. 1;—CL 1915, 11433;—Am. 1919, p. 697, Act 397, Eff. Aug. 14;—CL 1929, 12764;—Am. 1931, p. 61, Act 44, Eff. Sept. 18;—CL 1948, 552.45;—Am. 1963, p. 19, Act 13, Eff. Sep. 6.

552.46 Remarriage; time restriction; provision in decree, penalty for violation.

Sec. 46. The court granting a decree of divorce may provide in such decree that the party against whom any divorce is granted shall not marry again within such time as shall be fixed by the court, which time shall be set out in the decree: Provided, That such time shall not exceed the period of 2 years from the time such decree is granted. And in case any person shall marry contrary to the time set out in such decree, said

party shall be deemed to have committed the crime of bigamy and shall be subject to the pains and penalties therefor.

HISTORY: Add. 1887, p. 152, Act 137, Eff. Sept. 28;—How. 6263c;—CL 1897, 8656;—CL 1915, 11434;—CL 1929, 12765;—CL 1948, 552.46.

BIGAMY: For penalty see Compilers' § 750.439.

Act 259, 1909, p. 443; Eff. Sep. 1.

AN ACT to provide that decrees of divorce shall make provision in satisfaction of the claims of the wife in the property of the husband and in contracts of insurance and annuity upon the life of the husband, to change the tenure of lands owned by husband and wife in case of divorce, and to provide for the disposition or partition of such lands or the proceeds thereof. Am. 1939, p. 412, Act 220, Eff. Sep. 29.

The People of the State of Michigan enact:

552.101 Divorce decree; provision in lieu of dower; determination of wife's rights in insurance policy.

Sec. 1. When any decree of divorce is hereafter granted in any of the courts of this state, it shall be the duty of the court granting such decree to include in it a provision in lieu of the dower of the wife in the property of the husband, and such provision shall be in full satisfaction of all claims that the wife may have in any property which the husband owns or may thereafter own, or in which he may have any interest.

Hereafter every decree of divorce shall determine all rights of the wife in and to the proceeds of any policy or contract of life insurance, endowment or annuity upon the life of the husband in which she was named or designated as beneficiary, or to which she became entitled by assignment or change of beneficiary during the marriage or in anticipation thereof, whether such contract or policy was heretofore or shall hereafter be written or become effective, and unless otherwise ordered in said decree such policy or contract shall thereupon become and be payable to the estate of the husband or to such named beneficiary as he shall affirmatively designate: Provided, That the company issuing such policy or contract shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the company shall have written notice, by or on behalf of the insured or the estate of the insured or 1 of the heirs of the insured, or any other person having an interest in such policy or contract of a claim thereunder and the aforesaid divorce.

HISTORY: CL 1915, 11436;—CL 1929, 12766;—Am. 1939, p. 412, Act 220, Eff. Sept. 29;—CL 1948, 552.101.

552.102 Realty owned jointly or by entireties; effect of divorce without determination of ownership in decree.

Sec. 2. Every husband and wife owning real estate as joint tenants or as tenants by entireties shall, upon being divorced, become tenants in common of such real estate, unless the ownership thereof is otherwise determined by the decree of divorce.

HISTORY: CL 1915, 11437;—CL 1929, 12767;—CL 1948, 552.102.

552.103 Realty owned jointly or by entireties; bill of complaint, disposal, sale order, partition.

Sec. 3. The bill of complaint or amendment thereto, or the answer or cross bill or amendment thereto, filed in any divorce proceeding may ask that the ownership of the lands described therein and owned by the parties to such suit as joint tenants or as tenants by entireties shall be determined by the decree of divorce, if granted, and in such case the court granting the divorce may award such lands to 1 or the other of said parties, or any part of it to either of them, or may order such lands to be sold under the direction of a circuit court commissioner, and the proceeds thereof divided between the

parties in such proportion as the court shall order; or may appoint commissioners to partition such lands between said parties in the proportion fixed by the decree. The proceedings following the appointment of such commissioner shall conform to the law governing the partition of lands between tenants in common.

HISTORY: CL 1915, 11438;—CL 1929, 12768;—CL 1948, 552.103.

552.104 Divorce decree; certified copy; recording.

Sec. 4. A certified copy of any decree granted in a suit for divorce may be recorded in the office of the register of deeds of any county in this state.

HISTORY: CL 1915, 11439;—CL 1929, 12769;—CL 1948, 552.104.

Act 52, 1911, p. 63; Eff. Aug. 1.

AN ACT to allow the bringing of an action at law on a decree for alimony of a court of another state and regulating the practice in such cases.

The People of the State of Michigan enact:

552.121 Foreign divorce decree as basis of action at law.

Sec. 1. In all cases where a decree for alimony has been rendered in another state in a case where the party against whom the decree was rendered was present in court or was personally served with process within the jurisdiction of the court, the alimony decreed upon the final hearing may be recovered in an action at law in this state, regardless of whether the same is decreed to be paid in 1 payment or in installments from time to time.

HISTORY: CL 1915, 11440;—CL 1929, 12770;—CL 1948, 552.121.

552.122 Stay of proceedings.

Sec. 2. If the defendant in this state shows that he has made proper application in the court of the other state for a reduction or any further order in relation to the alimony in the courts of the other state, the court in this state may stay the proceedings in this state on such terms as it desires to impose.

HISTORY: CL 1915, 11441;—CL 1929, 12771;—CL 1948, 552.122.

552.123 Judgment; stay, amendment.

Sec. 3. All judgments in such cases shall be stayed 60 days, and if during said term the defendant in this state presents satisfactory evidence of a change in the decree of the courts of the other state, the court may alter or amend its judgment as to it may seem proper and just.

HISTORY: CL 1915, 11442;—CL 1929, 12772;—CL 1948, 552.123.

Act 379, 1913, p. 724; Eff. Aug. 14.

AN ACT to facilitate the collection of alimony and support and maintenance for minor children ordered to be paid in suits for divorce or separate maintenance. Am. 1962, p. 377, Act 176, Eff. Mar. 24, 1963.

The People of the State of Michigan enact:

552.151 Divorce or separate maintenance; alimony or child support orders, violation, petition, punishment.

Sec. 151. In any suit for divorce or separate maintenance where an order or decree for payment of temporary or permanent alimony, or of support and maintenance for minor children, has been made, and where the party, plaintiff or defendant, has ap-

peared in person or by attorney or has been personally served with process within the jurisdiction of the court making such order or decree, such court may punish, by fine and imprisonment or both, any neglect or violation of such order upon petition of the party whose rights thereunder may have been impaired, impeded or prejudiced by such neglect or violation.

HISTORY: CL 1915, 11443;—CL 1929, 12773;—CL 1948, 552.151;—Am. 1962, p. 377, Act 176, Eff. Mar. 24, 1963.

552.152 Default in payments; proof, motion, attachment.

Sec. 2. When any such decree or order shall stipulate payments to be made to the clerk of the court, or to the friend of the court, and any of such payments shall be in default, the party prejudiced may make a motion before such court showing by records in the clerk's or friend of the court's office, or otherwise, that such default has occurred, and the court may forthwith issue an attachment to arrest the party in default and bring him immediately before the court to answer for such neglect.

HISTORY: CL 1915, 11444;—Am. 1923, p. 373, Act 232, Eff. Aug. 30;—CL 1929, 12774;—CL 1948, 552.152;—Am. 1962, p. 377, Act 176, Eff. Mar. 28, 1963.

552.153 Order for payment; demand or notice not necessity.

Sec. 3. No demand or notice of making the order for such payment shall be necessary in the cases enumerated in section 1.

HISTORY: CL 1915, 11445;—CL 1929, 12775;—CL 1948, 552.153;—Am. 1962, p. 377, Act 176, Eff. Mar. 28, 1963.

552.154 Attachment; arrest, custody of party.

Sec. 4. The attachment shall be executed by the sheriff of the county, or by any officer authorized to make such arrest, who shall arrest the party named therein and keep him in actual custody and bring him forthwith before the court issuing the attachment, and shall keep and detain him until the court shall make some further order.

HISTORY: CL 1915, 11446;—CL 1929, 12776;—CL 1948, 552.154;—Am. 1962, p. 377, Act 176, Eff. Mar. 28, 1963.

552.155 Attachment; discharge by execution of bond, court order.

Sec. 5. The party arrested on the attachment shall be discharged therefrom upon executing and delivering to the clerk of the court issuing such attachment a bond, with 2 sufficient sureties in a penal sum to be fixed by the court, conditioned for immediate and faithful performance of the terms of the order for such payment, or the party may be discharged from arrest by such other order as the court may enter after a full hearing thereon.

HISTORY: CL 1915, 11447;—CL 1929, 12777;—CL 1948, 552.155;—Am. 1962, p. 377, Act 176, Eff. Mar. 28, 1963.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 11448;—CL 1929, 12778;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 239, 1913, p. 456; Eff. Aug. 14.

AN ACT to provide a penalty for failure to pay money for the support and maintenance of minor children, in divorce and separate maintenance cases and to assist in the maintenance of dependent persons in divorce proceedings. Am. 1931, p. 407, Act 232, Eff. Sep. 18;—Am. 1964, p. 235, Act 175, Eff. Aug. 28.

The People of the State of Michigan enact:

552.201 Contempt for failure to support children; sentence; liberty of jail limits; earnings; payment of contribution by welfare agencies.

Sec. 1. Whenever either party to a proceeding for divorce or separate maintenance has been ordered or decreed to pay money for the support and maintenance of minor children and fails or refuses to obey and perform such order, and has been found guilty of contempt of court for such failure or refusal, the court making such order in con-

tempt proceedings may forthwith upon the filing of a sworn affidavit of complaint establishing such fact of nonpayment, issue a bench warrant requiring said party to be brought forthwith before said court to answer and plead to such neglect or refusal. Whenever the court shall be satisfied that the party is of sufficient ability to comply with said order, or by the exercise of diligence could be of sufficient ability, and has neglected or refused to do so, said court may forthwith punish such person for contempt of said court by making an order placing such person on probation or may commit him to the county jail or commit him to the county jail with the liberty of jail limits which shall be co-extensive with the limits of the county, during such hours as the court shall determine, for the purpose of allowing said party to go to and return from his place of employment under such supervision as the court shall deem necessary, or to any state prison or any penal institution in the state of Michigan for such period as said party shall continue to be in contempt, not to exceed 1 year, however; the court may further direct that any portion or all of the earnings of such person in said institution shall be paid to and applied for the support of the minor children of such person until the order or decree of the court has been complied with or until the further order of the court; and if it appears that a state, county, city or township welfare agency has contributed towards the support of said minor child or children during the period of non-compliance with the order of the court, the court may order all or part of any lump sum payment to the friend of the court or county clerk in said contempt proceedings to be paid to such welfare agency not to exceed the amount of the contribution made by the welfare agency. The court may order the money paid to the person or persons entitled thereto in weekly or monthly installments by the friend of the court or county clerk to the extent that the court may consider the same necessary for the support, maintenance and education of the minor children.

HISTORY: CL 1915, 11449;—Am. 1919, p. 745, Act 415, Eff. Aug. 14;—Am. 1921, p. 329, Act 158, Eff. Aug. 18;—CL 1929, 12779;—Am. 1931, p. 407, Act 232, Eff. Sept. 18;—Am. 1941, p. 5, Act 3, Eff. Jan. 10, 1942;—Am. 1947, p. 373, Act 244, Eff. Oct. 11;—CL 1948, 552.201;—Am. 1954, p. 7, Act 6, Eff. Aug. 13;—Am. 1964, p. 235, Act 175, Eff. Aug. 28.

552.202 Construction of act.

Sec. 2. This act shall be cumulative and shall not be construed to affect, amend or repeal any other provisions of law in effect for the enforcement of orders for payment of alimony or for the punishment of persons failing or refusing to comply with any order or decree of court for that purpose.

HISTORY: CL 1915, 11450;—CL 1929, 12780;—Am. 1931, p. 407, Act 232, Eff. Sept. 18;—CL 1948, 552.202.

552.203 Probation; assignment of wages; discharge of employer's liability.

Sec. 3. Whenever the events described in section 1 have resumed so that the court would be authorized to place a person on probation the court may order an assignment to the friend of the court of the salary, wages or other income of the person responsible for the payment of support and maintenance, which assignment shall continue until further order of the court. The order of assignment shall be effective 1 week after service upon the employer of a true copy of the order by personal service or by certified mail. Thereafter, the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the friend of the court until further order of the court. The person ordered to pay the support and maintenance shall inform the friend of the court immediately of any change which would affect the assignment or the disbursement thereof. An employer shall not use such assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earning so affected. The term employer as used in this section shall include the state and any political subdivision thereof.

HISTORY: Add. 1964, p. 236, Act 175, Eff. Aug. 28;—Am. 1966, p. 321, Act 238, Eff. Jan. 1, 1967.

Act 412, 1919, p. 739; Eff. Aug. 14.

AN ACT for the protection of dependent minor children and to compel enforcement of chancery decrees where there are minor children in divorce cases, who are liable to become public charges and are not properly cared for by their custodians, and to enforce the payment of amounts decreed them in a court of chancery, and to enforce all interlocutory and decretal orders; to provide for the appointment of a friend of the court to act in such cases and to provide for the rights, powers and duties of such friend of the court. Am. 1939, p. 746, Act 306, Eff. Sep. 29.

The People of the State of Michigan enact:

552.251 Friend of court; appointment, duties, legal assistance, removal.

Sec. 1. It shall be the duty of the circuit judge or circuit judges of the respective counties in the state of Michigan, to recommend a duly qualified and licensed attorney as a "Friend of the Court" who shall be appointed by the governor, each of whom shall act as such "Friend of the Court" in the judicial circuit in which he shall have been appointed for the purpose of enforcing payment of all delinquent payments duly ordered and decreed by said circuit courts for the support, maintenance and education of dependent minor children, in causes pending or where parents have been divorced, where said dependent minor children for any reason are not receiving proper care, maintenance and education and are liable to become a public charge and are not properly cared for by their custodian: Provided, That such "Friend of the Court" need not be a duly qualified and licensed attorney, but may be any person competent for such work, and may be the same person who is probation officer or assistant probation officer in such counties: And provided further, That if such "Friend of the Court" is not a duly qualified and licensed attorney, the circuit judge of such county may appoint any duly qualified and licensed attorney to assist such "Friend of the Court" when such circuit judge shall deem legal assistance necessary, and such attorney so appointed shall be paid such sum or sums as the circuit judge shall fix and determine as reasonable for the services performed, from the general fund of such counties by the county treasurer thereof upon orders drawn by the county clerk subject to the proper audit by the board of supervisors or board of county auditors. The governor shall have power to remove such officer for incompetency, misconduct or failure to carry out the orders of the court, or neglect of any duty imposed by the court. Such removal may be made upon the certification of the judge or judges of the court under whom such "Friend of the Court" acts, which certificate shall set forth that a full hearing has been had before said judge or judges and as a result thereof, the court has determined that such "Friend of the Court" is incompetent or has been guilty of misconduct, neglect of duty, or refusal to carry out the order of the court.

HISTORY. Am. 1921, p. 308, Act 146, Eff. Aug. 18;—CL 1929, 12783;—Am. 1939, p. 746, Act 306, Eff. Sept. 29;—CL 1948, 552.251.

552.252 Friend of court; duties.

Sec. 2. It shall be the duty of the "Friend of the Court" in their respective counties to examine all records and files in divorce cases where interlocutory orders or decrees have been rendered and there are dependent minor children and ascertain if said dependent minor children regularly receive the various and definite amounts decreed them by their respective circuits, that the same is applied for their support, maintenance, education and betterment, and that said dependent children are properly cared for by their custodian. To bring into court when necessary by citation or otherwise all persons who are delinquent in making said payments or who have the care, custody, support, maintenance and education of said dependent minor children and to ascer-

tain if said dependent minor children are receiving the proper care, maintenance and education and whether they are liable to become a public charge.

HISTORY: CL 1929, 12784;—Am. 1939, p. 747, Act 306, Eff. Sept. 29;—CL 1948, 552.252.

552.252a Friend of court; sufficiency of payments for benefit of dependent children; petition for modification.

Sec. 2a. The friend of the court shall examine all records and files in divorce cases where judgments have been entered requiring payments for the benefit of a dependent minor child or children and conduct such other investigation as is necessary to ascertain if such payments are sufficient in view of both changing economic conditions and financial condition of the parties, as follows:

(a) Every 2 years in cases where the dependent minor child or children are being supported in whole or in part by public welfare.

(b) On his own motion in cases where he is informed and believes that due to such changing conditions the judgments should be modified.

(c) On oral or written request of the custodian of the dependent minor child or children, but not more than once in every 2 years.

Whenever a parent or guardian of a dependent minor child or children receiving payments from a judgment entered in a divorce case for the dependent child or children applies for or is receiving any form of public aid or support on behalf of the child or children, this fact may be determined by the court to constitute a change in the economic and financial conditions of the parties and the friend of the court may petition for modification of the judgment.

The friend of the court shall petition the court for modification of the judgment when he deems it in the interest of the dependent minor child or children or in the interest of the public.

HISTORY: Add. 1966, p. 200, Act 178, Eff. Jan. 1, 1967;—Am. 1968, p. 158, Act 104, Eff. Nov. 15.

552.253 Friend of court; powers; dependent minor children; investigation and recommendation; enforcement; referee; report.

Sec. 3. Said "Friend of the Court" shall have full power by citation or other order duly issued by the circuit court to compel the attendance of witnesses to take testimony and to do each and everything necessary, including the taking of contempt proceedings, to collect any and all delinquent payments due for said dependent minor children, to make recommendations to the circuit courts for the betterment of the conditions of said dependent minor children and to ascertain the moral and general conditions surrounding said dependent minor children and shall report the result of his findings in writing to the circuit court. The judges of each of the several judicial circuits throughout the state of Michigan may refer to the "Friend of the Court" for investigation and recommendation all pleadings, including motions in divorce, separate maintenance and annulment cases wherein the rights of dependent minor children are involved. Said "Friend of the Court" shall assume responsibility for the enforcement of all preliminary and interlocutory as well as decretal orders in such causes. The court may designate the "Friend of the Court" to act as referee in the taking of testimony of witnesses and hearing the statement of parties upon pending motions and such "Friend of the Court" so designated shall take and subscribe the oath of office provided by constitution and shall have authority to administer oaths and examine witnesses and shall make a written, signed report to the court containing a summary of the testimony and a recommendation for the court's findings and disposition of such matters.

HISTORY: CL 1929, 12785;—Am. 1939, p. 747, Act 306, Eff. Sept. 29;—Am. 1947, p. 501, Act 328, Eff. Oct. 11;—CL 1948, 552.253.

552.254 Friend of court; compensation.

Sec. 4. The compensation of said "friend of the court" shall be such sum as may be fixed by the board of supervisors of the counties adopting this act. Said compensation shall be paid from the general fund of such counties by the county treasurer thereof upon orders drawn by the county clerk, subject to the proper audit by the board of supervisors or board of county auditors.

HISTORY. CL 1929, 12796;—CL 1948, 552.254.

552.255 Friend of court; annual conference; purpose; expense.

Sec. 5. There shall be held an annual conference of the friends of the court of the state at such time and place as shall be designated by the president and, if absent or incapacitated, by the vice-president of the friends of the court association of the state of Michigan in a written notice thereof given at least 1 month in advance of the date selected. Such conference shall consider legislation and any and all matters pertaining to the statutory duties of the friends of the court to the end that a uniform system of conduct, duties and procedure be established. Each friend of the court may be paid from the county treasury his actual and necessary expenses, not to exceed an amount set by the board of supervisors, in the attendance at the conference.

HISTORY. Add. 1941, p. 599, Act 345, Eff. Jan. 10, 1942;—CL 1948, 552.255;—Am. 1959, p. 259, Act 183, Eff. Mar. 19, 1960.

Act 243, 1889, p. 364; Eff. Oct. 2.

AN ACT to provide wives with property and maintenance from their husband's estates when neglected or deserted by them, or when the husband has become an habitual drunkard or has practiced extreme cruelty towards his wife or committed any offense sufficient to entitle the wife to a decree of divorce or separation.

The People of the State of Michigan enact:

552.301 Commission of offense entitling wife to divorce and nonsupport; petition of wife, evidence, alimony, appeal.

Sec. 1. That whenever a husband shall, without good and sufficient cause desert his wife, or shall have hereafter deserted his wife without good and sufficient cause being of sufficient ability to support her, or shall have become an habitual drunkard since their marriage, or practiced extreme cruelty towards her, or committed the crime of adultery, or any other offense that entitles the wife to a decree of divorce or of separation, and shall refuse and neglect to support his wife, either the wife or husband being a resident of this state, the circuit court in chancery of any county in this state in which said husband or wife shall reside, shall on the application of the wife by petition, allot, assign, set apart and decree to her as alimony the use of such part of her husband's real and personal estate, or such proportion of his earnings, income or revenue as the court may determine, in its discretion, and during the pending of the proceeding may require the husband to pay such sums to carry on the proceeding, or for her support, as it shall deem necessary, in like manner as provided by section 6235 of Howell's statutes, being 4745 of the Compiled Laws of 1871, in case of suit for divorce: Provided, That no decree shall be made in favor of the petitioner unless on the hearing either such a state of facts shall appear as would entitle her, as far as the husband's wrongful acts are shown, to a decree for divorce upon the grounds specified in the petition, or unless such a state of facts set out in the petition shall be proven as shall make it appear that the respondent has deserted the petitioner with intent to leave her without adequate means of support without good and sufficient cause, and the husband shall be permitted to allege in his answer to the petition any facts which would prevent or bar a divorce upon the grounds alleged in said petition, and to make

proof of the same in conformity with such answer. And provided further, That an appeal from the final order or decree, may be taken to the supreme court as in chancery cases, except that if the wife shall take such appeal, she shall not, in the discretion of the court, be required to file an appeal bond.

HISTORY: How. 6293a;—CL 1897, 8686;—CL 1915, 11479;—CL 1929, 12794;—CL 1948, 552.301.

NOTE: How. 6235, above referred to, is Compilers' § 552.13.

FORMER ACTS: Act 149 of 1885 and Act 90 of 1887.

552.302 Commission of offense entitling wife to divorce, and nonsupport; order for husband's appearance, injunction, execution on estate of husband.

Sec. 2. Whenever in such a proceeding as the preceding section authorized, a petition shall be filed by the wife, writ of subpoena may be issued to be served and returned as in ordinary chancery suits, and if upon the filing of such petition or the return of such subpoena unserved, it shall be made to appear, that the husband has left, or is out of the state, or has concealed himself so that service of process is impossible, the court may make an order for his appearance to be published for the same time and in the same manner, as the statute provides in chancery proceedings and suits generally. Provided, That if upon the filing of such petition it shall be made to appear to the circuit judge that the husband has property, real or personal, credits, stocks or securities, which there is good reason to believe he will dispose of to avoid the decree of the court, the court may grant an injunction restraining the sale and incumbrance of such property, stocks and securities and the collection of such credits and notice of such injunction served upon any person who is the agent of the husband or his debtor or the secretary of any corporation in which he holds stock, or upon the register of deeds, shall enjoin them from taking any part in aiding the transfer or incumbrance of such property and from the payment of such debts and be notice to any and all persons to whose knowledge it shall be brought, and operate as an attachment on property in the hands of that person; but such injunction shall not be held to affect the duty of a register of deeds to record any deed or other instrument, properly executed, delivered to him for that purpose. And provided further, That to enforce its decree, said court may cause execution to be issued and levied upon any of the husband's estate found in the state, including stock in any corporation, and that where choses in action are due and owing the husband from any resident of the state the said court may, upon 30 days' notice given to the defendant personally, if he is a resident, but by publication if concealed or a non-resident, once in each week for said 30 days in some newspaper published in the county in which said action is pending, order decree and direct that the same be sold in the same manner as personal chattels are sold upon execution from the courts of record.

HISTORY: How. 6293b;—CL 1897, 8687;—CL 1915, 11480;—CL 1929, 12795;—CL 1948, 552.302.

Sec. 3. (This was a repeal section.)

HISTORY: How. 6293c;—CL 1897, 8687n;—CL 1915, 11481;—CL 1929, 12796;—Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 90, 1887; Act 149, 1885.

Act 152, 1873, p. 203; Eff. Jul. 31.

AN ACT to provide wives with property and maintenance from their husband's estate when neglected or deserted by them.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: How. 6291;—Am. 1885, p. 169, Act 149, Eff. Sept. 19;—Am. 1887, p. 98, Act 90, Eff. Sept. 28;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25, Act 243 of 1889, which immediately precedes this act repeals the amendatory acts of 1885 and 1887, but does not refer to the original act. Sec. 1 of Act 243 of 1889, however, clearly supersedes the original section.

Sec. 2.

HISTORY: How. 6292;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. This section is probably superseded by Sec. 2 of Act 243 of 1889, Compilers' § 552.302.

552.333 Care, custody and maintenance of children; possession of husband's estate; sum for support; enforcement of decree; change of allowance.

Sec. 3. In all proceedings brought pursuant to this act, the court may order the maintenance by either party of the minor children of the parties, and during the pendency of the proceeding may assign and decree to the wife the possession of any of the real and personal estate of the husband, and the court may decree the payment of a fixed sum of money for the support of such wife and minor children, and that the payment of the same be secured upon real estate, or otherwise, at such times and in such manner as may be proper, and may enforce the performance of such decree by the sale of the real estate of the husband, or otherwise, as may be necessary. The court may change the allowance from time to time, according to circumstances, and may revoke the allowance on satisfactory proof of a voluntary and permanent reconciliation: Provided, however, That such allowance shall be only during the joint lives of such husband and wife.

HISTORY: How. 6293;—CL 1897, 8668;—CL 1915, 11483;—CL 1929, 12797;—CL 1948, 552.333;—Am. 1968, p. 472, Act 273, Eff. Nov. 15.

Act 299, 1905, p. 472; Eff. Sep. 16.

AN ACT to provide for changing and determining the names of divorced women.

The People of the State of Michigan enact:

552.391 Divorced woman; name change, effect of issue.

Sec. 1. The several circuit courts of this state, whenever a decree of divorce is granted, may, at the instance of the woman, whether complainant or defendant, decree to restore to her her maiden name, or the name she legally bore prior to her marriage to the husband in the divorce suit, or allow her to adopt another name: Provided, That when there is a minor child or children, issue of the marriage, this act shall not apply.

HISTORY: CL 1915, 11435;—CL 1929, 12787;—CL 1948, 552.391.

Act 42, 1949, p. 34; Eff. Sep. 23.

AN ACT to confer power upon the several circuit courts of the state of Michigan, sitting in chancery, to include in decrees of divorce and of separate maintenance provisions awarding to the husband all or part of the property, either real or personal, owned by the wife where the facts establish that the husband contributed to the acquisition, improvement or accumulation of such property.

The People of the State of Michigan enact:

552.401 Powers of chancery court in certain decrees of divorce and of separate maintenance.

Sec. 1. The several circuit courts of the state of Michigan, sitting in chancery, may include in any decree of divorce, or for separate maintenance, entered therein appropriate provisions awarding to the husband all of the property, either real or personal, owned by the wife, or such portion thereof as may appear to the court to be equitable under all the circumstances of the case, provided it shall have been made to appear

from the evidence therein that the husband contributed to the acquisition, improvement or accumulation of such property. Any such decree, upon becoming final, shall have the same force and effect as a quit claim deed of such real estate, if any, or a bill of sale of such personal property, if any, given by the wife to the husband.

HISTORY: New 1949, p. 34, Act 42, Eff. Sep. 23.

552.402 Certified copy of decree; recording or filing.

Sec. 2. A certified copy of any such decree may be recorded or filed in the office of the register of deeds of any county wherein any real estate or personal property described in such decree may be located.

HISTORY: New 1949, p. 34, Act 42, Eff. Sep. 23.

Act 138, 1966, p. 162; Eff. Mar. 10, 1967.

AN ACT to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support of mothers and minor children by husbands and fathers and for the support of minor children by fathers, in certain cases; to provide for the termination of the effectiveness of such orders; and to provide for the payment of fees and assessment of costs in such cases. Am. 1970, p. 494, Act 153, Imd. Eff. Aug. 1.

The People of the State of Michigan enact:

552.451 Complaint by married women living separate from father of children; conditions.

Sec. 1. Any married woman, who has a minor child or children living with her and who is living separate and away from the father of the children, where the father fails to provide necessary shelter, food, care and clothing for them, if of sufficient ability to provide them, may complain to the circuit court of the county where she or the father resides for an order for support for herself and the minor child or children. The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons which shall be personally served upon the father of the children and husband of the petitioner. No complaint shall be filed nor shall any summons issue if divorce or separate maintenance proceedings are then pending between the petitioner and her husband.

HISTORY: New 1966, p. 162, Act 138, Eff. Mar. 10, 1967.

552.451a Mother or guardian of minor children; action for child support.

Sec. 1a. A mother or guardian of a minor child or children may proceed in the same manner, and under the same circumstances as provided in section 1, against the father for the support of the child or children. The order of support shall provide only for the support of the child or children, and the burden of proof shall be the same as provided in section 2. This section applies only to legitimate, legitimated and lawfully adopted minor children.

HISTORY: Add. 1970, p. 494, Act 153, Imd. Eff. Aug. 1.

552.452 Hearing; order; contents; burden of proving inability to support.

Sec. 2. Upon the hearing of the complaint, in the manner of a motion, the court may enter such order as it deems proper, for the support of the petitioner and the minor child or children of the parties. The order shall provide that all payments shall be made to the friend of the court. If the father opposes the entry of the order upon the ground that he is without sufficient ability to provide necessary shelter, food, care and clothing for his wife and children, the burden of proving such lack of ability shall be upon him. The order shall state in separate paragraphs the amount of support for the wife until the further order of the court, and the amount of support for each child un-

til each child reaches the age of 18 years or until the further order of the court. In unusual circumstances the court may order support for such child after he reaches the age of 18 years and until he reaches the age of 21 years, or until the further order of the court.

HISTORY: New 1966, p. 163, Act 138, Eff. Mar. 10, 1967;—Am. 1967, p. 93, Act 75, Eff. Nov. 2;—Am. 1970, p. 494, Act 153, Imd. Eff. Aug. 1.

552.453 Transmission of order to friend of court; enforcement.

Sec. 3. Upon the entry of any order for support a copy of the order shall be transmitted to the friend of the court of the county wherein the order was entered. The friend of the court shall enforce the order in the same manner as is provided by law for the enforcement of alimony and child support provisions in judgments of divorce.

HISTORY: New 1966, p. 163, Act 138, Eff. Mar. 10, 1967.

552.454 Public assistance; prosecutor's duty; payments, disposition.

Sec. 4. If the department of social services of the county wherein the mother of the minor child or children resides determines her to be eligible for public assistance the prosecuting attorney shall act as the attorney for the petitioner. Upon certification by the county department of social services that the mother and minor child or children are receiving public assistance, payments received by the friend of the court for the support of the mother and minor children shall be transmitted to the state department of social services.

HISTORY: New 1966, p. 163, Act 138, Eff. Mar. 10, 1967;—Am. 1970, p. 494, Act 153, Imd. Eff. Aug. 1.

552.455 Modification of order; application and notice; order void upon entry of judgment of divorce or separate maintenance.

Sec. 5. Any order entered pursuant to section 2 of this act may be modified by the court upon proper application to the court and due notice to the opposite party. If any judgment of divorce or of separate maintenance is entered by any court having personal jurisdiction over the parties any order entered pursuant to the provisions of this act shall become null and void upon the effective date of the judgment.

HISTORY: New 1966, p. 163, Act 138, Eff. Mar. 10, 1967.

552.456 Criminal warrant for nonsupport; testimony.

Sec. 6. No warrant for criminal nonsupport shall issue or be enforced against any man who is a party to the proceedings provided for in this act if he complies with an order entered by a court as provided in this act. His testimony, if any, in proceedings under this act is not admissible in such criminal proceedings.

HISTORY: New 1966, p. 163, Act 138, Eff. Mar. 10, 1967;—Am. 1970, p. 495, Act 153, Imd. Eff. Aug. 1.

552.457 Handling support payments; fee; disposition.

Sec. 7. To reimburse the county for the cost of handling support payments under this act, the court shall order the payment of \$1.50 per month, payable semiannually on January 2 and July 2 thereafter, to the friend of the court. The fees shall be paid by the person ordered to pay the support money. The fee shall be computed from the beginning date of the support order and shall continue while the order is operative. The service charge fee shall be paid 6 months in advance on each of the due dates, except for the first payment which shall be paid at the same time the support order is made, and shall cover the period of time from that month until the next calendar due date. The friend of the court may deduct the service charge fee from any moneys paid after the due date of the service charge. Every order for the payment of support under this act shall provide for the payment of such fees. Any order or judgment entered before

November 2, 1967 may be amended by the court, upon its own motion, to provide for the payment of such fees, upon notice to the person ordered to pay the support money. All fees paid to the friend of the court shall be turned over to the county treasurer and credited to the general fund.

HISTORY: Add. 1967, p. 93, Act 75, Eff. Nov. 2;—Am. 1970, p. 495, Act 153, Imd. Eff. Aug. 1.

552.458 Fees and costs.

Sec. 8. No filing, order or stenographer's fees shall be required for an action or proceedings under this act, but the court may assess any such costs, service costs and attorney fees against the defendant in the order of support or any modification thereof.

HISTORY: Add. 1970, p. 495, Act 153, Imd. Eff. Aug. 1.

552.459 Short title.

Sec. 9. This act shall be known and may be cited as "the family support act".

HISTORY: Add. 1970, p. 459, Act 153, Imd. Eff. Aug. 1.

CHAPTER 554. REAL AND PERSONAL PROPERTY

NATURE AND QUALITIES OF ESTATES IN REAL
PROPERTY AND THE ALIENATION Thereof

R.S. 1846, Ch. 62

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R.S. 1846, Ch. 62.

NATURE AND QUALITIES OF ESTATES IN REAL AND PERSONAL PROPERTY, AND THE ALIENATION THEREOF. Am. 1949, p. 260, Act 227, Eff. Sep. 23.

554.1 Estates in lands; kinds as respects length of enjoyment.

Sec. 1. Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

HISTORY CL 1857, 2585;—CL 1871, 4068;—How. 5517;—CL 1897, 8783;—CL 1915, 11519;—CL 1929, 12921;—CL 1948, 554.1.
REAL ESTATE: For definition, see Compilers' § 8.3 subd. 9.

554.2 Estate of inheritance; fee simple.

Sec. 2. Every estate of inheritance shall continue to be termed a fee simple, or fee; and every such estate, when not defeasible or conditional, shall be a fee simple absolute, or an absolute fee.

HISTORY CL 1857, 2586;—CL 1871, 4069;—How. 5518;—CL 1897, 8784;—CL 1915, 11520;—CL 1929, 12922;—CL 1948, 554.2.

554.3 Estate of inheritance; fee tail; abolition, declaration as fee simple.

Sec. 3. All estates tail are abolished, and every estate which would be adjudged a fee tail, according to the law of the territory of Michigan, as it existed before the second day of March, 1821, shall for all purposes be adjudged a fee simple; and if no valid remainder be limited thereon, shall be a fee simple absolute.

HISTORY CL 1857, 2587;—CL 1871, 4070;—How. 5519;—CL 1897, 8785;—CL 1915, 11521;—CL 1929, 12923;—CL 1948, 554.3.
FORMER LAWS: Law prior to 1846, see Act of March 2, 1821; Code of 1820, p. 393, 1 Terr. Laws 815; Revision of 1827, p. 261.

554.4 Estate of inheritance; remainder in fee after a fee tail; validity.

Sec. 4. When a remainder in fee shall be limited upon any estate which would be adjudged a fee tail according to the law of the territory of Michigan as it existed previous to the time mentioned in the preceding section, such remainder shall be valid as a contingent limitation upon a fee, and shall vest in possession, on the death of the first taker, without issue living at the time of such death.

HISTORY CL 1857, 2588;—CL 1871, 4071;—How. 5520;—CL 1897, 8786;—CL 1915, 11522;—CL 1929, 12924;—CL 1948, 554.4.

554.5 Freehold estates; chattels real; chattel interests.

Sec. 5. Estates of inheritance and for life shall be denominated estates of freehold; estates for years shall be denominated chattels real; and estates at will or by sufferance shall be chattel interests, but shall not be liable as such to sale on executions.

HISTORY CL 1857, 2589;—CL 1871, 4072;—How. 5521;—CL 1897, 8787;—CL 1915, 11523;—CL 1929, 12925;—CL 1948, 554.5.

554.6 Estate for life of another; nature.

Sec. 6. An estate for the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after his death it shall be deemed a chattel real.

HISTORY CL 1857, 2590;—CL 1871, 4073;—How. 5522;—CL 1897, 8788;—CL 1915, 11524;—CL 1929, 12926;—CL 1948, 554.6.

554.7 Estates in land; kinds as respects time of enjoyment.

Sec. 7. Estates, as respects the time of their enjoyment, are divided into estates in possession, and estates in expectancy.

HISTORY CL 1857, 2591;—CL 1871, 4074;—How. 5523;—CL 1897, 8789;—CL 1915, 11525;—CL 1929, 12927;—CL 1948, 554.7.

554.8 Estates in possession and in expectancy; definition.

Sec. 8. An estate in possession, is where the owner has an immediate right to the possession of the land; an estate in expectancy is where the right to the possession is postponed to a future period.

HISTORY CL 1857, 2592;—CL 1871, 4075;—How. 5524;—CL 1897, 8790;—CL 1915, 11526;—CL 1929, 12928;—CL 1948, 554.8.

554.9 Estates in expectancy; classifications.

Sec. 9. Estates in expectancy are divided into,

First. Estates commencing at a future day, denominated future estates; and,

Second. Reversions.

HISTORY: CL 1857, 2593;—CL 1871, 4076;—How. 5525;—CL 1897, 8791;—CL 1915, 11527;—CL 1929, 12929;—CL 1948, 554.9.

554.10 Future estate; definition.

Sec. 10. A future estate is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate, or on the determination, by lapse of time or otherwise, of a precedent estate, created at the same time.

HISTORY: CL 1857, 2594;—CL 1871, 4077;—How. 5526;—CL 1897, 8792;—CL 1915, 11528;—CL 1929, 12930;—CL 1948, 554.10.

554.11 Future estate; remainder.

Sec. 11. When a future estate is dependent upon a precedent estate, it may be termed a remainder, and may be created and transferred by that name.

HISTORY: CL 1857, 2595;—CL 1871, 4078;—How. 5527;—CL 1897, 8793;—CL 1915, 11529;—CL 1929, 12931;—CL 1948, 554.11.

554.12 Reversion; definition.

Sec. 12. A reversion is the residue of an estate left in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

HISTORY: CL 1857, 2596;—CL 1871, 4079;—How. 5528;—CL 1897, 8794;—CL 1915, 11530;—CL 1929, 12932;—CL 1948, 554.12.

554.13 Future estates; classifications, definitions.

Sec. 13. Future estates are either vested or contingent:

They are vested when there is a person in being who would have an immediate right to the possession of the lands, upon the ceasing of the intermediate or precedent estate.

They are contingent whilst the person to whom, or the event upon which they are limited to take effect remains uncertain.

HISTORY: CL 1857, 2597;—CL 1871, 4080;—How. 5529;—CL 1897, 8795;—CL 1915, 11531;—CL 1929, 12933;—CL 1948, 554.13.

554.14-554.20 Repealed. 1949, p. 31, Act 38, Eff. Sep. 23.

Sections related to suspension of power of alienation; contingent remainder in fee on prior remainder in fee; successive life estates; remainders upon certain life estates; contingent remainder on terms for years.

554.21 Life estate on term for years; validity.

Sec. 21. No estate for life shall be limited as a remainder on a term of years, except to a person in being at the creation of such estate.

HISTORY: CL 1857, 2605;—CL 1871, 4088;—How. 5537;—CL 1897, 8803;—CL 1915, 11539;—CL 1929, 12941;—CL 1948, 554.21.

554.22 Heirs and issue; construction as used in remainders.

Sec. 22. When a remainder shall be limited to take effect on the death of any person without heirs, or heirs of his body, or without issue, the words "heirs" or "issues" shall be construed to mean heirs or issue living at the death of the person named as ancestor.

HISTORY: CL 1857, 2606;—CL 1871, 4089;—How. 5538;—CL 1897, 8804;—CL 1915, 11540;—CL 1929, 12942;—CL 1948, 554.22.

554.23 Repealed. 1949, p. 31, Act 38, Eff. Sep. 23.

Section related to limitations of chattels real.

554.24 Estates to commence in future; estates in term for years.

Sec. 24. Subject to the rules established in the preceding sections of this chapter, a freehold estate, as well as a chattel real, may be created to commence at a future day; an estate for life may be created in a term of years, and a remainder limited thereon.

HISTORY: CL 1857, 2608;—CL 1871, 4091;—How. 5540;—CL 1897, 8806;—CL 1915, 11542;—CL 1929, 12944;—CL 1948, 554.24.

554.25 Alternative future estates.

Sec. 25. Two or more future estates may also be created to take effect in the alternative, so that if the first in order should fail to vest, the next in succession shall be substituted for it, and take effect accordingly.

HISTORY: CL 1857, 2609;—CL 1871, 4092;—How. 5541;—CL 1897, 8807;—CL 1915, 11543;—CL 1929, 12945;—CL 1948, 554.25.

554.26 Future estates; validity as affected by probability of contingency.

Sec. 26. No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.

HISTORY: CL 1857, 2610;—CL 1871, 4093;—How. 5542;—CL 1897, 8806;—CL 1915, 11544;—CL 1929, 12946;—CL 1948, 554.26.

554.27 Remainder on contingency defeating prior estate; construction.

Sec. 27. A remainder may be limited on a contingency, which in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation and shall have the same effect as such a limitation would have by law.

HISTORY: CL 1857, 2611;—CL 1871, 4094;—How. 5543;—CL 1897, 8809;—CL 1915, 11545;—CL 1929, 12947;—CL 1948, 554.27.

554.28 Rule in Shelly's Case; abolition.

Sec. 28. When a remainder shall be limited to the heir, or heirs of the body of a person to whom a life estate in the same premises shall be given, the persons who, on the termination of the life estate, shall be the heir, or heirs of the body of such tenant for life, shall be entitled to take as purchasers, by virtue of the remainder so limited to them.

HISTORY: CL 1857, 2612;—CL 1871, 4095;—How. 5544;—CL 1897, 8810;—CL 1915, 11546;—CL 1929, 12948;—CL 1948, 554.28.

554.29 Remainder not contingency defeating prior estate; construction.

Sec. 29. When a remainder on an estate for life, or for years, shall not be limited on a contingency, defeating or avoiding such precedent estate, it shall be construed as intended to take effect only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

HISTORY: CL 1857, 2613;—CL 1871, 4096;—How. 5545;—CL 1897, 8811;—CL 1915, 11547;—CL 1929, 12949;—CL 1948, 554.29.

554.30 Posthumous child; right to take estate.

Sec. 30. When a future estate shall be limited to heirs, or issue, or children, posthumous children shall be entitled to take, in the same manner as if born before the death of their parents.

HISTORY: CL 1857, 2614;—CL 1871, 4097;—How. 5546;—CL 1897, 8812;—CL 1915, 11548;—CL 1929, 12950;—CL 1948, 554.30.

554.31 Posthumous child; effect of birth on certain future estates.

Sec. 31. A future estate depending on the contingency of the death of any person without heirs or issue, or children, shall be defeated by the birth of a posthumous child of such person, capable of taking by descent.

HISTORY: CL 1857, 2615;—CL 1871, 4098;—How. 5547;—CL 1897, 8813;—CL 1915, 11549;—CL 1929, 12951;—CL 1948, 554.31.

554.32 Expectant estates; effect of alienation or destruction of precedent estate.

Sec. 32. No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate by disseizin, forfeiture, surrender, merger, or otherwise.

HISTORY: CL 1857, 2616;—CL 1871, 4099;—How. 5548;—CL 1897, 8814;—CL 1915, 11550;—CL 1929, 12952;—CL 1948, 554.32.

554.33 Expectant estates; authorized method of defeasance, effect on original validity.

Sec. 33. The last preceding section shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means which the party creating such estate shall, in the creation thereof, have provided or authorized; nor shall an expectant estate thus liable to be defeated, be on that ground adjudged void in its creation.

HISTORY: CL 1857, 2617;—CL 1871, 4100;—How. 5549;—CL 1897, 8815;—CL 1915, 11551;—CL 1929, 12953;—CL 1948, 554.33.

554.34 Contingent remainder; effect of premature determination of precedent estate.

Sec. 34. No remainder, valid in its creation, shall be defeated by the determination of the precedent estate, before the happening of the contingency on which the remainder is limited to take effect; but should such contingency afterwards happen, the remainder shall take effect in the same manner, and to the same extent, as if the precedent estate had continued to the same period.

HISTORY: CL 1857, 2618;—CL 1871, 4101;—How. 5550;—CL 1897, 8816;—CL 1915, 11552;—CL 1929, 12954;—CL 1948, 554.34.

554.35 Expectant estates; qualities.

Sec. 35. Expectant estates are descendible, devisable and alienable, in the same manner as estates in possession.

HISTORY: CL 1857, 2619;—CL 1871, 4102;—How. 5551;—CL 1897, 8817;—CL 1915, 11553;—CL 1929, 12955;—CL 1948, 554.35.

554.36 Rents and profits to accrue; disposition.

Sec. 36. Dispositions of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument creating such disposition, shall be governed by the rules established in this chapter in relation to future estates in lands.

HISTORY: CL 1857, 2620;—CL 1871, 4103;—How. 5552;—CL 1897, 8818;—CL 1915, 11554;—CL 1929, 12956;—CL 1948, 554.36.

554.37, 554.38 Repealed. 1952, p. 6, Act 6, Eff. Sep. 18.

Sections related to valid and invalid accumulations of rents and profits of real estate.

554.39, 554.40 Repealed. 1952, p. 7, Act 7, Eff. Sep. 18.

Sections related to accumulation of rents and profits of real estate for benefit of infants entitled to expectant estate and person entitled in absence of disposition of rents and profits of real estate.

554.41 Expectant estates; time of creation.

Sec. 41. The delivery of the grant, where an expectant estate is created by grant; and where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

HISTORY: CL 1857, 2625;—CL 1871, 4108;—How. 5557;—CL 1897, 8823;—CL 1915, 11559;—CL 1929, 12961;—CL 1948, 554.41.

554.42 Expectant estates; abolition, exceptions.

Sec. 42. All expectant estates, except such as are enumerated and defined in this chapter, are abolished.

HISTORY: CL 1857, 2626;—CL 1871, 4109;—How. 5558;—CL 1897, 8824;—CL 1915, 11560;—CL 1929, 12962;—CL 1948, 554.42.

554.43 Estates; kinds in respect to number and connection of owners; nature.

Sec. 43. Estates, in respect to the number and connection of their owners, are divided into estates in severalty, in joint tenancy, and in common; the nature and properties of which respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of this chapter.

HISTORY: CL 1857, 2627;—CL 1871, 4110;—How. 5559;—CL 1897, 8825;—CL 1915, 11561;—CL 1929, 12963;—CL 1948, 554.43.

554.44 Land conveyance to two or more persons; estate created.

Sec. 44. All grants and devises of lands, made to 2 or more persons, except as provided in the following section, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy.

HISTORY: CL 1857, 2628;—CL 1871, 4111;—How. 5560;—CL 1897, 8826;—CL 1915, 11562;—CL 1929, 12964;—CL 1948, 554.44.

554.45 Land conveyance; exceptions to preceding section.

Sec. 45. The preceding section shall not apply to mortgages, nor to devises or grants made in trust, or made to executors, or to husband and wife.

HISTORY: CL 1857, 2629;—CL 1871, 4112;—How. 5561;—CL 1897, 8827;—CL 1915, 11563;—CL 1929, 12965;—CL 1948, 554.45.

PERSONAL PROPERTY: As to joint tenancy of husband and wife in certain classes of personal property, see Act 212 of 1927, being Compilers' § 557.151.

554.46 Land conveyance; nominal conditions; effect of failure to perform.

Sec. 46. When any conditions annexed to a grant or conveyance of lands are merely nominal and evince no intention of actual and substantial benefit to the party to whom or in whose favor they are to be performed, they may be wholly disregarded, and a failure to perform the same shall in no case operate as a forfeiture of the lands conveyed subject thereto.

HISTORY: CL 1857, 2630;—CL 1871, 4113;—How. 5562;—CL 1897, 8828;—CL 1915, 11564;—CL 1929, 12906;—CL 1948, 554.46.

Act 38, 1949, p. 31; Eff. Sep. 23.

AN ACT concerning perpetuities and the suspension of the absolute power of alienation with respect to interests in real property, making uniform the law as to real and personal property; and repealing sections 14, 15, 16, 17, 18, 19, 20 and 23 of chapter 62 of the Revised Statutes of 1846, being sections 554.14, 554.15, 554.16, 554.17, 554.18, 554.19, 554.20 and 554.23, respectively, of the Compiled Laws of 1948.

The People of the State of Michigan enact:

554.51 Rule against perpetuities; applicability; uniformity.

Sec. 1. The common law rule known as the rule against perpetuities now in force in this state as to personal property shall hereafter be applicable to real property and estates and other interests therein, whether freehold or non-freehold, legal or equitable, by way of trust or otherwise, thereby making uniform the rule as to perpetuities applicable to real and personal property.

HISTORY: New 1949, p. 31, Act 38, Eff. Sep. 23.

554.52 Sections repealed.

Sec. 2. Sections 14, 15, 16, 17, 18, 19, 20 and 23 of chapter 62 of the Revised Statutes of 1846, being sections 554.14, 554.15, 554.16, 554.17, 554.18, 554.19, 554.20 and 554.23, respectively, of the Compiled Laws of 1948, concerning perpetuities and the suspension of the absolute power of alienation, are hereby repealed.

HISTORY: New 1949, p. 31, Act 38, Eff. Sep. 23.

554.53 Applicability of act.

Sec. 3. This act applies only to wills with respect to which the testator dies after the effective date of this act and to deeds and other instruments executed after the effective date of this act.

HISTORY: New 1949, p. 31, Act 38, Eff. Sep. 23.

Act 13, 1968, p. 23; Imd. Eff. Mar. 29.

AN ACT to limit the duration of possibilities of reverter and rights of entry in conveyances of real property in certain cases.

The People of the State of Michigan enact:

554.61 Terminable interest, specified contingency; definitions.

Sec. 1. As used in this act:

(a) "Terminable interest" is a possessory or ownership interest in real property which is subject to termination by a provision in a conveyance or other instrument which either creates a right of reversion to a grantor or his heirs, successors or assigns or creates a right of entry on the occurrence of a specified contingency.

(b) "Specified contingency" is the event described in a conveyance or other instrument creating a terminable interest, the occurrence of which requires or permits the divesting of the terminable interest.

HISTORY: New 1968, p. 23, Act 13, Imd. Eff. Mar. 29.

554.62 Specified contingency; termination right; limitation period.

Sec. 2. If the specified contingency does not occur within 30 years after the terminable interest is created, the right of termination by reason of the specified contingency shall be unenforceable.

HISTORY: New 1968, p. 23, Act 13, Imd. Eff. Mar. 29.

554.63 Existing termination rights limitation.

Sec. 3. A right of termination under a terminable interest which was created prior to the effective date of this act is unenforceable if the specified contingency does not occur within 30 years after the terminable interest was created or within 1 year after the effective date of this act, whichever is later.

HISTORY: New 1968, p. 23, Act 13, Imd. Eff. Mar. 29.

554.64 Exemptions to act.

Sec. 4. This act does not apply:

- (a) To a lease for a term of years.
- (b) If the specified contingency must occur, if at all, within the period of the rule against perpetuities.
- (c) If the terminable interest is held for public, educational, religious or charitable purposes.
- (d) If the terminable interest is created in a conveyance from the United States of America, the state or any agency or political subdivision of either of them.

HISTORY: New 1968, p. 23, Act 13, Imd. Eff. Mar. 29.

554.65 Right of termination; preservation; notice, recording.

Sec. 5. A right of termination may be preserved by the recording, within a period of not less than 25 nor more than 30 years after creation of the terminable interest or within 1 year after the effective date of this act, whichever is later, of a written notice that the owner of such right of termination desires to preserve the same, such notice to be recorded in the register of deeds office of the county where the real property subject to such right of termination is located. Such notice shall be verified by oath, shall describe the land involved and the nature of such right of termination, including the specified contingency, and shall state the name and address of the owner of such right of termination. The recording of such notice shall operate to preserve such right of termination from the operation of this act for a period of 30 years from the date of recording of such notice.

HISTORY: New 1968, p. 23, Act 13, Imd. Eff. Mar. 29.

Act 211, 1931, p. 362; Eff. Sep. 18.

AN ACT to declare the law governing the devolution of expectant estates and interests in real and personal property.

The People of the State of Michigan enact:

554.101 Expectant estate in realty or personalty; death of owner prior to possession, effect.

Sec. 1. In all cases where the owner of an expectant estate, right or interest in real or personal property, shall die prior to the termination of the precedent or intermedi-

ate estate, if the contingency arises by which such owner would have been entitled to an estate in possession if living, his heirs at law if he died intestate, or his devisees or grantees and assigns if he shall have devised or conveyed such right or interest, shall be entitled to the same estate in possession.

HISTORY: CL 1948, 554.101.

Act 219, 1931, p. 381; Eff. Sep. 18.

AN ACT to authorize the granting, assignment, transfer, conveyance or devise of the reversionary interest in lands conveyed on a condition subsequent.

The People of the State of Michigan enact:

554.111 Reversionary interest in lands conveyed on condition subsequent; transfer; scope of act.

Sec. 1. The reversionary interest in lands conveyed on a condition subsequent may be granted, conveyed, transferred or devised by the owner of such interest, and by the subsequent grantees or devisees thereof, either before or after the right of re-entry becomes effective: Provided, That this act shall not affect any such interest created before it takes effect.

HISTORY: CL 1948, 554.111.

R.S. 1846, Ch. 66.

RENT AND GENERAL PROVISIONS CONCERNING REAL ESTATE.

554.131 Rent; liability of person in possession of land.

Sec. 31. Every person in possession of land, out of which any rent is due, whether it was originally demised in fee, or for any other estate of freehold, or for any term of years, shall be liable for the amount or proportion of rent due from the land in his possession, although it be only a part of what was originally demised.

HISTORY: CL 1857, 2804;—CL 1871, 4301;—How. 5771;—CL 1897, 9254;—CL 1915, 11809;—CL 1929, 13489;—CL 1948, 554.131.

COMPILERS' NOTE: Secs. 1-30 of this chapter relate to estates in dower and by the curtesy. They will be found beginning with Compiler's § 554.1.

554.132 Rent; assumpsit for recovery.

Sec. 32. Such rent may be recovered in an action of debt or assumpsit, and the deed of demise, or other instrument in writing, if there be any showing the provisions of the lease, may be used in evidence by either party to prove the amount due from the defendant.

HISTORY: CL 1857, 2805;—CL 1871, 4302;—How. 5772;—CL 1897, 9255;—CL 1915, 11810;—CL 1929, 13490;—CL 1948, 554.132.

554.133 Rent; other remedies for recovery.

Sec. 33. Nothing contained in the preceding sections shall deprive landlords of any legal remedy for the recovery of their rents, whether secured to them by their leases, or provided by law.

HISTORY: CL 1857, 2806;—CL 1871, 4303;—How. 5773;—CL 1897, 9256;—CL 1915, 11811;—CL 1929, 13491;—CL 1948, 554.133.

554.134 Estates at will, by sufferance or from year to year; termination.

Sec. 34. All estates at will or by sufferance may be determined by either party by 1 month's notice given to the other party; and when the rent reserved in a lease is payable at periods of less than 3 months, the time of such notice shall be sufficient if it be equal to the interval between the times of payment and such notice shall not be held void by reason of its mentioning a day for the termination of the tenancy not corresponding to the conclusion or commencement of any such period, but in any such case the notice shall be held to terminate the tenancy at the end of a period equal in time to that in which the rent is made payable. And in all cases of neglect or refusal to pay

rent on a lease at will or otherwise, 7 days' notice to quit, given in writing by the landlord to the tenant, shall be sufficient to determine the lease. And in all cases of tenancy from year to year a notice to quit, given at any time, shall be sufficient to terminate said lease at the expiration of 1 year from the time of the service of such notice.

HISTORY: CL 1857, 2807;—CL 1871, 4304;—How. 5774;—Am. 1885, p. 226, Act 162, Eff. Sept. 19;—CL 1897, 9257;—CL 1915, 11812;—CL 1929, 13492;—Am. 1935, p. 224, Act 145, Eff. Sept. 21;—CL 1948, 554.134.

554.135 Aliens; realty; right to acquire, hold or convey, descent.

Sec. 35. Any alien may acquire and hold lands, or any right thereto or interest therein, by purchase, devise or descent, and he may convey, mortgage and devise the same, and if he shall die intestate, the same shall descend to his heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised, or shall descend in like manner, and with like effect, as if such alien were a native citizen of this state, or of the United States.

HISTORY: CL 1857, 2806;—CL 1871, 4305;—How. 5775;—CL 1897, 9258;—CL 1915, 11813;—CL 1929, 13493;—CL 1948, 554.135.

FORMER LAWS: Law prior to 1846, see Act of Aug. 12, 1805; Woodward Code (1805), p. 32, 1 Terr. Laws 32; Cass Code (1816), p. 32, 1 Terr. Laws 135.

554.136 Aliens; effect of prior deals in realty on title.

Sec. 36. The title to any lands heretofore conveyed shall not be questioned, nor in any manner affected, by reason of the alienage of any person from or through whom such title may have been derived.

HISTORY: CL 1857, 2809;—CL 1871, 4306;—How. 5776;—CL 1897, 9259;—CL 1915, 11814;—CL 1929, 13494;—CL 1948, 554.136.

554.137 Remainderman or reversioner; right to sue for injury.

Sec. 37. A person seized of an estate in remainder or reversion, may maintain an action of trespass on the case, for any injury done to the inheritance, notwithstanding any intervening estate for life or years.

HISTORY: CL 1857, 2810;—CL 1871, 4307;—How. 5777;—CL 1897, 9260;—CL 1915, 11815;—CL 1929, 13495;—CL 1948, 554.137.

ACTION ON THE CASE FOR WASTE: See Compilers' § 600.2919.

554.138 Joint tenant or tenant in common; action against cotenant.

Sec. 38. One joint tenant or tenant in common, and his executors or administrators, may maintain an action for money had and received, against his co-tenant for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

HISTORY: CL 1857, 2811;—CL 1871, 4308;—How. 5778;—CL 1897, 9261;—CL 1915, 11816;—CL 1929, 13496;—CL 1948, 554.138.

554.139 Lease or license of residential premises; covenants; modifications; liberal construction, inspection.

Sec. 39. (1) In every lease or license of residential premises, the lessor or licensor covenants:

(a) That the premises and all common areas are fit for the use intended by the parties.

(b) To keep the premises in reasonable repair during the term of the lease or license, and to comply with the applicable health and safety laws of the state and of the local unit of government where the premises are located, except when the disrepair or violation of the applicable health or safety laws has been caused by the tenants wilful or irresponsible conduct or lack of conduct.

(2) The parties to the lease or license may modify the obligations imposed by this section where the lease or license has a current term of at least 1 year.

(3) The provisions of this section shall be liberally construed, and the privilege of a prospective lessee or licensee to inspect the premises before concluding a lease or license shall not defeat his right to have the benefit of the covenants established herein.

HISTORY: Add. 1968, p. 499, Act 295, Eff. Oct. 1.

Act 42, 1917, p. 71; Eff. Aug. 10.

AN ACT to provide for the surrender by lessees or occupants of any leased property destroyed or rendered untenable or unfit for occupancy.

The People of the State of Michigan enact:

554.201 Untenable building; surrender, liability of lessee for rent.

Sec. 1. When any leased or rented building is destroyed, or is so injured by the elements, or in any other way, as to be untenable or unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his fault or neglect, quit and surrender possession of the building, and of the land so injured, destroyed, or rendered untenable or unfit for occupancy; and such lessee or occupant shall not be liable to pay to the lessor or owner rent for the time subsequent to the surrender.

HISTORY: CL 1929, 13497;—CL 1948, 554.201.

Act 228, 1925, p. 334; Eff. Aug. 27.

AN ACT to authorize the assignment of rents and profits of property mortgaged under a trust mortgage or deed of trust, to secure bonds or obligations issued or to be issued thereunder.

The People of the State of Michigan enact:

554.211 Assignment of rents and profits under trust mortgage or deed; lawfulness.

Sec. 1. Hereafter, in or in connection with any trust mortgage or deed of trust, to secure bonds or obligations issued or to be issued thereunder, it shall be lawful to assign the rents and profits of the property mortgaged to the trustee or trustees under the trust mortgage or deed of trust for the benefit of the bondholders and holders of the obligations issued or to be issued under the trust mortgage or deed of trust.

HISTORY: CL 1929, 13498;—CL 1948, 554.211.

554.212 Assignment; validity against mortgagor and occupiers of premises.

Sec. 2. The assignment of rents and profits, when so made, shall be a good and valid assignment of rents as against the mortgagor or mortgagors or those claiming under or through them from the date of the recording of the trust mortgage or deed of trust, and shall operate against and be binding upon the occupiers of the premises from the date of the filing by the trustee or trustees in the office of the register of deeds for the county in which the property is located of a notice of default in the terms and conditions of the trust mortgage or deed of trust, and service of a copy of such notice upon the occupiers of the mortgaged premises.

HISTORY: CL 1929, 13499;—CL 1948, 554.212.

554.213 Trust mortgage; definition.

Sec. 3. The term "trust mortgage" as used in this act, means and includes, among other forms of trust mortgages, any mortgage given to any person or corporation engaged in the business of financing or refinancing buildings or building enterprises, securing a note, notes, bonds or obligations, and which by its terms contemplates a sale thereof in part or parts and which is actually sold in part or parts in form of certificates of participation or by assignments of undivided interests therein.

HISTORY: Add. 1933, p. 54, Act 55, Imd. Eff. April 14;—CL 1948, 554.213.

554.214 Emergency legislation; immediate necessity; liberal construction.

Sec. 4. That by reason of the acute financial and economic condition, which has arisen and now exists in the state of Michigan an emergency exists, which requires special legislation under the police power of the state, and that this act is enacted to meet such emergency and is hereby declared to be immediately necessary for the preservation of the public peace, health and safety and shall be liberally construed.

HISTORY: Add. 1933, p. 54, Act 55, Imd. Eff. April 14;—CL 1948, 554.214.

Act 210, 1953, p. 307; Eff. Oct. 2.

AN ACT to authorize the assignment of rents to accrue from existing leases as additional security to mortgage obligations.

The People of the State of Michigan enact:

554.231 Assignment of rents to accrue from leases as additional mortgage security.

Sec. 1. Hereafter, in or in connection with any mortgage on commercial or industrial property other than an apartment building with less than 6 apartments or any family residence to secure notes, bonds or other fixed obligations, it shall be lawful to assign the rents, or any portion thereof, under any oral or written leases upon the mortgaged property to the mortgagee, as security in addition to the property described in such mortgage. Such assignment of rents shall be binding upon such assignor only in the event of default in the terms and conditions of said mortgage, and shall operate against and be binding upon the occupiers of the premises from the date of filing by the mortgagee in the office of the register of deeds for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of such notice upon the occupiers of the mortgaged premises.

HISTORY: New 1953, p. 307, Act 210, Eff. Oct. 2;—Am. 1966, p. 173, Act 151, Imd. Eff. Jun. 24.

554.232 Assignment of rents; validity.

Sec. 2. The assignment of rents, when so made, shall be a good and valid assignment of the rents to accrue under any lease or leases in existence or coming into existence during the period the mortgage is in effect, against the mortgagor or mortgagors or those claiming under or through them from the date of the recording of such mortgage, and shall be binding upon the tenant under the lease or leases upon service of a copy of the instrument under which the assignment is made, together with notice of default as required by section 1.

HISTORY: New 1953, p. 307, Act 210, Eff. Oct. 2;—Am. 1966, p. 173, Act 151, Imd. Eff. Jun. 24.

554.233 Modification of mortgage.

Sec. 3. While the mortgage remains in force no modification of the rental covenants in such lease shall be binding upon the holder of such mortgage without his written consent thereto.

HISTORY: New 1953, p. 307, Act 210, Eff. Oct. 2.

Act 314, 1921, p. 581; Eff. Aug. 18.

AN ACT to prescribe the duties of an owner or occupant of lands, upon which excavations are made, in reference to the furnishing of lateral and subjacent support to adjoining lands and structures thereon; and to fix remedies for the violation thereof.

The People of the State of Michigan enact:

554.251 Owner or occupant of excavated land; duty to support adjacent land and structures.

Sec. 1. It shall be the duty of every person, partnership or corporation who excavate upon land owned or occupied by them to a depth exceeding 12 feet below the established grade of a street or highway upon which such land abuts or, if there be no such established grade, below the surface of the adjoining land, to furnish sufficient lateral and subjacent support to the adjoining land to protect said land and all structures thereon from injury due to the removed material in its natural state, or due to the disturbance of other existing conditions caused by such excavation.

HISTORY: CL 1929, 13500;—CL 1948, 554.251.

554.252 Failure to support adjacent land; liability.

Sec. 2. Such owner or occupant shall be liable to the proper person entitled to sue therefor, for the actual damage to land and structures and any other resulting damages, arising from failure to fulfill the duty created by this act. They shall also be liable to occupants or tenants of such land or structures for damage to their property or business proximately resulting from injury to such land or structures caused by their failure to fulfill said duty.

HISTORY: CL 1929, 13501;—CL 1948, 554.252.

554.253 Failure to support adjacent land; equitable relief.

Sec. 3. The owners or occupants of adjoining lands or structures shall also be entitled to relief in a court of equity by way of injunction or other appropriate equitable relief, to restrain the prosecution of such excavating operations without the taking of such precautions to provide such lateral and subjacent support as are reasonable under the circumstances, and it shall not be necessary in such proceedings to allege or show that there is no adequate remedy at law. Such court of equity shall have jurisdiction in such proceedings to adjudicate all disputes arising in connection with the subject matter thereof.

HISTORY: CL 1929, 13502;—CL 1948, 554.253.

554.254 Common law duties and remedies.

Sec. 4. The remedies herein provided and the duty herein created are in addition to the duty and remedies existing at common law.

HISTORY: CL 1929, 13503;—CL 1948, 554.254.

Act 81, 1929, p. 196; Eff. Aug. 28.

AN ACT relating to the record, forfeiture and surrender of oil, gas and other mineral leases, providing a procedure therefor, and providing a penalty.

The People of the State of Michigan enact:

554.281 Oil, gas or mineral lease; forfeiture; procedure for surrender, effect on record.

Sec. 1. When any oil, gas or other mineral lease heretofore or hereafter given on land situated in any county of Michigan and recorded therein shall become forfeited, it shall be the duty of the lessee, his successors or assigns, within 60 days from the date of the taking effect of this act, if the forfeiture occurred prior thereto, and within 30 days after the date of the forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, his successors or assigns, witnessed and acknowledged and placed on record in the county where the leased land is situated, without cost to the owner thereof: Provided, That if the said

lessee, his successors or assigns shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said land may at any time after forfeiture serve upon said lessee, his successors or assigns, in person, or by registered letter, at his last known address, or by publication for 3 consecutive weeks in a newspaper of general circulation in the county where the land is situated, a notice in writing in substantially the following form:

"To: I, the undersigned, owner of the following described land situated in county, Michigan, to-wit: (description of land) upon which a lease dated the day of, 19...., was given to, lessee, do hereby notify you that the terms of said lease have been broken by the owner thereof, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law, that said lease has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same on record in the office of the register of deeds in said county within 30 days from this date.

Dated this day of, 19....

....."

And the owner of said land may after 30 days from the date of service, registration or first publication of said notice, file with the register of deeds of the county where said land is situated, an affidavit setting forth that the affiant is the owner of said land; that the lessee, or his successors or assigns, has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure; that the same has been forfeited and is void; and setting out in said affidavit a copy of the notice served as above provided and the manner and time of the service thereof.

If the lessee, his successors or assigns, shall within 30 days after the filing of such affidavit, give notice in writing to the register of deeds of the county where said lands are located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is still in full force and effect, then the said affidavit shall not be recorded, but the register of deeds shall notify the owner of the lands of the action of the lessee, his successors or assigns, and the owner of the land shall be entitled to the remedies now provided by law, for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds as above provided, then the register of deeds shall record said affidavit and thereupon the said lease shall be null and void and of no legal effect, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns against the lessor, his successors or assigns.

HISTORY: CL 1929, 13506;—CL 1948, 554.281.

554.282 Oil, gas or mineral lease; suit for release; damages.

Sec. 2. Should the owner of such lease neglect or refuse to execute a release as provided by this act, then the owner of the leased premises may after giving notice as provided in section 1 of this act, in lieu of the method prescribed in the preceding section, sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his successors or assigns, the sum of \$100.00 as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant.

HISTORY: CL 1929, 13507;—Am. 1945, p. 296, Act 214, Eff. Sept. 6;—CL 1948, 554.282.

Act 42, 1963, p. 43; Eff. Sep. 6.

AN ACT to provide for the termination of dormant oil and gas interests in land owned by persons other than the owners of the surface and for the vesting of title to same in the surface owners in the absence of the filing of a notice of claim of interest within a specified period of time.

The People of the State of Michigan enact:

554.291 Oil or gas interest in land; abandonment; claim of interest; vesting in surface owner.

Sec. 1. Any interest in oil or gas in any land owned by any person other than the owner of the surface, which has not been sold, leased, mortgaged or transferred by instrument recorded in the register of deeds office for the county where such interest is located for a period of 20 years shall, in the absence of the issuance of a drilling permit as to such interest or the actual production or withdrawal of oil or gas from said lands, or from lands covered by a lease to which such interest is subject, or from lands pooled, unitized or included in unit operations therewith, or the use of such interest in underground gas storage operations, during such period of 20 years, be deemed abandoned, unless the owner thereof shall, within 3 years after the effective date of this act or within 20 years after the last sale, lease, mortgage or transfer of record of such interest or within 20 years after the last issuance of a drilling permit as to such interest or actual production or withdrawal of oil or gas, from said lands, or from lands covered by a lease to which such interest is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of such interest in underground gas storage operations, whichever is later, record a claim of interest as hereinafter provided. Any interest in oil or gas deemed abandoned as herein provided shall vest as of the date of such abandonment in the owner or owners of the surface in keeping with the character of the surface ownership.

Drilling permit.

The phrase "drilling permit" shall mean a permit to drill an oil or gas well issued by the conservation department or its successor.

HISTORY: New 1963, p. 43, Act 42, Eff. Sep. 6.

554.292 Preservation of oil or gas interest; recording of interest notice claimed.

Sec. 2. Any interest in oil or gas referred to in this act may be preserved by the recording within the period specified in this act a written notice in the register of deeds office for the county where such interest is located, which notice shall be verified by oath, describe the land and the nature of the interest claimed, give the name and address of the person or persons claiming the interest, and state that such person or persons desire to preserve the interest and do not intend to abandon same: Provided, however, That any person holding such interests for use in underground gas storage operations may preserve his interests, and the interests of any lessor thereof, by recording a single such written notice, defining the boundaries of the underground gas storage field or pool, and the formations included therein, within which said interests are located, without the necessity of describing each separate interest claim therein by said person. The recording of such notice shall operate to preserve such interest from the operation of this act for a period of 20 years thereafter when, if the nondormant character of the interest has not been evidenced by sale, lease, mortgage or transfer by instrument recorded in the register of deeds office for the county where such interest is located, a drilling permit issued, oil or gas actually produced or withdrawn from said lands, or from lands covered by a lease to which such interest is subject, or from lands

pooled, unitized, or included in unit operations therewith, or the use of such interest in underground gas storage operations, or a like notice filed, such interest shall be deemed abandoned. In the absence of prior abandonment, such interests may be preserved indefinitely from the operation of this act by the filing of the notices as herein provided or the performance of any of the acts specified herein evidencing nondormancy of the interest within each succeeding 20 year period.

Nonapplication of act.

This act shall not apply to any interest in oil or gas owned by any governmental body or agency thereof.

HISTORY: New 1963, p. 44, Act 42, Eff. Sep. 6.

554.293 Underground gas storage operation; good faith affidavit, filing.

Sec. 3. For the purposes of this act, any person using such interests in underground gas storage operations may file a good faith affidavit in the register of deeds office for the county or counties where such interests are located, defining the boundaries of the underground gas storage field, or pool, and the formations included therein. Such affidavit shall be prima facie evidence of the use of such interests in underground gas storage operations.

HISTORY: New 1963, p. 44, Act 42, Eff. Sep. 6.

554.294 Construction of terms; person, singular.

Sec. 4. The word "person" shall be deemed to include natural persons, corporations, co-partnerships, associations and organizations and the singular thereof shall be deemed to include the plural.

HISTORY: New 1963, p. 44, Act 42, Eff. Sep. 6.

Act 235, 1929, p. 578; Imd. Eff. May 21.

AN ACT to provide for serving notice of forfeiture of land contracts upon vendees or others entitled to such notice when such persons are absent from the state or concealed therein, or when their whereabouts is unknown.

The People of the State of Michigan enact:

554.301 Notice of land contract forfeiture; publication.

Sec. 1. Whenever the vendee in a land contract, or other persons entitled by law to receive notice of the forfeiture of the same, shall be absent from the state of Michigan, or concealed therein, or when the whereabouts of such person cannot be determined after diligent search and inquiry, it shall be lawful for the person giving such notice of forfeiture, to publish the same 3 successive times at weekly intervals in some newspaper printed and circulating in the county where such property is situated, if there be one printed and circulating in said county; and in case there be no newspaper printed and circulating in said county, then in some newspaper published in an adjoining county and circulating in the county where such property is situated.

HISTORY: CL 1929, 13509;—CL 1948, 554.301.

FORECLOSURE OF MORTGAGE: For notice required under foreclosure by advertisement, see Compilers' § 600.3208.

554.302 Notice of land contract forfeiture; proof.

Sec. 2. Upon a trial before a circuit court commissioner, or before any other court in this state, when it may become necessary to prove the giving of such notice of forfeiture, the same may be shown by the introduction of due proof of such publication and further proof to the satisfaction of said court, that the circumstances justifying such publication existed at the time thereof.

HISTORY: CL 1929, 13509;—CL 1948, 554.302.

Act 327, 1905, p. 506; Eff. Sep. 16.

AN ACT to prevent persons who have lived in bigamous relations from inheriting property from their lawful spouses or receiving property from their estates.

The People of the State of Michigan enact:

554.321 Persons living in bigamous relations; right to inherit property.

Sec. 1. No person who, at the time of the death of the lawful husband or wife of such person, was or shall be living with another person, within or without the state, pursuant to a purported marriage, but in fact in a bigamous relation, shall inherit or take any estate, right or interest whatever, by way of dower, allowances, inheritance, distribution, or otherwise, in the property or estate, real or personal, of the deceased.

HISTORY: CL 1915, 14618;—CL 1929, 13510;—CL 1948, 554.321.

554.322 Persons living in bigamous relations; order determining heirs.

Sec. 2. In any order determining heirs, or of distribution, hereafter to be made, if it shall appear to the probate court that the surviving spouse was thus living in bigamy at the time of such death, whether the death occurred before or after the passage of this act, such order shall be made in all respects as if such spouse had not survived.

HISTORY: CL 1915, 14619;—CL 1929, 13511;—CL 1948, 554.322.

Act 280, 1915, p. 496; Eff. Aug. 24.

AN ACT to establish the validity and to provide for the administration and control of gifts, grants, bequests and devises to religious, educational, charitable or benevolent uses, or for cemeteries, whether in trust or otherwise, which would be otherwise invalid by reason of indefiniteness or uncertainty of the object of such trust or of the persons designated as the beneficiaries thereunder in the instrument creating the same or by reason of contravening any statute or rule against perpetuities; and regulating the same; to establish the validity of all gifts, grants, devises or bequests made in pursuance of Act 122 of the Public Acts of 1907 and of the acts amendatory thereof, and all proceedings and acts performed in accordance therewith; and repealing Act 122 of the Public Acts of 1907, and all amendments thereto.

The People of the State of Michigan enact:

554.351 Gift or grant for certain purposes; effect of indefiniteness, vesting of title, trustee appointment.

Sec. 1. No gift, grant, bequest or devise, whether in trust or otherwise to religious, educational, charitable or benevolent uses, or for the purpose of providing for the care or maintenance of any part of any cemetery, public or private, or anything therein contained which shall in other respects be valid under the laws of this state, shall be invalid by reason of the indefiniteness or uncertainty of the object of such trust or of the persons designated as the beneficiaries thereunder in the instrument creating the same, nor by reason of the same contravening any statute or rule against perpetuities. If in the instrument creating such a gift, grant, bequest or devise, there is a trustee named to execute the same, the legal title to the lands or property given, granted, devised or bequeathed for such purposes, shall vest in such trustee. If no such trustee shall be named in said instrument or if a vacancy occurs in the trusteeship, then the trust shall vest in the court of chancery for the proper county, and shall be executed by some trustee appointed for that purpose by or under the direction of the court; and

said court may make such orders or decrees as may be necessary to vest the title to said lands or property in the trustee so appointed.

HISTORY: CL 1915, 11099;—CL 1929, 13512;—CL 1948, 554.351.

FORMER ACT: Act 122 of 1907.

PERPETUITY AND RESTRAINT OF ALIENATION: See Act 373 of 1925, being Compilers' §§ 554.381 and 554.382.

WILL CONTEST: Settlement of contest of probate of a will containing a gift for religious, educational or charitable purposes, when donee is unnamed, see Act 207 of 1917, being Compilers' §§ 720.51 to 720.53.

SALE OF LANDS: See Act 258 of 1925, Compilers' §§ 554.401 to 554.404.

CITED IN OTHER SECTIONS: Sections 554.351 to 554.353 are cited in §§ 456.35a and 456.107a.

554.352 Gift or grant for certain purposes; jurisdiction of court; trust construction; prosecutor duties.

Sec. 2. The circuit court for the proper county shall have jurisdiction and control over the gifts, grants, bequests and devises in all cases provided for by section 1. Every such trust shall be liberally construed by the court so that the intentions of the creator thereof shall be carried out whenever possible. The attorney general shall represent the people of the state and the beneficiaries in all cases where they are uncertain or indefinite, and shall enforce such trusts by proper proceedings in the court, but the attorney general shall not be required to perform any duties in connection with such trusts in any court outside of this state.

HISTORY: CL 1915, 11100;—CL 1929, 13513;—CL 1948, 554.352;—Am. 1965, p. 14, Act 12, Imd. Eff. Apr. 13.

554.353 Validation clause.

Sec. 3. All gifts, grants, devises or bequests made in pursuance to the provisions of Act No. 122 of the Public Acts of 1907 and of the acts amendatory thereof, and all proceedings and acts performed in accordance therewith are hereby validated.

HISTORY: CL 1915, 11101;—CL 1929, 13514;—CL 1948, 554.353.

NOTE: Act 122 of 1907, above referred to, is repealed by this act.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 11102;—CL 1929, 13515;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 122, 1907.

Act 373, 1925, p. 736; Eff. Aug. 27.

AN ACT to relieve gifts, grants, devises and bequests, in trust or otherwise, for public welfare purposes, from the operation of all statutory and all common law rules of this state against perpetuities and restraint of alienation, to define said purposes, and to provide a rule of construction.

The People of the State of Michigan enact:

554.381 Public welfare purposes; validity of gifts and bequests.

Sec. 1. No statutory or common law rule of this state against perpetuities or restraint of alienation shall hereafter invalidate any gift, grant, devise or bequest, in trust or otherwise, for public welfare purposes.

HISTORY: CL 1929, 13516;—CL 1948, 554.381.

PERPETUITY: See Act 280 of 1915, being Compilers' §§ 554.351 to 554.353.

SALE OF LAND: See Act 258 of 1925, being Compilers' §§ 554.401 to 554.404.

554.382 Public welfare purposes; definition.

Sec. 2. Public welfare purposes are defined to be all lawful purposes beneficial to the public as a whole.

HISTORY: CL 1929, 13517;—CL 1948, 554.382.

Act 258, 1925, p. 375; Eff. Aug. 27.

AN ACT to provide for the sale of any lands heretofore or hereafter conveyed for any religious, educational, charitable, benevolent or public use or purpose, and the re-

investment of the proceeds of such sale in other lands subject to the same conditions as to the use or purpose set forth in the original conveyance, whenever, because of changed conditions or circumstances, it is impossible or impractical to hold or use said lands for the use or purpose set forth in such conveyance.

The People of the State of Michigan enact:

554.401 Lands sale held for public purposes and new lands purchase; bill of complaint.

Sec. 1. Whenever any lands shall heretofore or hereafter be conveyed by any grant or devise to be held or used for any religious, educational, charitable, benevolent or public purpose, with a condition annexed in the instrument of conveyance that in event said lands shall at any time cease to be held or used for the purpose set forth in such conveyance, title thereto shall revert to the grantor or devisor and his heirs, and it shall appear in the judgment of the officers, trustees or governing body of the grantee named in such conveyance that because of changed conditions or circumstances since the execution of such conveyance it is impossible or impractical to longer hold or use said lands for the purpose mentioned in such conveyance and that the religious, educational, charitable, benevolent or public object of the grantor or devisor, as set forth in such conveyance, may be prevented or defeated thereby, the said grantee may file a bill of complaint in the circuit court in chancery of the county in which said lands are situated, setting forth a correct description of such lands and the terms and conditions under which the same shall be held or used, together with a comprehensive statement of the changed conditions and circumstances which render it impossible or impractical to longer hold or use the same for the purpose mentioned in such conveyance.

HISTORY: CL 1929, 13518;—CL 1948, 554.401.

VALIDITY OF GIFTS: Effect of indefiniteness or violations of the rules against perpetuities or restraints on alienation in gifts similar to those covered in this act, see Compilers' §§ 554.351 to 554.382.

REVERSIONARY INTEREST: Purchase by county of reversionary interest in realty transferred to county for public purposes, see Compilers' § 46.91.

554.402 Lands sale held for public purposes and new lands purchase; parties defendant, time.

Sec. 2. In any proceeding mentioned in section 1 the heirs of the grantor or devisor if known shall be named as defendants and the same proceedings had thereon as is provided by existing law in actions against known defendants. If the names or addresses of the heirs of any such grantor or devisor are unknown, then proceedings shall be had in such action as may be provided by existing law in proceedings against unknown defendants: Provided, however, That no such action shall be brought within a period of 10 years from the execution of any such conveyance nor within the lifetime of the grantor or devisor thereof.

HISTORY: CL 1929, 13519;—CL 1948, 554.402.

554.403 Lands sale held for public purposes and purchase of new lands; decree.

Sec. 3. If upon the hearing it shall appear to the satisfaction of the court that the allegations in the bill of complaint are true and that because of changed conditions or circumstances since the execution of such conveyance it is impossible or impracticable to longer hold or use said lands for the purposes limited in such conveyance and that the religious, educational, charitable, benevolent or public object of the grantor, as set forth in such conveyance, may be defeated thereby, a decree may be entered authorizing the grantor to sell such lands for the highest price obtainable therefor, in the same manner as may be provided by law for the sale of lands of infants and incompetent persons, and directing that the proceeds of the sale of such lands shall be reinvested in other lands suitable for the use or purpose set forth in the original conveyance, which

lands shall thereupon be held by the grantee named in the original conveyance subject to the same limitations as set forth therein.

HISTORY: CL 1929, 13520;—CL 1948, 554.403.

SALE OF LANDS: Of infants and incompetents, see Compilers' § 800.2928.

554.404 Lands sale held for public purposes and purchase of new lands; effect of sale on title.

Sec. 4. No sale of lands under the decree of the court as herein provided shall defeat the estate of the grantee named in the original conveyance because of the failure to longer hold or use the same for the purpose named in such conveyance and shall be sufficient to convey to the purchaser of such lands a good and sufficient title in fee simple, free from all conditions or limitations whatsoever, under which the same shall theretofore have been held or used.

HISTORY: CL 1929, 13521;—CL 1948, 554.404.

554.431-554.443 Repealed. 1959, p. 246, Act 172, Eff. Mar. 19, 1960.

Sections provided method for making irrevocable gifts of securities to minors provided for designation of custodians as fiduciaries, and regulated rights, duties and privileges in connection therewith.

Act 172, 1959, p. 242; Eff. Mar. 19, 1960.

AN ACT concerning gifts of securities and money to minors; to make uniform the law with reference thereto; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

554.451 Uniform gifts to minors act; definitions.

Sec. 1. In this act, unless the context otherwise requires:

- (a) An "adult" is a person who has attained the age of 21 years.
- (b) A "bank" is a bank, trust company, national banking association, savings bank, credit union, savings and loan association, building and loan association, federal savings and loan association or industrial bank.
- (c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.
- (d) "Court" means the probate court of the county in which the minor resides.
- (e) "The custodial property" includes:
 - (1) All securities, money and life insurance under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this act;
 - (2) The income from the custodial property; and
 - (3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.
- (f) A "custodian" is a person so designated in a manner prescribed in this act; the term includes a successor custodian.
- (g) A "guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.
- (h) An "issuer" is a person who places or authorizes the placing of his name on a security, other than as a transfer agent, to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or un-

der taking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(i) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(j) A "member of a minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(k) A "minor" is a person who has not attained the age of 21 years.

(l) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(m) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(n) A "trust company" is a bank authorized to exercise trust powers.

HISTORY. New 1959, p. 242, Act 172, Eff. Mar. 19, 1960;—Am. 1962, p. 25, Act 31, Eff. Mar. 28, 1963;—Am. 1966, p. 206, Act 183, Eff. Jan. 1, 1967.

554.452 Gift of securities to minor; registered, unregistered securities, money, insurance, custodian's control.

Sec. 2. (a) An adult person, during his lifetime, may make a gift of a security or money to a person who is a minor on the date of the gift:

(1) If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person, an adult member of the minor's family, a guardian of the minor, or a trust company, followed, in substance, by the words: "as custodian for under the Michigan uniform gifts
(name of minor)

to minors act";

(2) If the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor, an adult member of the minor's family other than the donor, a guardian of the minor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE MICHIGAN UNIFORM GIFTS TO MINORS ACT

I,, hereby deliver to
(name of donor) (name of custodian)
as custodian for under the Michigan uniform gifts
(name of minor)
to minors act, the following security(ies): (insert an appropriate description of the
security or securities delivered sufficient to identify it or them)
.....
(signature of donor)

..... hereby acknowledges receipt of the above
(name of custodian)
described security(ies) as custodian for the above minor under the Michigan uniform
gifts to minors act.

Dated:
..... (signature of custodian)"

(3) If the subject of the gift is money, by paying or delivering it to a broker or
a bank for credit to an account in the name of the donor, another adult person, an
adult member of the minor's family, a guardian of the minor, or a bank with trust
powers, followed, in substance, by the words: "as custodian for
(name of minor)

under the Michigan uniform gifts to minors act".

(4) If the subject of the gift is life insurance, the ownership of the policy of life
insurance shall be registered by the donor of such policy in his own name or in the
name of an adult member of the minor's family or in the name of any guardian of the
minor, followed by the words "as custodian for
(name of minor)

under the Michigan uniform gifts to minors act", and such policy of life insurance
shall be delivered to the person in whose name it is thus registered as custodian. If
the policy is registered in the name of the donor, as custodian, such registration shall
of itself constitute the delivery required by this section.

(b) Any gift made in a manner prescribed in subsection (a) may be made to only 1
minor and only 1 person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subsection (a)
shall promptly do all things within his power to put the subject of the gift in the pos-
session and control of the custodian, but neither the donor's failure to comply with this
subsection, nor his designation of an ineligible person as custodian, nor renunciation
by the person designated as custodian affects the consummation of the gift.

HISTORY: New 1959, p. 242, Act 172, Mar. 19, 1960;—Am. 1962, p. 26, Act 31, Mar. 28, 1963.

554.453 Securities gifts to minors; irrevocability; legal title in minor; guardian, custodian.

Sec. 3. (a) A gift made in a manner prescribed in this act is irrevocable and conveys
to the minor indefeasibly vested legal title to the security, money or life insurance
given, but no guardian of the minor has any right, power, duty or authority with re-
spect to the custodial property except as provided in this act.

(b) By making a gift in a manner prescribed in this act, the donor incorporates in his
gift all the provisions of this act and grants to the custodian, and to any issuer, transfer
agent, bank, broker or third person dealing with a person designated as custodian, the
respective powers, rights and immunities provided in this act.

HISTORY: New 1959, p. 243, Act 172, Eff. Mar. 19, 1960;—Am. 1962, p. 27, Act 31, Eff. Mar. 28, 1963.

554.454 Custodian; property collection, holding, management, investment.

Sec. 4. (a) The custodian shall collect, hold, manage, invest and reinvest the custo-
dial property.

Payments to minor or for his benefit.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for
the minor's benefit, so much of or all the custodial property as the custodian deems

advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

Court-ordered payments.

(c) The court, on the petition of a parent or guardian of the minor, or of the minor if he has attained the age of 14 years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

Payment to minor upon reaching 21; to estate.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of 21 years or, if the minor dies before attaining the age of 21 years, he shall thereupon deliver or pay it over to the estate of the minor.

Investments.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that in his discretion and without liability to the minor or his estate, he may retain a security given to the minor in a manner prescribed in this act.

Powers as to securities.

(f) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

Registered securities; separation of custodial property from custodian's personal property.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed in substance by the words: "As custodian for under the Michigan uniform
(name of minor)
gifts to minors act". The custodian shall hold all money which is custodial property in an account with a broker or in a bank with the name of the custodian, followed in substance by the words: "As custodian for under the
(name of minor)

Michigan uniform gifts to minors act". The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

Custodian's records, inspection.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if he has attained the age of 14 years.

Trust powers of custodian.

(i) A custodian has, and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in this act, all the rights and powers which a guardian has with respect to property not held as custodial property.

Insurance, beneficiary, custodian's incident of ownership.

(j) If the subject of the gift is life insurance, the custodian shall have all of the incident of ownership in the life insurance policy which he may hold as custodian to the same extent as if he were the owner thereof personally. The designated beneficiary of any such policy of insurance held by a custodian shall be the minor or, in the event of his death, the minor's estate.

HISTORY: New 1959, p. 243, Act 172, Eff. Mar. 19, 1960, Am. 1962, p. 27, Act 31, Mar. 28, 1963.

554.455 Custodian; expenses; compensation; bond; liability for losses.

Sec. 5. (a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by 1 of the following standards in the order stated:

- (1) A direction by the donor when the gift is made;
- (2) A statute of this state applicable to custodians;
- (3) A statute of this state applicable to guardians;
- (4) An order of the court.

(d) Except as otherwise provided in this act, a custodian shall not be required to give a bond for the performance of his duties.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this act.

HISTORY: New 1959, p. 245, Act 172, Eff. Mar. 19, 1960.

554.456 Persons dealing with custodian or donor; validity of successor custodian designation.

Sec. 6. No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated, or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this act, or is obliged to inquire into the validity or propriety under this act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, broker or other person acting on any instrument of designation of a successor custodian, executed as provided in subsection (a) of section 7 by a minor to whom a gift has been made in a manner prescribed in this act and who has attained the age of 14 years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this act of the instrument of designation.

HISTORY: New 1959, p. 245, Act 172, Eff. Mar. 19, 1960;—Am. 1966, p. 207, Act 183, Imd. Eff. Jul. 1.

554.457 Successor custodian; designation; eligibility; removal; transfer of custodial property of guardian.

Sec. 7. (a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of 14 years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

(b) The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

(1) Causes the item, if it is a security in registered form or a life insurance policy, to be registered, with the issuing insurance company in the case of a life insurance policy in the name of the successor custodian followed in substance by the words: "As custodian for under the Michigan uniform gifts to minors act"; and

(2) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of 14 years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than 1 instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of 21 years, and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative, the legal representative of the custodian, or an adult member of the minor's family, may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor if he has attained the age of 14 years, may petition the court that for cause shown in the petition, the

custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

(g) A custodian, whether or not the donor, against whom no proceedings have been commenced under paragraph (f) hereof, may transfer the custodial property to a guardian for the minor, acting under court appointment by causing each security which is custodial property to be registered in the name of said guardian and delivering such security and all other custodial property to said guardian, together with any additional instruments required for the transfer thereof. Thereafter the custodial property shall be held by the said guardian and administered as a part of the guardianship estate and the custodian shall be relieved of all liability therefor.

HISTORY: New 1959, p. 245, Act 172, Eff. Mar. 19, 1960;—Am. 1962, p. 51, Act 63, Eff. Mar. 28, 1963;—Am. 1966, p. 207, Act 183, Imd. Eff. Jul. 1.

554.458 Accounting.

Sec. 8. (a) The minor, if he has attained the age of 14 years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under this act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

HISTORY: New 1959, p. 246, Act 172, Eff. Mar. 19, 1960.

554.459 Construction of act.

Sec. 9. (a) This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) This act shall not be construed as providing an exclusive method for making gifts to minors.

HISTORY: New 1959, p. 246, Act 172, Eff. Mar. 19, 1960.

554.460 Michigan uniform gifts to minors act; short title.

Sec. 10. This act shall be known and may be cited as the "Michigan uniform gifts to minors act".

HISTORY: New 1959, p. 246, Act 172, Eff. Mar. 19, 1960.

554.461 Repeal; saving clause.

Sec. 11. Act No. 43 of the Public Acts of 1956, being sections 554.431 to 554.443 of the Compiled Laws of 1948, is hereby repealed, but the repeal does not affect gifts made in a manner prescribed therein nor the powers, duties and immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. The provisions of this act henceforth apply, however, to all gifts made in a manner and form prescribed in Act No. 43 of the Public Acts of 1956 hereby repealed except insofar as such application impairs constitutionally vested rights. The sections of this act shall be construed as a continuation of the provisions of Act No. 43 of the Public Acts of 1956 hereby repealed, modified or amended according to the language employed, and not as a new enactment.

HISTORY: New 1959, p. 246, Act 172, Eff. Mar. 19, 1960.

CHAPTER 555. USES AND TRUSTS

USES AND TRUSTS
R.S. 1846, Ch. 63

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R.S. 1846, Ch. 63.

USES AND TRUSTS.

555.1 Uses and trusts; extent of abolition; interests deemed legal.

Sec. 1. Uses and trusts, except as authorized and modified in this chapter, are abolished, and every estate and interest in lands shall be deemed a legal right, cognizable as such in the courts of law, except when otherwise provided in this title.

HISTORY: CL 1857, 2631;—CL 1871, 4114;—How. 5563;—CL 1897, 8829;—CL 1915, 11565;—CL 1929, 12967;—CL 1948, 555.1.

TRUSTEE CORPORATIONS: See Compilers' § 450.148 et seq. and Compilers' § 450.159 et seq.

BISHOPS AS TRUSTEES: For law authorizing Roman Catholic and Episcopal bishops to hold property in trust for the use of their churches, see Compilers' §§ 458.1 and 458.271 respectively.

TESTAMENTARY TRUSTS: See Compilers' 706.1 et seq.

555.2 Executed use confirmed as legal state.

Sec. 2. Every estate which is now held as an use, executed under the laws of this state as they formerly existed, is confirmed as a legal estate.

HISTORY: CL 1857, 2632;—CL 1871, 4115;—How. 5564;—CL 1897, 8830;—CL 1915, 11566;—CL 1929, 12968;—CL 1948, 555.2.

555.3 Right to possession deemed legal estate.

Sec. 3. Every person who, by virtue of any grant, assignment or devise, now is, or hereafter shall be entitled to the actual possession of lands, and the receipt of the rents and profits thereof, in law or in equity shall be deemed to have a legal estate therein, of the same quality and duration, and subject to the same conditions as his beneficial interest.

HISTORY: CL 1857, 2633;—CL 1871, 4116;—How. 5565;—CL 1897, 8831;—CL 1915, 11567;—CL 1929, 12969;—CL 1948, 555.3.

555.4 Right to possession deemed legal estate; effect on existing active trust.

Sec. 4. The last preceding section shall not divest the estate of any trustees, in any existing trust, where the title of such trustees is not merely nominal, but is connected with some power of actual disposition or management, in relation to the lands which are the subject of the trust.

HISTORY: CL 1857, 2634;—CL 1871, 4117;—How. 5566;—CL 1897, 8832;—CL 1915, 11568;—CL 1929, 12970;—CL 1948, 555.4.

555.5 Passive trust; disposition of lands, trustee interest.

Sec. 5. Every disposition of lands, whether by deed or devise, hereafter made, except as otherwise provided in this chapter, shall be directly to the person in whom the

right to the possession and the profits shall be intended to be vested, and not to any other, to the use of, or in trust for, such person; and if made to 1 or more persons, in trust for, or to the use of another, no estate or interest, legal or equitable, shall vest in the trustee.

HISTORY: CL 1857, 2835;—CL 1871, 4118;—How. 5567;—CL 1897, 8833;—CL 1915, 11569;—CL 1929, 12971;—CL 1948, 555.5.

555.6 Constructive, resulting or express trusts; preceding sections effect.

Sec. 6. The preceding sections of this chapter, shall not extend to trusts arising or resulting by implication of law, nor be construed to prevent or affect the creation of such express trusts as are hereinafter authorized and defined.

HISTORY: CL 1857, 2836;—CL 1871, 4119;—How. 5568;—CL 1897, 8834;—CL 1915, 11570;—CL 1929, 12972;—CL 1948, 555.6.

555.7 Payment of consideration for conveyance to another; resulting trust, alienee title.

Sec. 7. When a grant for a valuable consideration shall be made to 1 person, and the consideration therefor shall be paid by another, no use or trust shall result in favor of the person by whom such payment shall be made; but the title shall vest in the person named as the alienee in such conveyance, subject only to the provisions of the next section.

HISTORY: CL 1857, 2837;—CL 1871, 4120;—How. 5569;—CL 1897, 8835;—CL 1915, 11571;—CL 1929, 12973;—CL 1948, 555.7.

555.8 Payment of consideration for conveyance to another; presumption as fraudulent; resulting trust for creditors of payee.

Sec. 8. Every such conveyance shall be presumed fraudulent, as against the creditors of the person paying the consideration; and when a fraudulent intent is not disproved, a trust shall result in favor of such creditors, to the extent that may be necessary to satisfy their just demands.

HISTORY: CL 1857, 2838;—CL 1871, 4121;—How. 5570;—CL 1897, 8836;—CL 1915, 11572;—CL 1929, 12974;—CL 1948, 555.8.

555.9 Payment of consideration for conveyance to another; fraudulent alienee exemption.

Sec. 9. The preceding seventh section shall not extend to cases where the alienee named in the conveyance shall have taken the same as an absolute conveyance in his own name, without the knowledge or consent of the person paying the consideration, or when such alienee, in violation of some trust, shall have purchased the lands so conveyed, with moneys belonging to another person.

HISTORY: CL 1857, 2839;—CL 1871, 4122;—How. 5571;—CL 1897, 8837;—CL 1915, 11573;—CL 1929, 12975;—CL 1948, 555.9.

555.10 Implied or resulting trust; validity against bona fide purchaser.

Sec. 10. No implied or resulting trust shall be alleged or established to defeat or prejudice the title of a *purchase, for a valuable consideration, and without notice of such trust.

HISTORY: CL 1857, 2840;—CL 1871, 4123;—How. 5572;—CL 1897, 8838;—CL 1915, 11574;—CL 1929, 12976;—CL 1948, 555.10.

*NOTE. It is evident the word "purchase" should be "purchaser".

555.11 Express trust; purpose of creation.

Sec. 11. Express trusts may be created for any or either of the following purposes:

First. To sell lands for the benefit of creditors:

Second. To sell, mortgage or lease lands, for the benefit of legatees, or for the purpose of satisfying any charge thereon:

Third. To receive the rents and profits of lands, and apply them to the use of any person, during the life of such person, or for any shorter term, subject to the rules prescribed in the last preceding chapter:

Fourth. To receive the rents and profits of lands, and to accumulate the same for the benefit of any married woman, or for either of the purposes, and within the limits prescribed in the preceding chapter:

Fifth. For the beneficial interest of any person or persons where such trust is fully expressed and clearly defined upon the face of the instrument creating it subject to the limitations as to time prescribed in this title.

HISTORY: CL 1857, 2641;—CL 1871, 4124;—How. 5573;—CL 1897, 8839;—CL 1915, 11575;—CL 1929, 12977;—CL 1948, 555.11.
EXPRESS TRUSTS: Must be created by writing and cannot be raised by parol, see Compilers' § 556.113.

555.12 Devise to trustee without power to receive rents and profits; estate of trustee; effect on trust.

Sec. 12. A devise of lands to executors or other trustees, to be sold or mortgaged, when such trustees are not also empowered to receive the rents and profits, shall vest no estate in the trustees; but the trust shall be valid as a power, and the lands shall descend to the heirs, or pass to the devisees of the testator, subject to the execution of the power.

HISTORY: CL 1857, 2642;—CL 1871, 4125;—How. 5574;—CL 1897, 8840;—CL 1915, 11576;—CL 1929, 12978;—CL 1948, 555.12.

555.13 Rents and profits; liability of surplus to claims of creditors of beneficiary.

Sec. 13. When a trust is created to receive the rents and profits of lands, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, shall be liable in equity, to the claims of the creditors of such person, in the same manner as other personal property which cannot be reached by an execution at law.

HISTORY: CL 1857, 2643;—CL 1871, 4126;—How. 5575;—CL 1897, 8841;—CL 1915, 11577;—CL 1929, 12979;—CL 1948, 555.13.

555.14 Express trust for unauthorized purpose; estate of trustee; power in trust.

Sec. 14. When an express trust shall be created for any purpose not enumerated in the preceding sections of this chapter, no estate shall vest in the trustees; but the trust, if directing or authorizing the performance of any act which may be lawfully performed under a power, shall be valid as a power in trust, subject to the provisions in relation to such powers contained in the next succeeding chapter.

HISTORY: CL 1857, 2644;—CL 1871, 4127;—How. 5576;—CL 1897, 8842;—CL 1915, 11578;—CL 1929, 12980;—CL 1948, 555.14.

555.15 Trust as valid power; land descent.

Sec. 15. In every case where the trust shall be valid as a power, the land to which the trust relates, shall remain in, or descend to the persons otherwise entitled, subject to the execution of the trust as a power.

HISTORY: CL 1857, 2645;—CL 1871, 4128;—How. 5577;—CL 1897, 8843;—CL 1915, 11579;—CL 1929, 12981;—CL 1948, 555.15.

555.16 Express trust; beneficiary, trustee estates, beneficiary right.

Sec. 16. Every express trust, valid as such in its creation, except as herein otherwise provided, shall vest the whole estate in the trustees, in law and in equity, subject only to the execution of the trust; and the person for whose benefit the trust was created, shall take no estate or interest in the lands, but may enforce the performance of the trust in equity.

HISTORY: CL 1857, 2646;—CL 1871, 4129;—How. 5578;—CL 1897, 8844;—CL 1915, 11580;—CL 1929, 12982;—CL 1948, 555.16.

555.17 Express trust; disposal of land in event of failure or termination of trust.

Sec. 17. The preceding section shall not prevent any person creating a trust, from declaring to whom the lands to which the trust relates shall belong, in the event of the failure or termination of the trust, nor shall it prevent him from granting or devising

such lands subject to the execution of the trust; and every such grantee shall have a legal estate in the lands, as against all persons except the trustees and those lawfully claiming under them.

HISTORY: CL 1857, 2647;—CL 1871, 4130;—How. 5579;—CL 1897, 8845;—CL 1915, 11581;—CL 1929, 12983;—CL 1948, 555.17.

555.18 Express trust; undisposed estate or interest.

Sec. 18. When an express trust is created, every estate and interest not embraced in the trust, and not otherwise disposed of, shall remain in, or revert to the person creating the trust, or his heirs as a legal estate.

HISTORY: CL 1857, 2648;—CL 1871, 4131;—How. 5580;—CL 1897, 8846;—CL 1915, 11582;—CL 1929, 12984;—CL 1948, 555.18.

555.19 Express trust; assignability of interest of beneficiary.

Sec. 19. No person beneficially interested in a trust for the receipt of the rents and profits of lands, can assign or in any manner dispose of such interest; but the rights and interest of every person for whose benefit a trust for the payment of a sum in gross is created, are assignable.

HISTORY: CL 1857, 2649;—CL 1871, 4132;—How. 5581;—CL 1897, 8847;—CL 1915, 11583;—CL 1929, 12985;—CL 1948, 555.19.

555.20 Express trust; omission from conveyance; validity as to subsequent creditor and bona fide purchaser from trustee.

Sec. 20. When an express trust is created, but is not contained or declared in the conveyance to the trustees, such conveyance shall be deemed absolute as against the subsequent creditors of the trustees, not having notice of the trust, and as against purchasers from such trustees, without notice, and for a valuable consideration.

HISTORY: CL 1857, 2650;—CL 1871, 4133;—How. 5582;—CL 1897, 8848;—CL 1915, 11584;—CL 1929, 12986;—CL 1948, 555.20.

555.21 Express trust; mention in instrument; invalidity of certain acts of trustee.

Sec. 21. When the trust shall be expressed in the instrument creating the estate, every sale, conveyance, or other acts of the trustees, in contravention of the trust, shall be absolutely void.

HISTORY: CL 1857, 2651;—CL 1871, 4134;—How. 5583;—CL 1897, 8849;—CL 1915, 11585;—CL 1929, 12987;—CL 1948, 555.21.

555.22 Authorized payment to trustee; protection of payor.

Sec. 22. No person who shall actually and in good faith make any payment to a trustee, which the trustee as such is authorized to receive, shall be responsible for the application thereof according to the trust; nor shall any right or title derived by such person from the trustee, in consideration of such payment, be impeached or called in question, in consequence of any misapplication of such payment by the trustee.

HISTORY: CL 1857, 2652;—CL 1871, 4135;—How. 5584;—CL 1897, 8850;—CL 1915, 11586;—CL 1929, 12988;—CL 1948, 555.22.

555.23 Express trust; termination of estate of trustee.

Sec. 23. When the purposes for which an express trust shall have been created, shall have ceased, the estate of the trustee shall also cease.

HISTORY: CL 1857, 2653;—CL 1871, 4136;—How. 5585;—CL 1897, 8851;—CL 1915, 11587;—CL 1929, 12989;—CL 1948, 555.23.

555.24 Express trust; death of all trustees; execution of trust.

Sec. 24. Upon the death of the surviving trustee of an express trust, the trust estate shall not descend to his heirs, nor pass to his personal representatives; but the trust if then unexecuted, shall vest in the court of chancery, with all the powers and duties of the original trustees, and shall be executed by some person appointed for that purpose, under the direction of the court.

HISTORY: CL 1857, 2654;—CL 1871, 4137;—How. 5586;—CL 1897, 8852;—CL 1915, 11588;—CL 1929, 12990;—CL 1948, 555.24.

555.25 Express trust; trustee resignation.

Sec. 25. Upon the petition of any trustee of an express trust, the court of chancery may accept his resignation, and discharge him from the trust, under such regulations

as shall be established by the court for that purpose, and upon such terms as the rights and interests of the persons interested in the execution of the trust may require.

HISTORY: CL 1857, 2655;—CL 1871, 4138;—How. 5587;—CL 1897, 8853;—CL 1915, 11589;—CL 1929, 12991;—CL 1948, 555.25.

555.26 Express trust; trustee removal.

Sec. 26. Upon the petition or bill of any person interested in the execution of an express trust, and under such regulations as shall be established by the court for that purpose, the court of chancery may remove any trustee who shall have violated or threatened to violate his trust, or who shall be insolvent, or whose insolvency shall be apprehended, or who, for any other cause, shall be deemed an unsuitable person to execute the trust.

HISTORY: CL 1857, 2656;—CL 1871, 4139;—How. 5588;—CL 1897, 8854;—CL 1915, 11590;—CL 1929, 12992;—CL 1948, 555.26.

555.27 Express trust; appointment of new trustee.

Sec. 27. The chancellor shall have full power to appoint a new trustee, in the place of a trustee resigned or removed; and when, in consequence of such resignation or removal, there shall be no acting trustee, the court in its discretion, may appoint new trustees, or cause the trust to be executed by 1 of its officers, under its direction.

HISTORY: CL 1857, 2657;—CL 1871, 4140;—How. 5589;—CL 1897, 8855;—CL 1915, 11591;—CL 1929, 12993;—CL 1948, 555.27.

CHANCELLOR: The office of chancellor was abolished by Act 23 of 1847.

NOTE: See Compilers' § 450.154.

Act 340, 1965, p. 666; Eff. Jan. 1, 1966.

AN ACT to enact the revised uniform principal and income act, relating to the manner in which receipts and expenditures of trusts and estates shall be credited and charged as between income and principal; and to make uniform the law with respect thereto.

The People of the State of Michigan enact:

555.51 Revised uniform principal and income act; definitions.

Sec. 1. As used in this act:

(1) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income.

(2) "Inventory value" means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax.

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal.

(4) "Trustee" means an original trustee and any successor or added trustee.

HISTORY: New 1965, p. 666, Act 340, Eff. Jan. 1, 1966.

555.52 Trust administration; regard for income beneficiaries and remainder; rules.

Sec. 2. (a) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each

(1) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this act;

(2) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this act; or

(3) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.

(b) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to a provision of this act.

HISTORY: New 1965, p. 688, Act 340, Eff. Jan. 1, 1966.

555.53 Income, principal; definition.

Sec. 3. (a) Income is the return in money or property derived from the use of principal, including return received as

(1) Rent of real or personal property, including sums received for cancellation or renewal of a lease.

(2) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section 7 on bond premium and bond discount.

(3) Income earned during administration of a decedent's estate as provided in section 5.

(4) Corporate distributions as provided in section 6.

(5) Accrued increment on bonds or other obligations issued at discount as provided in section 7.

(6) Receipts from business and farming operations as provided in section 8.

(7) Receipts from disposition of natural resources as provided in sections 9 and 10.

(8) Receipts from other principal subject to depletion as provided in section 11.

(9) Receipts from disposition of underproductive property as provided in section 12.

(b) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes

(1) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal.

(2) Proceeds of property taken on eminent domain proceedings.

(3) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary.

(4) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 6.

(5) Receipts from the disposition of corporate securities as provided in section 7.

(6) Royalties and other receipts from disposition of natural resources as provided in sections 9 and 10.

(7) Receipts from other principal subject to depletion as provided in section 11.

(8) Any profit resulting from any change in the form of principal except as provided in section 12 on underproductive property.

(9) Receipts from disposition of underproductive property as provided in section 12.

(10) Any allowances for depreciation established under section 8 and subdivision (2) of subsection (a) of section 13.

(c) After determining income and principal in accordance with the terms of the

trust instrument or of this act, the trustee shall charge to income or principal expenses and other charges as provided in section 13.

HISTORY: New 1965, p. 667, Act 340, Eff. Jan. 1, 1966.

555.54 Income beneficiary; right to income, date.

Sec. 4. (a) An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(b) In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will

(1) Receipts due but not paid at the date of death of the testator are principal.

(2) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

(c) In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

(d) On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to

(1) Income undistributed on the date of termination.

(2) Income due but not paid to the trustee on the date of termination.

(3) Income in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest or annuities, not due on the date of termination, accrued from day to day.

(e) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

HISTORY: New 1965, p. 667, Act 340, Eff. Jan. 1, 1966.

555.55 Expenses chargeable against principal; income distribution; rules.

Sec. 5. (a) Unless the will otherwise provides and subject to subsection (b), all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate.

(b) Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this act and distributed as follows:

(1) To specific legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and an appropriate portion of interest accrued since the death of the testator and of taxes imposed on income, excluding taxes on capital gains, which accrue during the period of administration.

(2) To all other legatees and devisees, except legatees of pecuniary bequests not in trust, the balance of the income, less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, interest accrued since the death of the testator, and taxes imposed on income, excluding taxes on capital gains, which accrue during the period of adminis-

tration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value.

(c) Income received by a trustee under subsection (b) shall be treated as income of the trust.

HISTORY: New 1965, p. 668, Act 340, Eff. Jan. 1, 1966.

555.56 Corporate distribution of shares; principal.

Sec. 6. (a) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(b) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to

- (1) A call of shares;
- (2) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (3) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(c) Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(d) Except as provided in subsections (a), (b) and (c), all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections (b) and (c), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(e) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this act concerning the source or character of dividends or distributions of corporate assets.

HISTORY: New 1965, p. 668, Act 340, Eff. Jan. 1, 1966;—Am. 1966, p. 518, Act 307, Imd. Eff. Jul. 14.

555.57 Bonds; principal; increment, income.

Sec. 7. (a) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection (b) for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(b) The increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable at maturity or at a future time in an amount in excess of the amount in consideration of which it was issued is distributable as income. If the income accrues pursuant to a fixed schedule of appreciation such income is distributable to the beneficiary at the time the increment occurs and the trustee may transfer the amount thereof from principal to income on each such date.

Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed from income when realized.

HISTORY: New 1965, p. 669, Act 340, Imd. Eff. Jan. 1, 1966;—Am. 1966, p. 519, Act 307, Imd. Eff. Jul. 14.

555.58 Income or loss from business operation; allocation.

Sec. 8. (a) If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.

(b) Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

HISTORY: New 1965, p. 669, Act 340, Eff. Jan. 1, 1966.

555.59 Royalties; allocation.

Sec. 9. (a) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(1) If received as rent on a lease or extension payments on a lease, the receipts are income.

(2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.

(3) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. Twenty-seven and one-half percent of the gross receipts (but not to exceed 50% of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion) shall be added to principal as an allowance for depletion. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

(b) If a trustee, on the effective date of this act, held an item of depletable property of a type specified in this section he shall allocate receipts from the property in the manner used before the effective date of this act, but as to all depletable property acquired after the effective date of this act by an existing or new trust, the method of allocation provided herein shall be used.

(c) This section does not apply to timber, water, soil, sod, dirt, turf or mosses.

HISTORY: New 1965, p. 669, Act 340, Eff. Jan. 1, 1966.

555.60 Receipts from timber taken from land included in principal; allocation.

Sec. 10. If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with subdivision (3) of subsection (a) of section 2.

HISTORY: New 1965, p. 670, Act 340, Eff. Jan. 1, 1966.

555.61 Receipts from property subject to depletion; allocation.

Sec. 11. Except as provided in sections 9 and 10, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of 5% per year of its inventory value, are income, and the balance is principal.

HISTORY: New 1965, p. 670, Act 340, Eff. Jan. 1, 1966.

555.62 Net proceeds of sale of principal; allocation.

Sec. 12. (a) Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which has not produced an average net income of at least 1% per year of its inventory value for more than a year (including as income the value of any beneficial use of the property by the income beneficiary) shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was underproductive.

(1) The rule in section 12 (a) shall not apply to property while the market value of such property is insubstantial in relation to the market value of the trust.

(2) The rule in section 12 (a) shall not apply to stock paying cash dividends at reasonably regular intervals and listed on a recognized securities exchange.

(b) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at 4% per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.

(c) An income beneficiary or his estate is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

(d) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages (for example, realty acquired by or in lieu of foreclosure), the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within 5 years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

HISTORY: New 1965, p. 670, Act 340, Eff. Jan. 1, 1966;—Am. 1968, p. 519, Act 307, Imd. Eff. Jul. 14.

555.63 Charges against income.

Sec. 13. (a) The following charges shall be made against income:

(1) Ordinary expenses incurred in connection with the administration, management or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman or trustee, interest paid by the trustee and ordinary repairs.

(2) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on the effective date of this act for which the trustee is not then making an allowance for depreciation.

(3) One-half of court costs, attorney's fees, and other fees on periodic judicial accounting, unless the court directs otherwise.

(4) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise.

(5) One-half of the trustee's regular compensation, and 1/2 of the fee of any agent of the trustee charged in lieu of all or any part of the trustee's regular compensation, whether based on a percentage of principal or income, and all expenses reasonably incurred for current management of principal and application of income.

(6) Any tax levied upon receipts defined as income under this act or the trust instrument and payable by the trustee.

(b) If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(c) The following charges shall be made against principal:

(1) Compensation of the trustee and any agent of the trustee not chargeable to income under subsections (a) (4) and (a) (5), special compensation of the trustee and any agent of the trustee, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and compensation of the trustee and any agent of the trustee computed on principal as an acceptance, distribution or termination fee.

(2) Charges not provided for in subsection (a), including the cost of investing and re-investing principal, the payments on principal of an indebtedness, including a mortgage amortized by periodic payments of principal, expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property.

(3) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection (a) (2) and by section 8.

(4) Any tax levied upon profit, gain or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority.

(5) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.

(d) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section 4.

HISTORY: New 1965, p. 671, Act 340, Eff. Jan. 1, 1966;—Am. 1966, p. 520, Act 307, Imd. Eff. Jul. 14.

555.64 Application of act.

Sec. 14. Except as specifically provided in the trust instrument or the will or in this act, this act shall apply to any receipt or expense received or incurred after the effective date of this act by any trust or decedent's estate whether established before or after the effective date of this act and whether the asset involved was acquired by the trustee before or after the effective date of this act.

HISTORY: New 1965, p. 671, Act 340, Eff. Jan. 1, 1966.

555.65 Construction of act.

Sec. 15. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1965, p. 672, Act 340, Eff. Jan. 1, 1966.

555.66 Revised uniform principal and income act; short title.

Sec. 16. This act shall be known and may be cited as "the revised uniform principal and income act".

HISTORY: New 1965, p. 672, Act 340, Eff. Jan. 1, 1966.

555.67 Controlling effect.

Sec. 17. Insofar as the provisions of this act may be inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

HISTORY: New 1965, p. 672, Act 340, Eff. Jan. 1, 1966.

555.68 Effective date.

Sec. 18. This act shall take effect on January 1, 1966.

HISTORY: New 1965, p. 672, Act 340, Eff. Jan. 1, 1966.

Act 185, 1966, p. 209; Imd. Eff. Jul. 1.

AN ACT to provide for the compromise, settlement or adjustment of any controversy concerning the interpretation, effect or validity of irrevocable inter vivos trust instruments or arising in the administration of any trust estate created by such irrevocable inter vivos trust agreement, when there is or may be any person interested who is a minor or otherwise without legal capacity to act in person or whose present existence or whereabouts cannot be ascertained, or when there is any estate or interest of any person not competent to act for himself which will or may be affected by such compromise, settlement or adjustment.

The People of the State of Michigan enact:

555.81 Compromise; settlement or adjustment of controversies concerning irrevocable inter vivos trust instruments.

Sec. 1. The compromise, settlement or adjustment, made after the death of the settlor, of any good faith controversy relating to any irrevocable inter vivos trust instrument whether the controversy arises before or after the death of the settlor of the trust instrument (a) as to the construction, validity or effect of the trust instrument or any provision thereof, or (b) as to the rights or interests of any person as beneficiary under the trust instrument, or (c) otherwise arising in or growing out of the administration of the trust instrument, including any accounting in the administration, or any distribution under the trust instrument, when there is or may be any person interested who is a minor or otherwise without legal capacity to act in person, or whose present existence or whereabouts cannot be ascertained, or where there is any estate or interest which will or may be affected by the compromise, settlement or adjustment, which compromise settlement or adjustment is made in accordance with the provisions of this act, shall be lawful and valid and binding upon all the parties thereto, including such as are represented therein by trustees, guardians or guardians ad litem and upon all trusts created by the trust instrument, and upon all future interests arising thereunder in persons then in being or who may thereafter come into being and shall be recognized and so enforced by all courts and tribunals whatsoever. No such compromise or settlement shall impair in any way the rights of creditors having claims against the trust estate.

HISTORY: New 1966, p. 209, Act 185, Imd. Eff. Jul. 1.

555.82 Inter vivos trusts compromise; execution of agreement; submission to circuit court.

Sec. 2. The terms and conditions of the compromise, settlement or adjustment shall be set forth in an agreement in writing which shall be executed by all competent persons, except such as may be living but whose present existence or whereabouts is unknown and cannot after diligent search and inquiry be ascertained, having estates, interests or claims which will or may be limited, diminished or changed in either extent or value by the compromise, settlement or adjustment if consummated. The agreement shall be submitted to the circuit court of the county in which the trustee, or 1 of the trustees has his residence or principal place of business or to any other circuit court otherwise having jurisdiction of the trust, for the approval thereof and the authorizing of the entering into and execution thereof by the qualified trustee of every trust created by the trust instrument which will be affected by such compromise or settlement, and by the guardian of each person who is an infant or otherwise incompetent to act in person for whom a guardian has been appointed and qualified and who shall have an estate or interest of any kind or nature which will or may be limited, diminished or changed, and by the persons named in the trust instrument as trustees of every trust of which no trustee has as yet qualified or by a guardian ad litem appointed by the court to represent such trust. If there is any person who if living has an estate or interest of any kind or nature whose whereabouts or present existence cannot after diligent search and inquiry be ascertained, or who is a minor or otherwise without legal capacity to act in person and has no guardian, or if there is any estate or interest which might be taken by any person not then in being, which may be limited, diminished or changed, the court to which the agreement has been submitted shall appoint a guardian ad litem to represent such person, estate or interest. If there is any trust which the trust instrument creates or purports to create which will be affected by the result of the compromise or settlement of which no trustee has qualified and no person named in the trust instrument as trustee of the trust has joined in the petition for approval and authorization, or otherwise voluntarily appeared in the proceeding for the authorization or approval, the court, if no person is named in the trust instrument as trustee of the trust, or if the person or persons named in the trust instrument as trustees of the trust, shall fail to appear after due notice in the proceeding, shall appoint a guardian ad litem to represent the trust. Each guardian ad litem may be authorized to enter into and sign the agreement on behalf of such person or estate or interest or trust.

HISTORY: New 1966, p. 209, Act 185, Eff. Jul. 1.

555.83 Inter vivos trusts compromise; approval of court agreement; order; filing; effect.

Sec. 3. The estate and interest of every person competent to act for himself and the estate and interest represented by every guardian, guardian ad litem and trustee and every person named in the trust instrument as trustee but who has not qualified as such, and in whose stead no other has been appointed and qualified, having been subjected to the jurisdiction of the court, by voluntary appearance or by summons, citation, order of hearing or order for appearance duly served or published, and every person whose present existence or whereabouts cannot be ascertained, every person not qualified to act in person but having no general guardian, every trust, no trustee of which, whether qualified or not, has executed the agreement, and every estate or interest having also been subjected to the jurisdiction of the court by the appointment of a guardian ad litem to represent such person, trust or interest, all in accordance with the practice of the court to which the agreement shall have been submitted, the court, if the contest or controversy appears to be in good faith and if the effects of the agree-

ment upon the estates and interests of the persons and interests so represented by any guardian, trustee or guardian ad litem are found to be just and reasonable, shall make an order approving the agreement and authorizing the entering into and execution thereof by each guardian, trustee and guardian ad litem. The order having been entered and the agreement having been made complete by the execution thereof by all persons in interest competent to act for themselves, and by all trustees and guardians required by or authorized under the provisions of section 2 to be parties thereto, and by the guardians ad litem appointed by the court to represent all persons, interests and trusts for whom or which the court is required by section 2 to appoint guardians ad litem, the same shall be filed with the court and shall become valid and binding as provided in section 1, and all further proceedings in and about the administration of the trust instrument shall be had in accordance with the terms and provisions of the agreement and the order. The authorization and order in itself confers authority to execute and deliver or to receive and accept any conveyance or other transfer, waiver or release, appropriate to the carrying out of any of the terms and provisions of such agreement or order, the trustees, guardians and guardians ad litem shall abide by and carry out the terms thereof and execute and deliver or receive any instrument or conveyance necessary to give full effect thereto. The estate or interest of, or which might be claimed under or through, any person whose whereabouts or present existence is unknown, may be subjected to the jurisdiction of the court by satisfying the court by oath that diligent search and inquiry for the whereabouts and present existence have been made and that the same cannot be ascertained, and by incorporating in an order of hearing or order of appearance, which ever the practice may provide, the name of the person whose whereabouts and present existence are unknown, his heirs and assigns, and by publishing the order in accordance with the practice of the court and serving the same upon any known person who would succeed to the estate or interest if the person so named were dead or claiming to have succeeded by a transfer thereof.

HISTORY: New 1966, p. 210, Act 185, Imd. Eff. Jul. 1.

555.84 Inter vivos trusts compromise; powers conferred as additional; applicability of act; validation of prior compromise, settlement or adjustment.

Sec. 4. The provisions of sections 1 to 3 are intended to provide a definite method for the exercise of the existing power and jurisdiction of the circuit court in addition to and in nowise in exclusion of any other regular method or methods of exercising such power and jurisdiction; but nevertheless if necessary to the validity or operative effect of this act or any part thereof, the same shall be deemed to be a grant of power and jurisdiction. Sections 1 to 3 are intended to apply to all cases as well where the decedent has died heretofore as where the decedent hereafter dies. Any compromise, settlement and adjustment heretofore made and approved by any circuit court of this state by any method substantially similar to that herein provided is declared to be valid and binding with like force and effect as provided in section 1.

HISTORY: New 1966, p. 211, Act 185, Imd. Eff. Jul. 1.

Act 174, 1941, p. 257; Eff. Jan. 10, 1942.

AN ACT to authorize the establishment and the maintenance of common trust funds; to authorize investments or participations therein; to define the requirements and terms thereof and the conditions and terms governing investments or participations therein and the admission and withdrawal of such investments or participations; to prescribe and define the rights, powers and duties of banks, trust companies, fiduciaries, participants, beneficiaries and other persons with respect thereto; to provide for

the regulation and supervision thereof; and to repeal acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

555.101 Common trust funds; definitions.

Sec. 1. Definition.

As used in this act, and unless a different meaning appears from the context:

(a) The term "financial institution" means any state bank, any national bank, or any trust company, authorized to act in a fiduciary capacity in this state.

(b) The term "fiduciary" means any financial institution or person acting in the capacity of executor, administrator, administrator with the will annexed, administrator de bonis non, guardian, testamentary trustee, trustee appointed by any court, and trustee under any written agreement, declaration, or instrument of trust, either solely or together with others.

(c) The term "common trust fund" means a fund maintained by a financial institution, exclusively for the collective investment and reinvestment of moneys contributed thereto by the financial institution in its capacity as a fiduciary or cofiduciary and established, maintained and administered pursuant to the requirements of this act.

HISTORY: CL 1948, 555.101. This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted by the legislatures of the following states: Arizona, Florida, Illinois, Michigan, North Carolina, South Dakota, Washington and Wisconsin.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

555.102 Common trust funds; financial institution may establish and maintain.

Sec. 2. Establishment of common trust funds.

Any financial institution may establish, maintain, and administer 1 or more common trust funds for the purpose of furnishing investments to itself as a fiduciary or cofiduciary.

HISTORY: CL 1948, 555.102.

555.103 Common trust funds; financial institution may invest as fiduciary.

Sec. 3. Investment in common trust funds.

Any financial institution in its capacity as a fiduciary or cofiduciary, whether such fiduciary capacity arose before or is created after this act takes effect, may invest funds which it lawfully holds for investment in such capacity in interests or participations in 1 or more common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating the fiduciary relationship, and if, in the case of cofiduciaries, the financial institution procures the consent of its cofiduciary or cofiduciaries to such investment.

HISTORY: CL 1948, 555.103.

555.104 Common trust funds; plan, provisions; rules of banking department.

Sec. 4. Provisions of common trust funds and the effect thereof.

Each common trust fund shall be established and maintained in accordance with a written plan (referred to herein as the plan) approved by resolution of the board of directors of the financial institution and approved in writing by competent legal counsel. The plan shall provide that the common trust fund shall be administered in conformity with the rules and regulations, prevailing from time to time, of the commissioner of the banking department of this state, and shall contain full and detailed provisions, not inconsistent with the provisions of such rules and regulations and the provisions of this act, as to the manner in which the common trust fund is to be operated, the invest-

ment powers with respect to the common trust fund, the allocation and apportionment of income, profits and losses, the terms and conditions governing the admission or withdrawal of investments or participations in the common trust fund, the auditing and settlement of accounts of the financial institution with respect to the common trust fund, the basis and method of valuing assets in the common trust fund, the basis upon which the common trust fund may be terminated, and such other matters as may be necessary to define clearly the rights of participants in the common trust fund. A copy of the plan shall be available at the principal office of the financial institution for inspection during all regular business hours to any person having an interest in a participation in the common trust fund. The plan may or may not provide for the amortization of premiums upon bonds or other obligations, the disposition of discounts and profits and the allocation of the same to principal or income accounts or the apportionment of the same between principal and income accounts, the establishment and maintenance of a reserve out of current interest from mortgage investments against which realized losses on mortgages may be charged, and other like matters. The provisions of the plan shall control all participations therein and the rights and benefits of all persons interested in such participations as beneficiaries or otherwise.

HISTORY: CL 1948, 555.104.

555.105 Common trust funds; funds investment.

Sec. 5. Investments of common trust funds.

The funds and assets of a common trust fund may be invested and reinvested in any 1 or more of such investments or items in which a person acting in a trust or fiduciary capacity, and who is not limited or restricted by investment specifications or limitations, may invest trust funds under the laws of this state.

HISTORY: CL 1948, 555.105.

555.106 Common trust funds; participation, certificate; provisions incorporated; interest of several states.

Sec. 6. Participations in common trust funds.

The financial institution shall designate clearly upon its records the names of the fiduciary accounts on behalf of which the financial institution, as fiduciary or cofiduciary, owns a participation in the common trust fund, and the extent of the interest of such fiduciary accounts therein.

A certificate of participation may be issued for each investment or participation in a common trust fund. Such certificate shall state on its face that it is issued without guarantee by the issuing financial institution of the payment of either principal or interest, that it will be paid only when funds become available out of the assets comprising the common trust fund. No such certificate shall be issued in any form which purports to be negotiable or assignable.

No fiduciary account owning or holding an investment or participation in a common trust fund, or any certificate of participation therein, shall be deemed to have individual ownership of any asset in such common trust fund, but should be deemed to have only a proportionate undivided interest in the common trust fund.

HISTORY: CL 1948, 555.106.

555.107 Common trust funds; management; ownership.

Sec. 7. Management of common trust funds.

The financial institution shall have the exclusive management and control of each common trust fund administered by it, and the sole right at any time to sell, convert,

exchange, transfer, or otherwise change or dispose of the assets comprising the same. The ownership of such assets shall be solely in the financial institution as fiduciary, and shall be considered as assets held by it as fiduciary.

HISTORY: CL 1948, 555.107.

555.108 Common trust funds; assets valuation; participation and withdrawals, basis.

Sec. 8. Valuation of assets of, and admissions to and withdrawals from, common trust funds.

Not less frequently than once during each period of 3 months, the financial institution administering a common trust fund shall determine the value of the assets in the common trust fund. No participation shall be admitted to or withdrawn from the common trust fund except on the basis of such valuation and on the date of the determination of such valuation or, if permitted by the plan, within 2 business days subsequent to the date of such determination.

When participations are withdrawn from a common trust fund, distributions may be in cash or ratably in kind, or partly in cash and partly ratably in kind, provided that all such distributions as of any 1 valuation date shall be made on the same basis.

HISTORY: CL 1948, 555.108.

555.109 Common trust funds; financial institution funds investment prohibited; fees and compensation of fiduciary.

Sec. 9. Miscellaneous.

A financial institution shall not invest any of its own funds in a common trust fund administered by it and if the financial institution, because of a creditor relationship or any other reason, acquires any interest in a participation in such common trust fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected.

Financial institutions shall not charge a fee for the management of a common trust fund administered by it or receive, either from the common trust fund or from any fiduciary account the funds of which are invested in participations therein, any additional fees, commissions, or compensation of any kind by reason of such participation: Provided, That a financial institution shall not be prohibited from reimbursing itself out of a common trust fund for such reasonable expenses incurred by it in the administration thereof as would have been chargeable to the respective participating fiduciary accounts if incurred in the separate administration of such participating fiduciary accounts.

HISTORY: CL 1948, 555.109.

555.110 Common trust funds; mistakes in administration, effect.

Sec. 10. Effect of mistakes.

No mistake made in good faith and in the exercise of due care in the connection with the administration of a common trust fund shall be deemed to be a violation of this act or of any rules or regulations issued pursuant thereto if promptly after discovery of the mistake the financial institution takes whatever action may be practical in the circumstances to remedy the mistake.

HISTORY: CL 1948, 555.110.

555.111 Common trust funds; rules governing administration.

Sec. 11. Rules and regulations.

The administration of each common trust fund shall be subject to such rules and regulations as may from time to time be promulgated by the commissioner of the banking department of this state, to the extent that such rules and regulations are not inconsistent with the provisions of this act.

HISTORY: CL 1948, 555.111.

555.112 Common trust funds; established under specific contract authority.

Sec. 12. Other common trust funds.

Nothing herein contained shall prohibit a financial institution from establishing, maintaining, and administering 1 or more common trust funds differing from the requirements of this act, in which only investments or participations are made by such financial institution, in accordance with specific contract authority.

HISTORY: CL 1948, 555.112.

555.113 Common trust funds; court accountings; jurisdiction of circuit court in chancery.

Sec. 13. Court accountings.

Unless ordered by a court of competent jurisdiction, a financial institution administering a common trust fund shall not be required to render a court accounting with regard to such fund; but it may, by application to the circuit court, in chancery, of the county in which it has its principal office, secure approval of such an accounting on such conditions as the court may establish.

HISTORY: CL 1948, 555.113.

Sec. 14. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 15. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 177, 1937, p. 271; Imd. Eff. Jul. 9.

AN ACT to define and prescribe legal investment of funds held in trust by trustees and others; and to declare the effect of this act.

The People of the State of Michigan enact:

555.201 Common trust funds; investment; self-dealing by trustee prohibited.

Sec. 1. Trust funds received by any person or corporation acting in a trust or fiduciary capacity and available for investment shall be invested at the time and in the manner specified in and by the agreement, instrument, or order creating or defining the trust or other holding. In the absence of investment specifications or limitations in the agreement, instrument, or order, trust property or funds shall within a reasonable time, be invested in such common or preferred stocks, share accounts of either state or federally chartered building and loan or savings and loan associations, bonds, mortgages, mortgage notes (but not including certificates or evidences of participation or undivided interests in real estate mortgages and mortgage notes), notes, debentures, securities, including securities of companies which are registered with the federal securities and exchange commission under any of the acts enforced by it and whose principal and primary activities are investments in securities of other companies, or other properties, real or personal, or such contracts of annuity or insurance, payable to the beneficiary of such trust, issued by a legal reserve life insurance company duly admitted to operate in the state of Michigan, or annuity contracts written by any company authorized to do such business in the state of Michigan, as an ordinarily prudent man of intelligence and integrity, who is a trustee of the moneys of others, would purchase,

in the exercise of reasonable care, judgment and diligence, under the conditions existing at the time of purchase, having due regard for the management, reputation and stability of the issuer and the character of the particular securities: Provided, however, That no such funds shall be invested in any securities or property purchased from said trustee, whether a person or a corporation, or from any subsidiary or affiliate of said corporation.

HISTORY: Am. 1939, p. 133, Act 76, Eff. Sep. 29;—Am. 1941, p. 187, Act 143, Eff. Jan. 10, 1942;—CL 1948, 555.201;—Am. 1955, p. 104, Act 64, Eff. Oct. 14.

CITED IN OTHER SECTIONS: The above section is cited in §§ 456.35a and 456.107a.

555.202 Construction of act.

Sec. 2. Nothing in this act contained shall be construed as limiting or affecting the power of any court to decree or order the kind or manner of investment of any funds by any trustee or fiduciary appointed by such court.

HISTORY: CL 1948, 555.202.

CITED IN OTHER SECTIONS: The above section is cited in §§ 456.35a and 456.107a.

555.203 Applicability of act.

Sec. 3. This act shall not apply to investments on the date this act shall become effective, or renewals thereof.

HISTORY: CL 1948, 555.203.

Act 193, 1947, p. 269; Eff. Oct. 11.

AN ACT relative to the validity, duration and effectiveness of certain trusts of any property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit-sharing plan; and to permit the accumulation of the income arising from such trusts. Am. 1951, p. 80, Act 61, Eff. Sep. 28.

The People of the State of Michigan enact:

555.301 Trust of property for employees; effect of rule against perpetuities.

Sec. 1. A trust of any kind of property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit-sharing plan, for the exclusive benefit of some or all of his employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings or the principal, or both earnings and principal, of the fund so held in trust, shall not be deemed to be invalid as violating the so-called rule against perpetuities, any other existing law against perpetuities or any law restricting or limiting the duration of trusts; but such a trust may continue for such time as may be necessary to accomplish the purposes for which it was created.

HISTORY: CL 1948, 555.301;—Am. 1951, p. 80, Act 61, Eff. Sep. 28.

555.302 Trusts of property for employees; accumulation of trust income.

Sec. 2. The income arising from any trust within the classifications mentioned in the preceding section may be permitted to accumulate in accordance with the terms of such trust for as long a time as may be necessary to accomplish the purposes for which the same was created, notwithstanding any existing law or laws limiting the period during which trust income may be accumulated.

HISTORY: CL 1948, 555.302.

555.401-555.419 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections related to uniform trust receipts act.

Act 56, 1957, p. 60; Eff. Sep. 27.

AN ACT relative to the authority of a corporation acting as trustee, executor, administrator, agent or guardian to hold stock or other registerable securities in the name of a nominee; the manner of endorsement of securities so held; the possession of such securities by the corporation; and the liability of the corporation with respect to such transactions.

The People of the State of Michigan enact:

555.441 Nominee for corporate fiduciary stockholder; securities, indorsement, possession, co-fiduciary, consent, right of examination.

Sec. 1. In the absence of a direction to the contrary contained in any will or other instrument transferring shares of stock or other registerable securities to any corporation acting as trustee, executor, administrator, agent or guardian, the corporation when acting as such fiduciary or when acting as co-fiduciary, with the consent of its co-fiduciary, may hold the same in the name of a nominee employed by the corporation and responsible to the said corporation without mention of the trust in the certificate evidencing the shares of stock or other registerable securities, or the registration book for the stock or other securities. The co-fiduciaries are authorized to give the consent herein required. The nominee, upon the request of such corporation, shall indorse the certificate representing shares of stock or other registerable securities in blank or by assignment separate from the certificate. The corporation at all times shall keep possession of the certificate representing the shares of stock or other registerable securities, but, when necessary, the nominee may have access thereto for the purpose of examination under the supervision of the corporation.

HISTORY: New 1957, p. 60, Act 56, Eff. Sep. 27;—Am. 1958, p. 164, Act 151, Eff. Sep. 13.

555.442 Nominee for corporate fiduciary stockholder; acts of nominee.

Sec. 2. All acts of any nominee in connection with any property held by the nominee shall be deemed to be the acts of the corporation acting as fiduciary.

HISTORY: New 1957, p. 60, Act 56, Eff. Sep. 27.

555.443 Nominee for corporate fiduciary stockholder; records as to real interest.

Sec. 3. Whenever a corporation registers or holds a certificate of stock or other registerable security as provided in section 1 of this act, the corporation shall keep adequate records so as to show at all times the real interest in the certificate of the trust, estate, agency or principal for whom the corporation is acting.

HISTORY: New 1957, p. 60, Act 56, Eff. Sep. 27.

Act 83, 1962, p. 70; Eff. Mar. 28, 1963.

AN ACT to permit testamentary additions to trusts; and to make uniform the law in relation thereto.

The People of the State of Michigan enact:

555.461 Testamentary additions to trusts; status of property devised; lapse of devise.

Sec. 1. A devise or bequest, the validity of which is determinable by the law of this state, may be made by a will to the trustee of a trust established or to be established by the testator or by the testator and some other person or persons or by some other person or persons, including a funded or unfunded life insurance trust, although the tru-

stor has reserved any part of or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator, regardless of the existence, size or character of the corpus of the trust. The devise or bequest shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised or bequeathed:

(a) Shall not be deemed to be held under a testamentary trust of the testator, but shall become a part of the trust to which it is given; and

(b) Shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator, regardless of whether made before or after the execution of the testator's will, and if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator shall cause the devise or bequest to lapse.

HISTORY: New 1962, p. 70, Act 83, Eff. Mar. 28, 1963.

555.462 Application of act.

Sec. 2. This act shall be effective with respect to devises and bequests made by a will regardless of the date the will was executed. It shall not affect any final judgment, decree or order heretofore rendered or made by a court of competent jurisdiction.

HISTORY: New 1962, p. 70, Act 83, Eff. Mar. 28, 1963;—Am. 1963, p. 20, Act 15, Eff. Sep. 6.

555.463 Construction of act.

Sec. 3. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1962, p. 71, Act 83, Eff. Mar. 28, 1963.

555.464 Uniform testamentary additions to trusts act; short title.

Sec. 4. This act shall be known and may be cited as the "uniform testamentary additions to trusts act".

HISTORY: New 1962, p. 71, Act 83, Eff. Mar. 28, 1963.

Act 108, 1968, p. 160; Eff. Nov. 15.

AN ACT to provide rules governing distributions in kind by a fiduciary in satisfaction of pecuniary bequests and trust interests.

The People of the State of Michigan enact:

555.481 Pecuniary bequests and trust interest; definition.

Sec. 1. As used in this act, the terms "pecuniary bequest" and "transfer in trust of a pecuniary amount" mean a bequest in a will or a transfer under a trust agreement to or for the benefit of the testator's or grantor's spouse of a specific amount of money, which amount is either expressly stated in the instrument or determinable by means of a formula which is stated in the instrument.

HISTORY: New 1968, p. 160, Act 108, Eff. Nov. 15.

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555.482 Pecuniary character determination.

Sec. 2. Whether a bequest or transfer in trust is pecuniary in character depends upon the intention of the testator or grantor.

HISTORY: New 1966, p. 160, Act 106, Eff. Nov. 15.

555.483 Valuation of assets transferred in kind.

Sec. 3. Where a will or a trust agreement authorizes the executor, administrator with will annexed, or trustee, hereinafter called the "fiduciary", to satisfy wholly or partly in kind a pecuniary bequest or transfer in trust of a pecuniary amount, unless the instrument shall otherwise expressly provide, the assets selected by the fiduciary for that purpose shall be valued at their respective values on the date or dates of their distribution.

HISTORY: New 1966, p. 161, Act 106, Eff. Nov. 15.

555.484 Valuation by fiduciary; aggregate amount.

Sec. 4. Where a will or a trust agreement authorizes the fiduciary to satisfy wholly or partly in kind a pecuniary bequest or transfer in trust of a pecuniary amount and the instrument requires the fiduciary to value the assets selected by the fiduciary for such distribution as of a date other than the date or dates of their distribution, unless the instrument shall otherwise expressly provide, the assets selected by the fiduciary for that purpose, together with any cash distributed, shall have an aggregate value on the date or dates of their distribution amounting to no less than, and to the extent practicable to no more than, the amount of such bequest or transfer in trust as stated in, or determined by the formula stated in, the instrument.

HISTORY: New 1966, p. 161, Act 106, Eff. Nov. 15.

555.485 Scope of act.

Sec. 5. This act shall apply to wills of decedents dying before or after its effective date and to trust agreements executed before or after such date, but this act shall not be applied so as to require repayment to the fiduciary of any distributions actually made prior to the effective date.

HISTORY: New 1966, p. 161, Act 106, Eff. Nov. 15.

CHAPTER 556. POWERS

POWERS
R.S. 1846, Ch. 64

556.1-556.62 Repealed.

RELEASE BY DONEE OF A POWER

Act 296 of 1945

556.101-556.106 Repealed.

POWERS OF APPOINTMENT ACT OF 1967

Act 224 of 1967

- 556.111 Powers of appointment act; short title.
- 556.112 Powers of appointment act; definitions.
- 556.113 Powers of appointment; creation; donors, qualifications.
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- 556.121 Instruments relating to powers to appoint interests in land; recording as conveyances.

- 556.122 Special power; passing on donee's default.
- 556.123 General powers; creditors' rights in appointable interests.
- 556.124 Suspension or postponement of vesting of future interests; time period.
- 556.125 Suspension or postponement of vesting of future interests; time period when trust creator reserves power to amend or revoke.
- 556.126 Postponement of vesting of future interests; law determining period.
- 556.127 Postponement of vesting of future interests; facts and circumstances to be considered.
- 556.128 Reserved power of revocation; effect on creditors and purchasers.
- 556.129 Law applicability; construction of act.
- 556.130 Death of appointee prior to exercise of power; nonlapse of appointment, property disposition.
- 556.131 Membership of class; determination; after born members.
- 556.132 Applicability of act.
- 556.133 Repeal.

556.1-556.62 Repealed. 1967, p. 330, Act 224, Eff. Nov. 2.

Sections related to powers in connection with lands or creation of estates, or charges thereon.

556.101-556.106 Repealed. 1967, p. 330, Act 224, Eff. Nov. 2.

Sections related to release by donee of power of appointment.

Act 224, 1967, p. 325; Eff. Nov. 2.

AN ACT relating to powers, the creation and exercise of powers, release of powers, contracts to appoint, dispositions when powers are unexercised, rights of creditors of donees of powers, computations under the rule against perpetuities, reservation of powers of revocation, and recording of instruments; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:***556.111 Powers of appointment act; short title.**

Sec. 1. This act shall be known and may be cited as the "powers of appointment act of 1967".

HISTORY: New 1967, p. 325, Act 224, Eff. Nov. 2.

556.112 Powers of appointment act; definitions.

Sec. 2. As used in this act:

- (a) "Property" means any legal or equitable interest in real or personal property, including choses in action.
- (b) "Power" means a power of appointment over property.
- (c) "Power of appointment" means a power created or reserved by a person having property subject to his disposition which enables the donee of the power to designate, within any limits that may be prescribed, the transferees of the property or the shares

or the interests in which it shall be received; but it does not include a power of sale, a power of attorney or a power of amendment or revocation.

(d) "Donor" means the person who creates or reserves the power.

(e) "Donee" means the person to whom the power is granted or reserved.

(f) "Appointee" means the person to whom an interest in property is designated or transferred by exercise of the power.

(g) "Creating instrument" means the deed, will, trust agreement or other writing or document which creates or reserves the power.

(h) "General power" means a power exercisable in favor of the donee, his estate, his creditors or the creditors of his estate, whether or not it is exercisable in favor of others. A power to appoint to any person or a power which is not expressly restricted as to appointees is a general power. A power may be general as to some property and special as to other property.

(i) "Special power" means a power exercisable only in favor of 1 or more persons not including the donee, his estate, his creditors or the creditors of his estate.

(j) "Gift in default" means a transfer to a person designated in the creating instrument as the transferee of property if a power is not exercised or is released.

(k) "Release" means renunciation, relinquishment, surrender, refusal to accept, and any other form of release.

(l) A power of appointment is "presently" exercisable whenever the creating instrument does not manifest an intent that its exercise shall be solely by will or otherwise postponed.

HISTORY: New 1967, p. 325, Act 224, Eff. Nov. 2.

556.113 Powers of appointment; creation; donors, qualifications.

Sec. 3. (1) A power may be created by any creating instrument which is executed in the manner required by law for that instrument.

(2) The donor of a power must be a person capable of transferring the interest in property to which the power relates and having a transferable interest in such property.

HISTORY: New 1967, p. 326, Act 224, Eff. Nov. 2.

556.114 Manifestation of intent to exercise.

Sec. 4. Unless otherwise provided in the creating instrument, an instrument manifests an intent to exercise the power if the instrument purports to transfer an interest in the appointive property which the donee would have no power to transfer except by virtue of the power, even though the power is not recited or referred to in the instrument, or if the instrument either expressly or by necessary implication from its wording, interpreted in the light of the circumstances surrounding its drafting and execution, manifests an intent to exercise the power. If the creating instrument explicitly directs that no instrument shall be effective to exercise the power unless it contains a reference to the specific power, an instrument which lacks such reference does not validly exercise the power. Subject to the foregoing, if there is a general power exercisable by will with no express gift in default in the creating instrument, a residuary clause or other general language in the donee's will purporting to dispose of all of the donee's estate or property operates to exercise the power but in all other cases such a clause or language does not in itself manifest an intent to exercise a power exercisable by will.

HISTORY: New 1967, p. 326, Act 224, Eff. Nov. 2;—Am. 1970, p. 558, Act 195, Imd. Eff. Aug. 6.

556.115 Methods by which powers may be exercised by donees.

Sec. 5. (1) A power can be exercised by any donee capable of transferring the interest in property to which the power relates.

(2) A power can be exercised only by a written instrument which would be sufficient to pass the interest intended to be appointed if the donee were the owner of the interest. Unless otherwise contemplated in the creating instrument, a power can be exercised only by a written instrument which complies with the requirements, if any, of the creating instrument as to the manner, time and conditions of the exercise of the power, except that a power exercisable only by deed is also exercisable by a written will executed as required by law.

(3) If the donor has authorized the power to be exercised by an instrument not sufficient in law to pass the appointive interest, the power is not void, but may be exercised by an instrument conforming to subsection (2).

(4) If consent of the donor or of any other person is required for the exercise of a power, the consent must be expressed in the instrument exercising the power or in a separate written instrument, signed in either case by the persons whose consent is required. If any person whose consent is required dies or becomes legally incapable of consenting, the power may be exercised by the donee without the consent of that person unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.

(5) When a power is vested in 2 or more persons, all must unite in its exercise; but if 1 or more of the donees dies, becomes incapable of exercising the power, or releases the power, the power may be exercised by the others, unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.

HISTORY: New 1967, p. 326, Act 224, Eff. Nov. 2;—Am. 1970, p. 558, Act 195, Imd. Eff. Aug. 6.

556.116 Interests appointable by general powers; part of donee's estate.

Sec. 6. (1) If the will of a donee of a general power exercisable by will either effectively exercises the power or manifests an intent to exercise the power and satisfies the requirements of sections 4 and 5, all interests which the donee could by will appoint and which the donee's will appoints or purports to appoint shall be regarded as part of the donee's estate for the following purposes only:

(a) The payment of the expenses of administration of the donee's estate, to the extent that the donee's individual assets are insufficient for that purpose.

(b) The satisfaction of the claims of the donee's creditors, to the extent provided in section 13.

(c) Inclusion of such interests in determining the right of election of the donee's widow and the satisfaction of such right.

(d) The distribution of any of such interests as the intestate property of the donee, to the extent that the donee's will does not effectively dispose of such interests and the creating instrument does not otherwise provide.

(2) This section does not affect the period during which the vesting of a future interest may be suspended or postponed by an instrument exercising a power as provided in section 14.

HISTORY: New 1967, p. 326, Act 224, Eff. Nov. 2;—Am. 1970, p. 559, Act 195, Imd. Eff. Aug. 6.

556.117 Naming appointees by donees of powers.

Sec. 7. The donee of any power may appoint the whole or any part of the appointive assets to any 1 or more of the permissible appointees and exclude others, except as otherwise provided in the creating instrument.

HISTORY: New 1967, p. 327, Act 224, Eff. Nov. 2.

556.118 Release of powers; method; delivery.

Sec. 8. (1) Unless the creating instrument expressly provides that a power cannot be released or expressly restricts the time, manner or scope of release, all powers may be released except as provided in subsection (2).

(2) Unless the creating instrument expressly provides otherwise, a special power may not be released if either the power is not presently exercisable, or the power is exercisable by a trustee or other fiduciary in a fiduciary capacity which requires the exercise of the power.

(3) The release of a power may include all or any part of the property subject to the power; reduce or limit the persons or objects, or classes of persons or objects in whose favor the power is exercisable; or limit in any other respect the extent to or the manner in which the power may be exercised.

(4) A release may be effected, either with or without consideration, by written instrument signed by the donee and delivered.

(5) Delivery of a release may be accomplished in any of the following ways, but this subsection does not preclude a determination that a release has been delivered in some other manner:

(a) Delivery to any person specified in the creating instrument.

(b) Delivery to a trustee or other fiduciary or to 1 of several trustees or other fiduciaries, other than the donee, of the property to which the power relates, or by filing with the court having jurisdiction over the trust.

(c) Delivery to any person, other than the donee, who could be adversely affected by an exercise of the power.

(d) By recording or filing in the office of the register of deeds in the county where the property is located or where the donee resides, which release shall be recorded by the register.

HISTORY: New 1967, p. 327, Act 224, Eff. Nov. 2;—Am. 1970, p. 559, Act 195, Imd. Eff. Aug. 6.

556.119 Creation, exercise and release of powers; irrevocability.

Sec. 9. The creation, exercise or release of a power is irrevocable unless the power to revoke is reserved in the instrument creating, exercising or releasing the power.

HISTORY: New 1967, p. 327, Act 224, Eff. Nov. 2.

556.120 Contracts of donees of powers to make appointments; remedies.

Sec. 10. (1) Unless the creating instrument provides otherwise, the donee of a power, presently exercisable, can contract to make an appointment, if neither the contract nor the promised appointment confers a benefit upon a person who is not a permissible appointee under the power.

(2) Unless the creating instrument provides otherwise, the donee of a power not presently exercisable cannot contract to make an appointment. If the donee cannot contract to make an appointment, but nevertheless does so contract, the promisee cannot obtain either specific performance or damages, except that he can obtain damages equal to the value given by him for the promise.

HISTORY: New 1967, p. 327, Act 224, Eff. Nov. 2.

556.121 Instruments relating to powers to appoint interests in land; recording as conveyances.

Sec. 11. (1) Any of the following instruments relating to powers to appoint interests in land is entitled to be recorded as a conveyance upon compliance with section 23 of chapter 65 of the Revised Statutes of 1846, being section 565.23 of the Compiled Laws of 1948:

(a) An instrument, other than a will, exercising a power.

(b) An instrument expressing consent to exercise.

(c) A release.

(2) If a power is exercised by a will, a certified copy of the will and of the certificate of probate thereof may be recorded.

HISTORY: New 1967, p. 328, Act 294, Eff. Nov. 2.

556.122 Special power; passing on donee's default.

Sec. 12. If the donee of a special power fails to exercise effectively the power, or totally releases a releasable special power, the interests which might have been appointed under the power pass:

(a) If the creating instrument contains an express gift in default, then in accordance with the terms of the gift.

(b) If the creating instrument contains no express gift in default and does not clearly indicate that the permissible appointees are to take only if the donee exercises the power, then equally to the permissible appointees living at the time of the termination or release of the power, but if the power is to appoint among a class, such as "relatives", "issue" or "heirs", then to those persons in the closest degree of kinship or representing others in the same degree of kinship who would have taken had there been an express appointment per stirpes to the described class effective as of the termination or release of the power.

(c) If the creating instrument contains no express gift in default and clearly indicates that the permissible appointees are to take only if the donee exercises the power, then by reversion to the donor or his estate; but if the creating instrument expressly states that there is no reversion in the donor, then any language in the creating instrument indicating or stating that the permissible appointees are to take only if the donee exercises the power is to be disregarded and the interests shall pass in accordance with subdivision (b).

HISTORY: New 1967, p. 328, Act 294, Eff. Nov. 2;—Am. 1970, p. 559, Act 195, Imd. Eff. Aug. 6.

556.123 General powers; creditors' rights in appointable interests.

Sec. 13. (1) If the donee has a general power of appointment, any interest which the donee has power to appoint or has appointed is to be treated as property of the donee for the purposes of satisfying claims of his creditors, as provided in this section.

(2) If the donee has an unexercised general power of appointment and he can presently exercise such a power, any creditor of the donee may by appropriate proceedings reach any interest which the donee could appoint, to the extent that the donee's individual assets are insufficient to satisfy the creditor's claim. If the donee has exercised the power, the creditor can reach the appointed interests to the same extent that under the law relating to fraudulent conveyances he could reach property which the donee has owned and transferred.

(3) If the donee has at the time of his death a general power of appointment, whether or not he exercises the power, the executor or other legal representative of the donee may reach on behalf of creditors any interest which the donee could have appointed to the extent that the claim of any creditor has been filed and allowed in the donee's estate but not paid because the assets of the estate are insufficient.

(4) Under a general assignment by the donee for the benefit of his creditors, the assignee may exercise any right which a creditor of the donee would have under subsection (2).

(5) A purchaser without actual notice and for a valuable consideration of any interest in property, legal or equitable, takes the interest free of any rights which the donee's estate or a creditor of the donee might have under this section.

(6) If more than 1 person is the donee of a general power of appointment, it shall be presumed that the interests of the donees in the property subject to the power is equally owned among them unless the creating instrument indicates otherwise.

HISTORY: New 1967, p. 328, Act 224, Eff. Nov. 2.

556.124 Suspension or postponement of vesting of future interests; time period.

Sec. 14. The period during which the vesting of a future interest may be suspended or postponed by an instrument exercising a power begins in the case of an instrument exercising a general power presently exercisable, on the effective date of the instrument of exercise; and in all other situations, at the time of the creation of the power.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.125 Suspension or postponement of vesting of future interests; time period when trust creator reserves power to amend or revoke.

Sec. 15. When the creator of a trust reserves to himself an unqualified power to amend or revoke, the period during which the vesting of a future interest may be suspended or postponed begins when the unqualified power to amend or revoke terminates, whether by reason of the death of the trust creator, by release or otherwise; or on the effective date of the instrument exercising the power to revoke.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.126 Postponement of vesting of future interests; law determining period.

Sec. 16. When the provisions of sections 14 or 15 apply, the permissible period for the postponement of a vesting of a future interest shall be fixed in accordance with either the law in effect at the time of the exercise of the power or of the termination of the unqualified power of amendment or revocation, or in accordance with the law in effect at the time of the creation of the power, whichever will support the validity of the exercise of the power.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.127 Postponement of vesting of future interests; facts and circumstances to be considered.

Sec. 17. When the period during which the vesting of a future interest may be postponed must be computed from the time of the creation of a power, with respect to interests sought to be created by an instrument exercising the power, facts and circumstances existing at the effective date of the instrument exercising the power shall be taken into account.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.128 Reserved power of revocation; effect on creditors and purchasers.

Sec. 18. When the grantor in a conveyance reserves to himself an unqualified power of revocation, he is thereafter deemed still to be the absolute owner of the estate conveyed, so far as the rights of his creditors and purchasers are concerned. If the grantor dies without exercising such power, the executor or other legal representative of the grantor may reach the estate conveyed on behalf of any creditor whose claim has been filed and allowed in the grantor's probate estate but not paid because the assets of the probate estate are insufficient to satisfy his claim. This section shall not confer upon the executor or other legal representative of the grantor the right to obtain on behalf of creditors any of the proceeds of life insurance policies or other distributions from qualified pension, profit sharing and stock bonus plans that might be payable as a result of the death of the grantor.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.—Am. 1970, p. 590, Act 195, Imd. Eff. Aug. 6.

556.129 Law applicability; construction of act.

Sec. 19. As to all matters not within this act or any other applicable statute, the common law is to govern. This section is not intended to restrict in any manner the meaning of any provision of this act or any other applicable statute.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.130 Death of appointee prior to exercise of power; nonlapse of appointment, property disposition.

Sec. 20. If an attempted exercise of a power is ineffective because of the death of an appointee prior to the effective date of the exercise, the appointment shall not lapse and section 11 of the probate code, Act No. 288 of the Public Acts of 1939, being section 702.11 of the Compiled Laws of 1948, shall apply as though the property subject to the power were property of the decedent, provided that section 11 shall not be applied to pass property to a person not a member of the class of permissible appointees.

HISTORY: New 1967, p. 329, Act 224, Eff. Nov. 2.

556.131 Membership of class; determination; after born members.

Sec. 21. Except as provided in section 20, when the donee of a power executes an instrument exercising the power in favor of a class, the membership of the class shall be determined as of the effective date of the exercise and include any person otherwise qualified as a member of the class who was born after the execution of the instrument exercising the power and before the effective date of the exercise unless a different intention is apparent from the instrument exercising the power.

HISTORY: New 1967, p. 330, Act 224, Eff. Nov. 2;—Am. 1970, p. 560, Act 195, Imd. Eff. Aug. 6.

556.132 Applicability of act.

Sec. 22. The provisions of this act are applicable to any power existing on the effective date of this act, as well as a power created after that date.

HISTORY: New 1967, p. 330, Act 224, Eff. Nov. 2.

556.133 Repeal.

Sec. 23. Chapter 64 of the Revised Statutes of 1846, being sections 556.1 to 556.62 of the Compiled Laws of 1948, and Act No. 296 of the Public Acts of 1945, being sections 556.101 to 556.106 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1967, p. 330, Act 224, Eff. Nov. 2.

CHAPTER 557. PROPERTY OF HUSBAND AND WIFE

RIGHTS OF MARRIED WOMEN

Act 168 of 1855

- 557.1 Property of female acquired before or after marriage; separate estate, liability for husband's debts, disposal rights.
- 557.2 Trustee; right to convey property to married women.
- 557.4 Contract of wife in relation to her sole property; liability of husband or wife, accrual of cause of action.
- 557.5 Antenuptial contracts; validity after marriage.

EARNINGS OF MARRIED WOMEN

Act 196 of 1911

- 557.11 Married woman; right to earnings.

JOINT HOLDINGS

Act 158 of 1917

- 557.51 Married woman; abolition of disability to make certain contracts.
- 557.52 Married woman; capacity to be bound jointly with husband on written instrument.
- 557.53 Liability of certain realty to seizure; liability of personalty to garnishment.
- 557.54 Judgment or decree; enforcement, recitals; endorsement on process.
- 557.55 Inapplicability of act.

LAND HELD BY ENTIRETY

Act 126 of 1925

- 557.81 Sale of land held by entirety; survivorship of rights of vendor.

TERMINATION OF TENANCIES BY ENTIRETY

Act 210 of 1927

- 557.101 Tenancy by entirety; termination.
- 557.102 Act declaratory of common law.

JOINT OWNERSHIP OF PERSONAL PROPERTY

Act 212 of 1927

- 557.151 Evidence of indebtedness payable to husband and wife; ownership in joint tenancy.

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Act 317 of 1947

- 557.201 Separate property of husband; control, disposition, dower of wife.
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- 557.203 Property owned jointly or by entirety by husband and wife; control, inapplicability of act.
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- 557.206 Community property; right of wife to receive and control her earnings for personal services; limitations.
Community property; right of wife to receive and control her earnings for personal services; limitations.

Same; right of husband to receive and control; limitations.

Same; disposal, encumbrance or lease of exempted property, gifts, devises, exercise of control, relief for violations, exceptions.

Same; breach of limitations by either spouse; rights of third persons; effect of actual knowledge.

Property in name of both husband and wife; rights of third persons.

- 557.207 Community property; representation in actions against; enforcement of judgment or decree; exceptions.

- 557.208 Community property; conveyances or transfer between husband and wife; equity of creditors.

- 557.209 Community property; control or disposition by wife; liability of her separate property for debts benefiting community interest.

Same; control or disposition by wife; liability of her separate property for debts benefiting community interest.

Same; control or disposition by husband; liability of his separate property for debts benefiting community interest.

Same; control or disposition by husband and wife; liability for debts benefiting community interest; debts of husband.

Same; satisfaction of debts furthering community interests; debts of husband, charging on termination of community.

Liability of earnings of wife for personal services for debts incurred before inception of community.

Liability of earnings of husband for personal services for debts incurred before inception of community.

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- 557.210 Exemptions; homestead, encumbrance or disposition.

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Incapacity of husband or wife; substitution of other spouse; petition, contents.
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			REPEAL OF COMMUNITY PROPERTY ACT
			Act 39 of 1948 (Ex. Ses.)
			Repeal of community property act.
			Repeal of community property act; effect.
			Repeal of community property act; community property on effective date of repeal, continuance, notice of claim.
			Repeal of community property act; community property thereafter derived, continuance, notice of claim.
			Reliance on acts of husband or wife.

Act 168, 1855, p. 420; Imd. Eff. Feb. 13.

AN ACT relative to the rights of married women.

The People of the State of Michigan enact:

557.1 Property of female acquired before or after marriage; separate estate, liability for husband's debts, disposal rights.

Sec. 1. That the real and personal estate of every female, acquired before marriage, and all property, real and personal, to which she may afterwards become entitled by gift, grant, inheritance, devise, or in any other manner, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations and engagements of her husband and may be contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed by her in the same manner and with the like effect as if she were unmarried.

HISTORY: CL 1857, 3292;—CL 1871, 4803;—How. 6295;—CL 1897, 8690;—CL 1915, 11485;—CL 1929, 13057;—CL 1948, 557.1.

557.2 Trustee; right to convey property to married women.

Sec. 2. Any person who may hold, or who may hereafter hold as trustee for any married woman, any real or personal estate or other property, under any deed of conveyance, or otherwise, may convey to such married woman, by deed or otherwise, all or any portion of such property, or the rents, issues, and profits thereof, for her sole and separate use and benefit.

HISTORY: CL 1857, 3293;—CL 1871, 4804;—How. 6296;—CL 1897, 8691;—CL 1915, 11486;—CL 1929, 13058;—CL 1948, 557.2.

Sec. 3.

HISTORY: Am. 1857, p. 359, Act 132, Imd. Eff. Feb. 16;—CL 1857, 3294;—CL 1871, 4805;—How. 6297;—CL 1897, 8692;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. This section related to actions by and against a married woman in relation to her sole property. It was re-enacted and superseded by Section 5 of Ch. 12 of Act 314 of 1915 (Jud. Act).

557.4 Contract of wife in relation to her sole property; liability of husband or wife, accrual of cause of action.

Sec. 4. The husband of any married woman shall not be liable to be sued upon any contract made by such married woman in relation to her sole property, and the wife shall be liable to be sued upon any contract or engagement made by her in cases where her husband is not in law liable, or where he refuses to perform such contract or

engagement, and in any case herein authorized, the cause of action shall be deemed to have accrued [accrued] from and after the passage of this act.

HISTORY: Am. 1857, p. 360, Act 132, Imd. Eff. Feb. 16;—CL 1857, 3295;—CL 1871, 4806;—How. 6296;—CL 1897, 8693;—CL 1915, 1148;—CL 1929, 13059;—CL 1948, 557.4.

557.5 Antenuptial contracts; validity after marriage.

Sec. 5. All contracts made between persons in contemplation of marriage, shall remain in full force after marriage takes place.

HISTORY: CL 1857, 3296;—CL 1871, 4807;—How. 6299;—CL 1897, 8694;—CL 1915, 11488;—CL 1929, 13060;—CL 1948, 557.5.

Act 196, 1911, p. 330; Eff. Aug. 1.

AN ACT defining and regulating the right of married women to their own earnings.

The People of the State of Michigan enact:

557.11 Married woman; right to earnings.

Sec. 1. Each and every married woman in the state of Michigan shall be absolutely entitled to have, hold, own, retain and enjoy any and all earnings acquired by any such married woman as the result of her personal efforts; and to sell or otherwise dispose of any and all such earnings, and to make contracts in relation thereto to the same extent that any such married woman could have or do if unmarried.

HISTORY: CL 1915, 11478;—CL 1929, 13061;—CL 1948, 557.11.

Act 158, 1917, p. 287; Eff. Aug. 10.

AN ACT abrogating the common law disability of married women so far as to make and render them competent to bind themselves and become liable with their husbands upon any written instrument, so as to subject the real estate of the husband and wife owned by them as tenants by entirety, or the real estate acquired by either as survivor of the other, and all crops, rents, profits or proceeds thereof or taken therefrom, and all personal property and choses in action owned by them jointly with right of survivorship therein, to the payment and satisfaction of judgments and decrees of courts rendered upon such written instruments and providing for the enforcement of such liabilities, and to repeal all acts or parts of acts contravening the provisions of this act. Am. 1929, p. 746, Act 287, Eff. Aug. 28.

The People of the State of Michigan enact:

557.51 Married woman; abolition of disability to make certain contracts.

Sec. 1. The common law disability of married women to make and enter into the class or kind of contracts hereinafter specified in section 2, is hereby abrogated and abolished.

HISTORY: CL 1929, 13062;—CL 1948, 557.51.

PARTNERSHIP: Between husband and wife, see Compilers' § 449.6.

557.52 Married woman; capacity to be bound jointly with husband on written instrument.

Sec. 2. Hereafter married women shall be possessed of the power and capacity, and it shall be competent for them to bind and makes [make] themselves jointly liable with their husbands upon any written instrument as hereinafter provided. Said liability to extend, however, only to the property described in the following section.

HISTORY: Am. 1929, p. 747, Act 287, Eff. Aug. 28;—CL 1929, 13063;—CL 1948, 557.52.

557.53 Liability of certain realty to seizure; liability of personalty to garnishment.

Sec. 3. Hereafter the real estate of the husband and wife owned by them as tenants by entirety, or the real estate acquired by either as survivor of the other, or in the event of divorce the interest of either in real estate which was previously owned by them as tenants by the entirety, shall be liable to seizure and sale on execution, and all personal property and choses in action owned by husband and wife jointly with right of survivorship therein, shall be subject to writ of garnishment and all other process provided by law, in satisfaction of any judgment which has been recovered against the persons who were at the time of the execution of such written instrument husband and wife jointly or the survivor upon any instrument signed by both. In case the wife is the survivor, or in case the husband and wife have been divorced prior to the recovery of the judgment, a judgment against the wife may be satisfied only out of such property.

HISTORY: Am. 1929, p. 747, Act 287, Eff. Aug. 28;—CL 1929, 13064;—CL 1948, 557.53.

557.54 Judgment or decree; enforcement, recitals; endorsement on process.

Sec. 4. Such judgment or decree shall be enforced in all respects as now provided by law, except this, that in all cases where such liability is sought to be enforced as against the real estate of the husband and wife owned by them jointly as tenants by entirety or the crops, rents, profits or proceeds thereof or taken therefrom, or any personal property or choses in action owned by the husband and wife jointly with right of survivorship therein, the judgment or decree shall recite and it shall be the duty of the court to determine in such suit or proceeding whether such judgment or decree is rendered upon any written instrument and whether the parties defendant in such suit or proceeding and against whom such judgment or decree is rendered, were at the date of delivery of such instrument husband and wife, naming them, which recital of fact for the guidance of the officer shall be endorsed upon any writ of execution or other process issued thereon or for the collection thereof, which recital shall be conclusive as against the husband and wife and authorize the enforcement of such judgment or decree as against all property subject to the satisfaction thereof by virtue of this act.

HISTORY: Am. 1929, p. 747, Act 287, Eff. Aug. 28;—CL 1929, 13065;—CL 1948, 557.54.

557.55 Inapplicability of act.

Sec. 5. The provisions of this act shall not be construed to apply to any property otherwise exempted under the constitution or laws of this state.

HISTORY: CL 1929, 13066;—CL 1948, 557.55.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 13067;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 126, 1925, p. 167; Eff. Aug. 27.

AN ACT to provide for the payment to the survivor of husband and wife, of land contracts, and of notes and other obligations secured by a mortgage, given as part of the purchase price of lands held as a tenancy by the entirety, and the vesting of the title of the mortgage or land contract in the survivor.

The People of the State of Michigan enact:

557.81 Sale of land held by entirety; survivorship of rights of vendor.

Sec. 1. In all cases where a husband and wife shall sell land held as a tenancy by the entirety and accept in part payment for the purchase price the note or other obligation of said purchaser payable to said husband and wife, secured by a mortgage on said land payable to husband and wife, the said debt together with all interest thereon, un-

less otherwise expressly stated in said mortgage, after the death of either shall be payable to the survivor, and the title to said mortgage shall vest in the survivor, and in case a contract for the sale of property owned by the husband and wife as tenants by the entirety, is entered into by them as vendors, the same provisions herein applying to the rights of the survivor in mortgages as above set forth, shall apply to the survivor of the contract.

HISTORY: CL 1929, 13068;—CL 1948, 557.81.

Act 210, 1927, p. 412; Eff. Sep. 5.

AN ACT to provide for the termination of tenancies by the entirety and the conveyance of interests therein.

The People of the State of Michigan enact:

557.101 Tenancy by entirety; termination.

Sec. 1. In all cases where husband and wife own any interest in land as tenants by the entirety, such tenancy by the entirety may be terminated by a conveyance from either one to the other of his or her interest in the land so held.

HISTORY: CL 1929, 13069;—CL 1948, 557.101.

557.102 Act declaratory of common law.

Sec. 2. This act shall be deemed to be declaratory of the common law as heretofore existing in this state.

HISTORY: CL 1929, 13070;—CL 1948, 557.102.

Act 212, 1927, p. 433; Eff. Sep. 5.

AN ACT to provide for the joint ownership by husband and wife in joint tenancy of certain classes of personal property with right of survivorship.

The People of the State of Michigan enact:

557.151 Evidence of indebtedness payable to husband and wife; ownership in joint tenancy.

Sec. 1. All bonds, certificates of stock, mortgages, promissory notes, debentures, or other evidences of indebtedness hereafter made payable to persons who are husband and wife, or made payable to them as endorsees or assignees, or otherwise, shall be held by such husband and wife in joint tenancy unless otherwise therein expressly provided, in the same manner and subject to the same restrictions, consequences and conditions as are incident to the ownership of real estate held jointly by husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either.

HISTORY: CL 1929, 13071;—CL 1948, 557.151.

Act 317, 1947, p. 517; Imd. Eff. Jul. 1.

AN ACT to provide for the creation of a community estate between husband and wife in real and personal property as defined herein; to prescribe the effect of such community estate; to define and prescribe certain rights and liabilities of parties affected hereby; to eliminate curtesy and dower in such community estate; to preserve the right of dower in the separate property of the husband, and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

557.201 Separate property of husband; control, disposition, dower of wife.

Sec. 1. (a) All property of the husband, real and personal, owned by him before marriage or before the effective date of this act, whichever is later, and that afterwards acquired by him by gift, inheritance, devise, or bequest, or received by him as damages or compensation for personal injuries, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be his separate property, subject however to the right of dower.

(b) The husband shall have the right to manage, control, dispose of, and otherwise deal with his separate property in the manner provided by law without limitation by the provisions of this act, subject however to the right of dower.

HISTORY: CL 1948, 557.201.

NOTE: As to repeal of this act, see Compilers' § 557.251 et seq.

557.202 Separate property of wife; control, disposition.

Sec. 2. (a) All property of the wife, real and personal, owned by her before marriage, or before the effective date of this act, whichever is later, and that afterwards acquired by her by gift, inheritance, devise, or bequest, or received by her as damages or compensation for personal injuries, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be her separate property.

(b) The wife shall have the right to manage, control, dispose of, and otherwise deal with her separate property in the manner provided by law without limitation by the provisions of this act.

HISTORY: CL 1948, 557.202.

557.203 Property owned jointly or by entirety by husband and wife; control, inapplicability of act.

Sec. 3. (a) All property owned by the husband and wife before the effective date of this act as tenants by the entirety or in any other manner recognized by law whereby neither the husband nor the wife individually has a separate property interest therein as defined in sections 1 and 2 of this act, as well as that afterwards owned by the husband and wife in any such manner which has been acquired by gift, devise, or bequest or by the transfer of the separate property of either the husband or the wife as defined in sections 1 and 2 of this act or of the interest of the husband and the wife, or of either of them, in community property as permitted by section 8 of this act, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be the separate property of the husband and wife.

(b) The husband and wife, or either of them, shall hold, own and have the right to manage, control, dispose of, and otherwise deal with the separate property of the husband and wife in the manner provided by law without limitation by the provisions of this act.

HISTORY: CL 1948, 557.203.

557.204 Community property; interest of husband and wife.

Sec. 4. All property of every kind, character, or description acquired by either the husband or the wife, or both, after marriage, or on or after the effective date of this act, whichever is later, except that which is defined as the separate property of either or the separate property of both in sections 1, 2 and 3 of this act, shall be deemed the community property of the husband and wife, and each shall be vested with an undi-

vided 1/2 interest therein. The respective interest of the husband and the wife in such community property shall be present, existing, and equal interests and shall arise as an incident of marriage.

HISTORY: CL 1948, 557.204.

557.205 Presumption that property is community property; exceptions, rebuttal.

Sec. 5. There shall be a rebuttable presumption that all property, real and personal, acquired by the husband or the wife, or both, after marriage, or on or after the effective date of this act, whichever is later, is community property: Provided, however, That nothing contained in this act shall prevent a husband and wife from acquiring and holding property in any manner permitted by law prior to the effective date of this act. Such presumption shall be deemed to be rebutted in any instrument of conveyance of real property where the grantees therein are described as husband and wife.

HISTORY: CL 1948, 557.205.

557.206 Community property; right of wife to receive and control her earnings for personal services; limitations.

Sec. 6.

Community property; right of wife to receive and control her earnings for personal services; limitations.

(a) The wife shall have the right to receive, manage, control, dispose of, and otherwise deal with that portion of the community property which consists of her earnings for personal services and all other community property which shall stand in her name, subject to the limitations set forth in paragraph (c) below.

Same; right of husband to receive and control; limitations.

(b) The husband shall have the right to receive, manage, control, dispose of, and otherwise deal with all other community property, including that portion of the community property which consists of his earnings for personal services and all other community property which shall stand in his name, subject to the limitations set forth in paragraph (c) below.

Same; disposal, encumbrance or lease of exempted property, gifts, devises, exercise of control, relief for violations, exceptions.

(c) (1) Neither the husband nor the wife shall dispose of or encumber community real property or encumber any community property exempt under the provisions of section 43 of chapter 23 of Act No. 314 of the Public Acts of 1915, being section 14578 of the Compiled Laws of 1929, as amended, or lease community real property for a longer period than 1 year unless the other shall join in the execution of the instrument. (2) Neither the husband nor the wife shall make any gift of community property or dispose of or encumber the same without adequate consideration, without the consent of the other. (3) Neither the husband nor the wife shall dispose of or encumber the furniture, furnishings, or fittings of the home, to the extent that the same constitutes community property, without the consent of the other. (4) Neither the husband nor the wife shall have the right to devise or bequeath more than 1/2 of the community property. (5) The rights given to the husband and to the wife to manage, control, dispose of, and otherwise deal with community property, as provided in this section, shall be exercised in good faith for the benefit of the community. In case of any violation by the husband or the wife of the above limitations or any part thereof, the spouse aggrieved shall be entitled to appropriate relief against the other spouse at law or in equity. The foregoing provisions shall not entitle the wife or the husband, by court proceedings or otherwise, to interfere with or affect the right of the other to collect his or her earnings for personal services.

Same; breach of limitations by either spouse; rights of third persons; effect of actual knowledge.

(d) Breach by either spouse of any of the limitations set forth in paragraph (c) above shall not affect the rights of, or impose any liability upon, any person dealing with such spouse without actual knowledge of such breach, nor affect the rights of, or impose any liability upon, any subsequent party in interest unless such subsequent party has actual knowledge of such breach at the time of acquiring such interest, and not then if any predecessor in interest acquired the same without actual knowledge of such breach. Knowledge of the existence of the marital relationship shall not impose any duty to make inquiry as to the occurrence of such a breach, nor shall any such duty be imposed by knowledge of self-dealing by either spouse.

Property in name of both husband and wife; rights of third persons.

(e) Notwithstanding any of the provisions of this section, any other person may rely, and shall be fully protected in so doing, upon the right of either spouse to receive, manage, control, dispose of, or otherwise deal with property which shall stand in the names of both of them in such manner that by law, but for the provisions of this act, either would be entitled so to deal therewith.

HISTORY: CL 1948, 557.206.

NOTE: CL 1929, 14578, above referred to, is Compilers' repealed § 623.43. See § 600.6023.

557.207 Community property; representation in actions against; enforcement of judgment or decree; exceptions.

Sec. 7. The husband shall represent the community in all actions, suits, and other proceedings at law or in equity, except those relating solely to community property subject to the management and control of the wife, as to which the wife shall represent the community. The spouse representing the community with respect to the matters in issue therein shall be a necessary party, and the other spouse shall be a proper but not a necessary party, to all such actions, suits, and other proceedings brought by or on behalf of the community and to all such actions, suits, and other proceedings brought to enforce any debts or liabilities of the community or to affect the ownership of or foreclose any lien on the community property: Provided, That no judgment, decree, or other order shall be enforced against either spouse personally or against the separate property of such spouse unless such spouse shall be a party. The foregoing provisions of this section 7 are subject to the provisions of any decree which may be entered pursuant to section 11 of this act and shall not be applicable in any proceedings by 1 spouse against the other under the provisions of paragraph (c) of section 6 of this act.

HISTORY: CL 1948, 557.207.

557.208 Community property; conveyances or transfer between husband and wife; equity of creditors.

Sec. 8. The husband may give, grant, bargain, sell, or convey directly to his wife, and the wife may give, grant, bargain, sell, or convey directly to her husband or the husband and wife may give, grant, bargain, sell, or convey directly to themselves, his, her, or their community right, title, interest, or estate in all or any community property, real or personal. Every such transfer shall operate to divest the property therein described of every claim or demand as community property, and shall vest the same in the transferee or transferees as his, her, or their separate property, as the case may be. No such transfer shall affect any equity in favor of creditors existing at the time thereof.

HISTORY: CL 1948, 557.208.

557.209 Community property; control or disposition by wife; liability of her separate property for debts benefiting community interest.

Sec. 9.

Same; control or disposition by wife; liability of her separate property for debts benefiting community interest.

(a) In addition to the liability thereof otherwise provided by law, the separate property of the wife shall be liable for debts contracted and liabilities incurred by reason of any transaction entered into or action taken by the wife relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community.

Same; control or disposition by husband; liability of his separate property for debts benefiting community interest.

(b) In addition to the liability thereof otherwise provided by law, the separate property of the husband shall be liable for debts contracted and liabilities incurred by reason of any transaction entered into or action taken by the husband relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community.

Same; control or disposition by husband and wife; liability for debts benefiting community interest; debts of husband.

(c) The community property (1) shall be liable for debts contracted and liabilities incurred by the husband or by the wife or by both in any transaction entered into or action taken by the husband or the wife or both relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community, and (2) shall also be liable for debts otherwise contracted by the husband and liabilities otherwise incurred by or imposed upon him. With respect to the liability of community property for such debts and liabilities, no distinction shall be made between community property subject to the management and control of the wife and community property subject to the management and control of the husband.

Same; satisfaction of debts furthering community interests; debts of husband, charging on termination of community.

(d) As between the husband and wife, the community property shall be first resorted to for the satisfaction of the debts and liabilities referred to in subdivision (1) of paragraph (c) of this section and the separate property of the husband shall be first resorted to for the satisfaction of the debts and liabilities referred to in subdivision (2) of said paragraph (c), but in the event that community property is applied to the satisfaction of the debts and liabilities referred to in said subdivision (2), the amount which has been so applied shall be chargeable solely against the interest of the husband therein and upon any division of the community property by reason of death, divorce, or other termination of the community, the respective interests of the husband and the wife in the community property shall be adjusted accordingly.

Liability of earnings of wife for personal services for debts incurred before inception of community.

(e) The earnings of the wife for personal services, whether prior or subsequent to the inception of the community, shall be liable for all debts contracted and liabilities incurred by the wife prior to the inception of the community.

Liability of earnings of husband for personal services for debts incurred before inception of community.

(f) The earnings of the husband for personal services, whether prior or subsequent to the inception of the community, shall be liable for all debts contracted and liabilities incurred by the husband prior to the inception of the community.

Satisfaction of debts of husband or wife before inception of community from separate property.

(g) As between the husband and wife, the separate property shall be first resorted to for the satisfaction of the debts and liabilities referred to in paragraphs (e) and (f) of this section.

Inception of community; construction.

(h) For the purposes of paragraphs (e) and (f) of this section, the inception of the community shall be the date of marriage or the effective date of this act, whichever is later.

Continuation of duty of husband to support wife and family; debts for necessities, payment from community property.

(i) Nothing in this section shall be deemed to affect or modify the obligation of the husband to support his wife and family and to discharge all debts contracted by the wife for necessities for herself and family during marriage: Provided, however, That if and whenever there is community property available for such purpose the husband shall be entitled to resort first to such community property.

Mortgage or pledge of separate property of husband or wife, of community property for debt of husband or wife.

(j) Nothing in this section shall be deemed to prevent the wife or the husband from mortgaging, pledging, or otherwise encumbering her, his, or their separate property or to prevent the wife and the husband from joining in a mortgage, pledge, or other encumbrance of community property as security for any indebtedness whether of the wife or of the husband or both.

HISTORY: CL 1948, 557.209.

557.210 Exemptions; homestead, encumbrance or disposition.

Sec. 10. Nothing in this act shall be deemed to affect or modify the exemptions to which the husband and the wife, or either of them, are entitled by law. The homestead, whether it is separate property or community property, shall not be disposed of or encumbered except as provided by law prior to the enactment of this act.

HISTORY: CL 1948, 557.210.

557.211 Incapacity of husband or wife; substitution of other spouse; petition, contents.

Sec. 11.

Incapacity of husband or wife; substitution of other spouse; petition, contents.

(a) Whenever the husband or the wife is non compos mentis, or has been convicted of a felony and imprisoned for a period of more than 1 year, or whenever the husband or the wife has deserted the other spouse, or whenever the husband or the wife is an habitual drunkard, or for any other reason is incapacitated or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, the other spouse may present a petition, duly verified, to the circuit court of the county in which the petitioner resides or, if a non-resident of this state, of the county wherein any of the community property is located. The petition shall state the name of the defendant spouse, a summary of all community property, so far as known, and the facts which render the defendant spouse incapable or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, and shall pray that the spouse filing the petition be substituted for the defendant spouse, as to the right to receive, manage, control, dispose of, and otherwise deal with all or any designated portion or portions of the community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse.

Service of process; guardian, appointment, powers.

(b) In all such cases service of process shall be had as in equity proceedings: Provided, however, That where it is alleged that the other spouse is non compos mentis, his guardian shall represent him or a guardian ad litem shall be appointed having such powers as in other civil actions.

Hearing; decree; powers vested in other spouse.

(c) Upon the hearing of the petition, the court shall enter a decree either dismissing said petition or adjudging the spouse filing the same to have such power to receive, manage, control and dispose of, and deal with all or any designated portion or portions of community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse, and containing such other provisions, which as to the court may appear to be just, proper, equitable, and to the best interests of the community.

Decree; modification or rescission; notice; hearing; entering decree.

(d) In case of any change in conditions after the entry of a decree pursuant to this section, either spouse may, by petition duly verified setting forth such change in conditions, apply to the court having jurisdiction thereof for the entry of a decree modifying or rescinding such decree. In such case notice to the other spouse shall be given in such manner as the court may direct. Upon the hearing of such petition the court shall enter a decree either denying such petition or modifying or rescinding the decree, as to the court may appear to be just, proper, equitable, and to the best interests of the community.

Same; recording copy; notice.

(e) A certified copy of such decree shall be recorded in the office of the register of deeds for the county where the decree was entered and for the county where any of the community property is then located and such recording shall constitute notice to all parties of the facts contained in such decree as to all property located in any such county.

Jurisdiction of probate court.

(f) Whenever a probate court under the provisions of Act No. 288 of the Public Acts of 1939, as amended, has jurisdiction with respect to a spouse who is mentally incompetent, an habitual drunkard, or otherwise incompetent, such court shall have jurisdiction concurrent with that herein provided for the circuit court with respect to proceedings under the provisions of this section.

HISTORY: CL 1948, 557.211.

NOTE: Act 288, 1939, above referred to, is Compilers' § 701.1 et seq.

557.212 Community property; rights of husband or wife on divorce or separation.

Sec. 12. In the event of a divorce from the bond of matrimony or from bed and board by decree of any court of competent jurisdiction, community property shall be divided between the parties by the court granting the decree, in such proportions and in such manner as such court, from the facts in the case, shall deem just, proper, and equitable. The respective interests of the parties in any community property which is not divided by such decree shall thereafter be deemed to be those of tenants in common.

HISTORY: CL 1948, 557.212.

557.213 Community property; disposition upon death of either husband or wife.

Sec. 13.

Same; disposition upon death of either husband or wife.

(a) Upon the death of the husband or the wife, 1/2 of the community property shall continue to belong to the surviving spouse and the other 1/2 shall pass in accordance with testamentary disposition by the deceased spouse, or, in the absence of testamentary disposition, then to the heirs at law and distributees of the deceased spouse in the manner provided by law, subject to the following provisions of this section.

Administration of estate of deceased spouse; procedure.

(b) The executor of the will or the administrator of the estate of the deceased spouse shall administer all of the community property which stands in the name of the deceased spouse, including the interests therein of the surviving spouse and of the deceased spouse, as well as the separate property of the deceased spouse. Such executor or administrator shall have the same rights, powers, and duties with respect to the administration and disposition of such community property, real and personal, as with respect to the separate property of the deceased spouse. All of the provisions of Act No. 288 of the Public Acts of 1939, as amended, with respect to the administration and disposition of property, real and personal, included in estates, shall be applicable with respect to such community property as well as with respect to such separate property. The probate court having jurisdiction of the estate of the deceased spouse shall determine whether and to what extent property being so administered constitutes separate property of the deceased spouse or community property and shall also determine whether and to what extent property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship, constitutes separate property of the survivor or community property. Such determination shall be made upon application of the executor or administrator, the surviving spouse, or any other interested person, after such notice to the surviving spouse and any other interested person as the court may direct, and, in addition thereto, in any case where creditors of the estate have not yet been determined, notice shall be given as provided for in Act No. 288 of the Public Acts of 1939, as amended. Upon the making of such determination, the court shall enter an order in accordance therewith, including such directions to the executor or administrator and to the surviving spouse as to the execution and delivery of any conveyances, transfers, waivers, or releases as shall be appropriate to carry out the terms thereof, so that all property which constitutes community property shall be subject to administration by the executor or administrator and that which constitutes separate property of the surviving spouse shall be free from such administration, and all of the provisions of Act No. 288 of the Public Acts of 1939, as amended, which are applicable with respect to community property standing in the name of the deceased spouse, as hereinbefore provided, shall likewise be applicable with respect to all community property so subjected to administration by such executor or administrator.

Determination of claims and administrative expenses; payment of estate, inheritance or succession taxes.

(c) In the order for and at the time of the determination of claims, such court shall also determine whether and to what extent claims and administration expenses are payable out of community property or out of separate property of the deceased spouse and those payable out of community property shall be charged equally against the half of the community property which belongs to the survivor and the half which passes in

accordance with testamentary disposition of or to the heirs and distributees of the deceased spouse. No estate, inheritance, succession, or similar taxes payable by reason of the transfer upon the death of the deceased spouse of the interest of such spouse in community property shall be charged against the half of the community property which belongs to the surviving spouse.

Assignment of remaining share to surviving spouse on payment of claims and expenses.

(d) When all claims and administration expenses for which the community property is liable have been fully satisfied, or appropriate provision has been made for their satisfaction, the court shall enter an order directing the executor or administrator to execute and deliver such instruments as shall be appropriate to transfer and convey 1/2 of the remainder of the community property to the surviving spouse and thereafter the interest of the surviving spouse in such property shall be that of a tenant in common. The probate court shall have authority to conduct any further hearing and to make any further determination which shall be incidental or necessary to carrying out the provisions of this act.

Rights of persons dealing with surviving spouse.

(e) Notwithstanding any other provision of this act, any other person may rely, and shall be fully protected in so doing, upon the right of the surviving spouse to receive, manage, control, dispose of, or otherwise deal with property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship.

HISTORY: CL 1948, 557.213.

NOTE: Act 286, 1939, above referred to, is Compilers' § 701.1 et seq.

557.214 Community property; curtesy or dower; dower of wife in separate property of husband.

Sec. 14. No right of curtesy or of dower shall be allowed in community property, but this act shall in no way affect the wife's right to dower in her husband's separate property.

HISTORY: CL 1948, 557.214.

557.215 Applicability of act.

Sec. 15. This act shall apply to personal property, wherever situated, acquired by a husband or wife while domiciled in this state and shall apply to the real property situated in this state of a husband or wife while domiciled therein. This act shall not apply to any property, wherever situated, acquired by a husband or wife while not domiciled in this state.

HISTORY: CL 1948, 557.215.

557.216 Life insurance proceeds; payment by insurer; discharge; effect of notice by person claiming interest in policy or payment.

Sec. 16. Notwithstanding the provisions of this act, when the proceeds of, or payments under a policy or contract issued by a life insurance company become payable and the company makes payment thereof in accordance with the terms thereof, or in accordance with the terms of any written assignment thereof, if the policy or contract has been assigned, such payment shall fully discharge the company from all claims under such policy or contract unless, before such payment is made, the company has received, at its home office, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

HISTORY: CL 1948, 557.216.

557.217 Effect of act.

Sec. 17. This act shall not be construed to operate retroactively and any right established or accrued and any action taken prior to the effective date of this act shall be governed by the law in force at the time such right was established or accrued or such action was taken.

HISTORY: CL 1948, 557.217.

557.218 Michigan community property act; short title.

Sec. 18. This act and all amendments thereto shall be known and may be cited as the "Michigan community property act."

HISTORY: CL 1948, 557.218.

557.219 Effective date of act.

Sec. 19. The effective date of this act shall be July 1, 1947.

HISTORY: CL 1948, 557.219.

557.220 Repeal.

Sec. 20. All acts and parts of acts in any wise inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency.

HISTORY: CL 1948, 557.220.

Act 39, 1948 (Ex. Ses.), p. 95; Imd. Eff. May 10.

AN ACT to repeal Act No. 317 of the Public Acts of 1947, entitled "An act to provide for the creation of a community estate between husband and wife in real and personal property as defined herein; to prescribe the effect of such community estate; to define and prescribe certain rights and liabilities of parties affected hereby; to eliminate curtesy and dower in such community estate; to preserve the right of dower in the separate property of the husband, and to repeal all acts and parts of acts inconsistent herewith."

The People of the State of Michigan enact:

557.251 Repeal of community property act.

Sec. 1. Act No. 317 of the Public Acts of 1947 is hereby repealed, subject to the saving provisions hereinafter set forth.

HISTORY: CL 1948, 557.251.

NOTE: Act 317, 1947, above referred to, is Compilers' § 557.201 et seq.

557.252 Repeal of community property act; effect.

Sec. 2. This act shall not impair or affect any right acquired prior to the time this act takes effect, but the same may be enjoyed as fully and to the same extent as if this act had not been passed, under and according to the law in force at the time such right was acquired, except as provided in sections 3 and 4 of this act.

HISTORY: CL 1948, 557.252.

557.253 Repeal of community property act; community property on effective date of repeal, continuance, notice of claim.

Sec. 3. Any property which, at the time this act takes effect, constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall continue to be community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same was acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property shall, upon the expiration of 1 year after the time this act takes effect, be deemed to be the separate property of the husband or

the wife, or both, according to the name or names set forth in the conveyance or other instrument of title under which such property was acquired or other evidence of ownership thereof, unless, within such 1 year period, either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property.

Such notice of claim, to be effective, shall be in writing, shall contain a description of each item of property to which the same relates, shall be executed by the party making the same in the manner required for the execution of deeds and shall be filed in the office of the register of deeds for the county in which the spouse by whom, or in whose behalf, the same is made resides at the time of the filing thereof, or, in the event that such spouse shall have died, for the county in which such spouse resided at the time of death. In the event that such notice of claim relates to real property located in any other county or counties, to be effective as to such property, a duplicate original of such notice of claim shall also be filed in the office of the register of deeds for each such county.

No disability of any kind or lack of knowledge on the part of anyone shall suspend the running of the time for filing such notice of claim, but such notice may be executed and filed by any other person acting in behalf of any party by whom such notice of claim may be filed who is under a disability or otherwise unable to make such claim in his or her own behalf.

HISTORY: CL 1948, 557.253.

557.254 Repeal of community property act; community property thereafter derived, continuance, notice of claim.

Sec. 4. Any property hereafter derived from property which constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall constitute community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same is acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property acquired within 1 year after the time this act takes effect shall be deemed to be separate property of the husband or the wife, or both, according to the name or names set forth in the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof, unless within such 1 year period either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property: And provided further, That any such property acquired after the expiration of such 1 year period shall be deemed to be separate property, as aforesaid, unless the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof shall expressly state the intention that such property shall constitute community property. All of the provisions of section 3 of this act with respect to any notice of claim pursuant thereto shall be applicable with respect to any notice of claim under the provisions of this section.

HISTORY: CL 1948, 557.254.

557.255 Reliance on acts of husband or wife.

Sec. 5. Notwithstanding any provision of Act No. 317 of the Public Acts of 1947 or any other provision of this act, any other person may rely, and shall be fully protected in so doing, upon the right of the husband or the wife to receive, manage, control, dispose of, or otherwise deal with property standing in his or her name in such manner that, by law, but for the provisions of said acts, he or she would be entitled so to deal therewith.

HISTORY: CL 1948, 557.255.

CHAPTER 558. ESTATES IN DOWER

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R.S. 1846, Ch. 66.

ESTATES IN DOWER

558.1 Right of widow to dower.

Sec. 1. The widow of every deceased person, shall be entitled to dower, or the use during her natural life, of 1/3 part of all the lands whereof her husband was seized of an estate of inheritance, at any time during the marriage, unless she is lawfully barred thereof.

HISTORY: CL 1857, 2772;—CL 1871, 4269;—How. 5733;—CL 1897, 8918;—CL 1915, 11654;—CL 1929, 13072;—CL 1948, 558.1.

558.2 Dower in lands exchanged; election.

Sec. 2. If a husband seized of an estate of inheritance in lands, exchange them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within 1 year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

HISTORY: CL 1857, 2773;—CL 1871, 4270;—How. 5734;—CL 1897, 8919;—CL 1915, 11655;—CL 1929, 13073;—CL 1948, 558.2.

558.3 Dower in mortgaged lands; mortgage before marriage.

Sec. 3. When a person seized of an estate of inheritance in lands, shall have executed a mortgage of such estate before marriage, his widow shall be entitled to a dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

HISTORY: CL 1857, 2774;—CL 1871, 4271;—How. 5735;—CL 1897, 8920;—CL 1915, 11656;—CL 1929, 13074;—CL 1948, 558.3.

558.4 Dower in mortgaged lands; purchase money mortgage given after marriage.

Sec. 4. When a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons.

HISTORY: CL 1857, 2775;—CL 1871, 4272;—How. 5736;—CL 1897, 8921;—CL 1915, 11657;—CL 1929, 13075;—CL 1948, 558.4.

558.5 Dower in surplus of proceeds from foreclosure of mortgage.

Sec. 5. Where in either of the cases mentioned in the 2 last preceding sections, or in case of a mortgage in which she shall have joined with her husband, the mortgagee, or those claiming under him shall after the death of the husband cause the mortgaged premises to be sold by virtue of such mortgage, and any surplus shall remain after payment of the moneys due thereon and the costs and charges of the sale, such widow shall be entitled to the interest or income of 1/3 part of such surplus, for her life, as dower.

HISTORY: CL 1857, 2776;—CL 1871, 4273;—How. 5737;—CL 1897, 8922;—CL 1915, 11658;—CL 1929, 13076;—CL 1948, 558.5.

558.6 Dower in lands released by payment of mortgage.

Sec. 6. If, in either of the cases above specified, the heir or other person claiming under the husband, shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out to her, for her dower in the mortgaged lands, the value of 1/3 of the residue after such deduction.

HISTORY: CL 1857, 2777;—CL 1871, 4274;—How. 5738;—CL 1897, 8923;—CL 1915, 11659;—CL 1929, 13077;—CL 1948, 558.6.

558.7 Dower in aliened lands; estimation.

Sec. 7. When a widow shall be entitled to dower out of any lands which shall have been aliened by the husband in his lifetime, and such lands shall have been enhanced in value after the alienation, such lands shall be estimated, in setting out the widow's dower, according to their value at the time when they were so aliened.

HISTORY: CL 1857, 2778;—CL 1871, 4275;—How. 5739;—CL 1897, 8924;—CL 1915, 11660;—CL 1929, 13078;—CL 1948, 558.7.

Secs. 8-11.

HISTORY: CL 1857, 2779-2782;—CL 1871, 4276-4279;—How. 5740-5743;—CL 1897, 8925-8928;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. These sections related to the assignment of dower by the probate court.

558.12 Alternative dower rights before assignment; occupation, profits and rents receipts.

Sec. 12. When a widow is entitled to dower in the lands of which her husband died seized, she may continue to occupy the same with the children or other heirs of the deceased, or may receive 1/3 part of the rents, issues and profits thereof, so long as the heirs or others interested do not object, without having the dower assigned.

HISTORY: CL 1857, 2783;—CL 1871, 4280;—How. 5744;—CL 1897, 8929;—CL 1915, 11661;—CL 1929, 13079;—CL 1948, 558.12.

558.13 Barring of dower; joining in conveyance, release.

Sec. 13. A married woman residing within this state may bar her right of dower in any estate conveyed by her husband or by his guardian, if he be under guardianship, by joining in the deed of conveyance and acknowledging the same as prescribed in the preceding chapter, or by joining with her husband in a subsequent deed, acknowledged in like manner; or by deed executed by the wife alone to one who has theretofore acquired and then holds the husband's title, provided the intent to bar her right of dower shall be expressed in said deed.

HISTORY: Am. 1849, p. 61, Act 67, Imd. Eff. March 6;—CL 1857, 2784;—CL 1871, 4281;—Am. 1877, p. 52, Act 65, Eff. Aug. 21;—How. 5745;—CL 1897, 8930;—CL 1915, 11662;—CL 1929, 13080;—CL 1948, 558.13.

NOTE: The "preceding chapter", above referred to, is R.S. 1846, Ch. 65, which does not precede the present chapter, but is Compilers' § 565.1 et seq.

558.14 Barring of dower; jointure.

Sec. 14. A woman may also be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage, provided such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband.

HISTORY: CL 1857, 2785;—CL 1871, 4282;—How. 5746;—CL 1897, 8931;—CL 1915, 11663;—CL 1929, 13061;—CL 1948, 558.14.

558.15 Barring of dower; expression of assent to jointure.

Sec. 15. Such assent shall be expressed, if the woman be of full age, by her becoming a party to the conveyance by which it is settled, and if she be under age, by her *her joining with her father or guardian in such conveyance.

HISTORY: CL 1857, 2786;—CL 1871, 4283;—How. 5747;—CL 1897, 8932;—CL 1915, 11664;—CL 1929, 13062;—CL 1948, 558.15.

*NOTE: The word "her" is duplicated in the section.

558.16 Barring of dower; antenuptial pecuniary provisions.

Sec. 16. Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

HISTORY: CL 1857, 2787;—CL 1871, 4284;—How. 5748;—CL 1897, 8933;—CL 1915, 11665;—CL 1929, 13063;—CL 1948, 558.16.

Sec. 17.

HISTORY: CL 1857, 2788;—CL 1871, 4285;—How. 5749;—CL 1897, 8934;—CL 1915, 11666;—CL 1929, 13064;—Rep. 1939, p. 670, Act 28, Eff. Sept. 29.

Secs. 17-19 provided for election by widow.

Sec. 18.

HISTORY: CL 1857, 2789;—CL 1871, 4286;—How. 5750;—CL 1897, 8935;—CL 1915, 11667;—Am. 1921, p. 500, Act 269, Eff. Aug. 18;—Am. 1923, p. 469, Act 295, Eff. Aug. 30;—Am. 1925, p. 85, Act 64, Eff. Aug. 27;—CL 1929, 13065;—Am. 1931, p. 422, Act 242, Eff. Sept. 18;—Rep. 1939, p. 670, Act 286, Eff. Sept. 29.

Secs. 17-19 provided for election by widow.

Sec. 19.

HISTORY: CL 1857, 2790;—CL 1871, 4287;—How. 5751;—CL 1897, 8936;—CL 1915, 11668;—CL 1929, 13066;—Rep. 1939, p. 670, Act 28, Eff. Sept. 29.

Secs. 17-19 provided for election by widow.

558.20 Renewal of dower.

Sec. 20. If a woman is lawfully evicted of lands assigned to her as dower, or settled upon her as jointure or is deprived of the provision made for her by will or otherwise, in lieu of dower, she may be endowed anew, in like manner as if such assignment, jointure or other provision had not been made.

HISTORY: CL 1857, 2791;—CL 1871, 4288;—How. 5752;—CL 1897, 8937;—CL 1915, 11669;—CL 1929, 13067;—CL 1948, 558.20.

558.21 Dower right of aliens and nonresidents.

Sec. 21. A woman being an alien, shall not on that account be barred of her dower, and any woman residing out of the state, shall be entitled to dower of the lands of her deceased husband, lying in this state, of which her husband died seized, and the same may be assigned to her, or recovered by her, in like manner as if she and her deceased husband had been residents within the state at the time of his death.

HISTORY: CL 1857, 2792;—CL 1871, 4289;—How. 5753;—CL 1897, 8938;—CL 1915, 11670;—CL 1929, 13068;—CL 1948, 558.21.

558.22 Waste liability; maintenance of tenements and appurtenances.

Sec. 22. No woman, who shall be endowed of any lands, shall commit or suffer any waste on the same, but every woman so endowed shall maintain the houses and tenements, with the fences and appurtenances in good repair, and shall be liable to the person having the next immediate estate of inheritance therein, for all damages occasioned by any waste committed or suffered by her.

HISTORY: CL 1857, 2793;—CL 1871, 4290;—How. 5754;—CL 1897, 8939;—CL 1915, 11671;—CL 1929, 13069;—CL 1948, 558.22.

Sec. 23.

HISTORY: CL 1857, 2794;—CL 1871, 4291;—How. 5755;—CL 1897, 8940;—CL 1915, 11672;—CL 1929, 13090;—Rep. 1939, p. 670, Act 28, Eff. Sept. 29.

This section provided for use of dwelling house of husband by widow for 1 year after death.

558.24 Damages upon recovery of dower; widow's rights.

Sec. 24. Whenever in any action brought for the purpose, a widow shall recover her dower in lands of which her husband shall have died seized, she shall be entitled also to recover damages for the withholding of such dower.

HISTORY: CL 1857, 2795;—CL 1871, 4292;—How. 5756;—CL 1897, 8941;—CL 1915, 11673;—CL 1929, 13091;—CL 1948, 558.24.

558.25 Damages upon recovery of dower; measure.

Sec. 25. Such damages shall be 1/3 part of the annual value of the mesne profits of the lands in which she shall so recover her dower, to be estimated in a suit against the heirs of her husband, from the time of his death; and in suits against other persons from the time of her demanding her dower of such persons.

HISTORY: CL 1857, 2796;—CL 1871, 4293;—How. 5757;—CL 1897, 8942;—CL 1915, 11674;—CL 1929, 13092;—CL 1948, 558.25.

558.26 Damages upon recovery of dower; use of added improvements.

Sec. 26. Such damages shall not be estimated for the use of any permanent improvements made after the death of her husband by his heirs, or by any other person claiming title to such lands.

HISTORY: CL 1857, 2797;—CL 1871, 4294;—How. 5758;—CL 1897, 8943;—CL 1915, 11675;—CL 1929, 13093;—CL 1948, 558.26.

558.27 Damages upon recovery of dower; against heir alienating land.

Sec. 27. When a widow shall recover her dower in any lands alienated by the heir of her husband, she shall be entitled to recover of such heir, in an action on the case, her damages for withholding such dower, from the time of the death of her husband to the time of the alienation by the heir not exceeding 6 years in the whole; and the amount which she shall be entitled to recover from such heir, shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and any amount recovered as damages, from such grantee, shall be deducted from the sum she would otherwise be entitled to recover from such heir.

HISTORY: CL 1857, 2798;—CL 1871, 4295;—How. 5759;—CL 1897, 8944;—CL 1915, 11676;—CL 1929, 13094;—CL 1948, 558.27.

558.28 Assignment of dower; effect of acceptance.

Sec. 28. When the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her husband, it shall be a bar to any further claim of dower against the heir of such husband, or any grantee of such heir, or any grantee of such husband, unless such widow shall have been lawfully evicted of the lands so assigned to her as aforesaid.

HISTORY: CL 1857, 2799;—CL 1871, 4296;—How. 5760;—CL 1897, 8945;—CL 1915, 11677;—CL 1929, 13095;—CL 1948, 558.28.

558.29 Collusive recovery by widow; effect on rights of infants or others entitled to land.

Sec. 29. When a widow not having right to dower, shall during the infancy of the heirs of the husband, or any of them, or of any person entitled to the lands, recover dower by the default or collusion of the guardian of such infant, heir or other person, such heir or other person so entitled shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow, to recover the lands so wrongfully awarded for dower.

HISTORY: CL 1857, 2800;—CL 1871, 4297;—How. 5761;—CL 1897, 8946;—CL 1915, 11678;—CL 1929, 13096;—CL 1948, 558.29.

Sec. 30.

HISTORY: CL 1857, 2803;—CL 1871, 4300;—How. 5770;—CL 1897, 8955;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. This section related to estates by the curtesy.

COMPILERS' NOTE: Secs. 31-38 of this chapter deal with miscellaneous provisions concerning real estate, see Compilers' §§ 554.131 to 554.138.

Act 63, 1847, p. 73; Imd. Eff. Mar. 16.

AN ACT to amend the Revised Statutes of 1846 in relation to the assignment of dower.

Be it enacted by the senate and house of representatives of the state of Michigan:

Sec. 1.

HISTORY: CL 1857, 2801;—CL 1871, 4298;—How. 5768;—CL 1897, 8953. This section was superseded by Sec. 77 of Ch. 19 of Act 314 of 1915 (Jud. Act), though not expressly repealed.

558.52 Dower claimed by two or more widows; liability of land to claims after discharge of dower.

Sec. 2. Where dower in any lands may be claimed by 2 or more widows, the 1 whose husband was first seized therein, shall be first entitled thereto, and in all cases where dower in any land shall have been assigned, or where it shall appear that the owner or owners, or person or persons having an interest therein, shall have made full satisfaction to, and has obtained a discharge from the person recovering or having a prior right to dower therein by reason of the prior seizen of her husband, the said land shall not be subject to any other claim for dower during the lifetime of the person so recovering or who has received satisfaction and given a discharge as aforesaid.

HISTORY: CL 1857, 2802;—CL 1871, 4299;—How. 5769;—CL 1897, 8954;—CL 1915, 11687;—CL 1929, 13097;—CL 1948, 558.52.

Act 187, 1899, p. 284; Eff. Sep. 23.

AN ACT to provide for barring dower and homestead rights in lands by married women under the age of 21 years. Am. 1961, p. 62, Act 64, Eff. Sep. 8.

The People of the State of Michigan enact:

558.71 Married woman over 18; power to bar dower or homestead; power over lands.

Sec. 1. Any married woman residing within this state, having arrived at the age of 18 years, may bar her right of dower or homestead in any estate conveyed or mortgaged by her husband, by joining in the deed of conveyance or mortgage, and acknowledging the same as now required by law for the acknowledgments of deeds, and may do any other act concerning her rights in lands owned by her husband which she might do if she were 21 years of age.

HISTORY: CL 1915, 11679;—CL 1929, 13098;—CL 1948, 558.71;—Am. 1961, p. 62, Act 64, Eff. Sep. 8.

Act 58, 1917, p. 101; Eff. Aug. 10.

AN ACT to require the filing of claims of dower in certain cases and to bar dower in case of the failure to file such claims.

The People of the State of Michigan enact:

558.81 Claim of dower; filing, contents.

Sec. 1. All persons having or claiming dower, whether inchoate or consummate, in lands conveyed, or otherwise disposed of, more than 25 years prior to the time this act shall take effect, by the person who is or was the husband of the person claiming such dower, shall, within 6 months after this act shall take effect, file in the office of the register of deeds of the county in which such lands are situated, a claim of dower under oath setting forth the name and address of the persons claiming such dower and the name of the person who is or was her husband and through whom she claims to have obtained dower in such lands and a description of the lands in which dower is claimed.

HISTORY: CL 1929, 13099;—CL 1948, 558.81.

558.82 Claim of dower; effect of failure to file.

Sec. 2. Any person having or claiming dower whether inchoate or consummate, in lands conveyed, or otherwise disposed of, as mentioned in section 1 of this act, who shall fail to file the claim of dower within the time limited therefor as required by this act, shall be forever barred from asserting or claiming dower whether inchoate or vested in or to such lands.

HISTORY: CL 1929, 13100;—CL 1948, 558.82.

Act 105, 1939, p. 189; Eff. Sep. 29.

AN ACT relative to the filing of claims of dower with the register of deeds; and to declare the effect of this act.

The People of the State of Michigan enact:

558.91 Claim of dower; filing, contents.

Sec. 1. All persons having or claiming dower, whether inchoate or consummate, in lands heretofore or hereafter conveyed, or otherwise disposed of, by the person who is or was the husband of the person claiming such dower, shall, within 25 years from the time of such conveyance or other disposal of said lands, or within 6 months after this act shall take effect, file in the office of the register of deeds of the county in which such lands are situated, a claim of dower under oath setting forth the name and address of the persons claiming such dower and the name of the person who is or was her husband and through whom she claims to have obtained dower in such lands and a description of the lands in which dower is claimed: Provided, however, That this act shall apply only to persons having or claiming dower, inchoate or consummate, in lands conveyed or otherwise disposed of subsequent to a time 25 years prior to August 10, 1917, that being the time Act No. 58 of the Public Acts of 1917 became effective.

HISTORY: CL 1948, 558.91.

NOTE: Act 58, 1917, above referred to, is Compilers' §§ 558.81-558.82.

558.92 Claim of dower; effect of failure to file.

Sec. 2. Any person having or claiming dower whether inchoate or consummate, in lands heretofore or hereafter conveyed, or otherwise disposed of, as mentioned in section 1 of this act, who shall fail to file the claim of dower within the time limited therefor as required by this act, shall be forever barred from asserting or claiming dower whether inchoate or vested in or to such lands.

HISTORY: CL 1948, 558.92.

CHAPTER 559. CONDOMINIUMS

HORIZONTAL REAL PROPERTY ACT Act 229 of 1963			
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Act 229, 1963, p. 375; Imd. Eff. May 23.

AN ACT to provide for the establishment of condominium and condominium projects; to define apartments and common elements in such projects; to prescribe the contents of and provide for the recording of master deeds establishing such projects; to define and provide for the identification and description of condominium apartment for purposes of ownership, mortgaging, taxation, possession, sale and other juridic acts; to provide for review and approval of proposed condominium projects and the sale of apartments therein; to provide for certain fees; and to prescribe penalties for violations of this act or regulations and orders issued hereunder.

The People of the State of Michigan enact:

559.1 Horizontal real property act; short title.

Sec. 1. This act shall be known and may be cited as the "horizontal real property act".

HISTORY: New 1963, p. 376, Act 229, Imd. Eff. May 23.

559.2 Horizontal real property act; definitions.

Sec. 2. As used in this act:

(a) "Apartment" means an enclosed room or rooms constituting a single unit and the space enclosed thereby which occupies all or part of a floor or floors in a building of 1 or more floors or stories regardless of whether it be destined for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a

thoroughfare. When a unit is a single family residence and occupies all the vertical space in the structure it may include the structure and such external space contained within the given description and may also include fee simple title to all the land underneath the given description provided that a permanent easement is granted to the condominium for repair and maintenance of the exterior of the structure and the external improvements.

(b) "Commission" means the Michigan corporation and securities commission.

(c) "Condominium" means the ownership of apartments and the space enclosed by the description thereof as contained in the master deed in a multiple unit structure, together with ownership of an interest in common elements.

(d) "Condominium project" means a plan or project consisting of not less than 4 apartments in existing or proposed buildings or structures established and approved in conformance with the provisions of this act.

(e) "Condominium subdivision plan" means the captioned plan showing the permanent identification numbers assigned to the several apartments in the condominium project and recorded as a part of the master deed.

(f) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, who owns one or more apartments within the condominium project.

(g) "Developer" means a person who undertakes to develop a condominium project.

(h) "General common elements" means and includes:

(1) The land in the condominium project except as otherwise provided in section 2 (a).

(2) The foundations, main walls, roofs, halls, lobbies, stairways and entrances and exits or communication ways.

(3) The basements, flat roofs, yards and gardens, except as otherwise provided or stipulated.

(4) The premises for the use of janitors or persons in charge of the condominium project, including lodging except as otherwise provided or stipulated.

(5) The compartments or installations of central services such as heating, power, light, gas, cold and hot water, refrigeration, air-conditioning, reservoirs, water tanks and pumps and the like.

(6) The elevators, incinerators and, in general, all devices or installations existing for common use.

(7) All other elements of the condominium project intended for common use or necessary to the existence, upkeep and safety of the project.

(i) "Limited common elements" means and includes those common elements which are reserved in the master deed for the use of specified apartments to the exclusion of the other apartments.

(j) "Majority of co-owners" means 51% of the co-owners in number and in value of their share of the total property in accordance with the percentage allocated to each apartment in the master deed.

(k) "Master deed" means the deed recording the condominium project as approved by the commission and includes:

(1) An accurate legal description of the land involved in the project.

(2) A complete set of architectural plans showing details of all structures and improvements including the location thereof on the land, the size, location, area, volume, vertical and horizontal boundaries and condominium subdivision plan number for each individual apartment, and the nature, size and location of all general and limited common elements.

(3) A statement designating the apartments served by limited common elements and clearly defining the rights therein.

(4) A complete description for each apartment identified with the applicable condominium subdivision plan number and sufficient to enable a competent land surveyor to relocate accurately the space enclosed by the description without reference to the structure itself with elevations therein referenced to an official bench mark of the United States coast and geodetic survey.

(5) A condominium subdivision plan assigning numbers serially to the several apartments included in the project.

(6) A statement showing a total value for the condominium project and the percentage thereof assigned to each individual apartment, identifying the apartments by the numbers assigned on the condominium subdivision plan.

(7) The approved bylaws for the project.

(l) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

(m) "Property" means and includes the land and the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto.

(n) "To record" means to record pursuant to the laws of this state relating to the recording of deeds, but the provisions of Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, shall not control divisions made for any condominium project.

HISTORY: New 1963, p. 376, Act 229, Imd. Eff. May 23;—Am. 1965, p. 737, Act 374, Imd. Eff. Jul. 23.

559.3 Condominium project; establishment.

Sec. 3. A condominium project for any property shall be established upon the recording of an approved master deed.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23.

559.4 Condominium project; apartment as property.

Sec. 4. Upon the establishment of a condominium project each apartment, together with and inseparable from its appurtenant share of the common elements, shall be a sole property subject to ownership, mortgaging, taxation, possession, sale and all types of juridical acts, inter vivos or causa mortis independent of the other apartments.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23.

559.5 Apartments; ownership.

Sec. 5. Any apartment may be jointly or commonly owned by more than one person.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23.

559.6 Apartment; rights of co-owners.

Sec. 6. Each co-owner shall have an exclusive right to his apartment and shall have such rights to share with other co-owners the common elements of the condominium project as are designated by the master deed.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23.

559.7 Master deed; recording, taxes, special assessments.

Sec. 7. An approved master deed shall be recorded in the same manner and subject to the same provisions of law as are other deeds, but no master deed shall be recorded without a certification by the treasurer collecting the same that all property taxes and special assessments which have become a lien on the property involved in the project have been paid in full. When recorded, a copy of the master deed and a copy of any subsequently amended master deed must be filed with the local supervisor or assessing officer.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23;—Am. 1965, p. 277, Act 176, Imd. Eff. Jul. 15.

559.8 Apartments; conveyances, recording.

Sec. 8. Conveyances and other instruments affecting title to any apartment in a condominium project shall describe the same by reference to the apartment number of the condominium subdivision plan and the caption thereof, together with a reference to the liber and page of the county records in which the master deed is recorded. The conveyances and other instruments shall be recordable.

HISTORY: New 1963, p. 377, Act 229, Imd. Eff. May 23.

559.9 Condominium project; waiver, vacation, merger of records of sole properties.

Sec. 9. All of the co-owners of a condominium project by deed may waive and vacate the condominium and merge the records of the sole properties, if all taxes and special assessments assessed against the sole properties have been paid in full, and the sole properties are unencumbered, or if encumbered, the creditors in whose behalf the encumbrances are recorded accept as security the undivided shares of the property owned by the debtors.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.10 Condominium project; subsequent constitution in another project.

Sec. 10. The merger provided for in section 9 shall not bar the subsequent constitution of the property into another condominium project whenever so desired and upon observance of the provisions of this act.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.11 Condominium project; bylaws, recording, amendment, filing.

Sec. 11. The administration of every condominium project shall be governed by by-laws recorded as part of the master deed. The by-laws may be amended from time to time by a majority of the co-owners, but no amendment to the by-laws of any condominium project may eliminate the mandatory provisions required by section 13 of this act. A copy of the original by-laws and every amendment thereto duly adopted shall be filed with the commission and recorded in property records, and the same shall be inoperative until so filed and recorded.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.12 Condominium project; bylaws, permissible provisions.

Sec. 12. The by-laws may contain such provisions as are deemed appropriate for the administration of the project not inconsistent with the provisions of this act or any other applicable laws, and may include provisions for restrictions on the sale, lease, license to use, or occupancy of apartments and provisions for insuring the co-owners against risks affecting the condominium project, without prejudice to the right of each co-owner to insure his apartment or apartments on his own account and for his own benefit.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.13 Condominium project; bylaws, mandatory provision; tax on personal property; destruction.

Sec. 13. The by-laws shall contain provisions for the designation of persons to administer the affairs of the condominium project and shall require that the persons shall keep a book with a detailed account of the expenditures and receipts affecting the project and its administration specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the project. The by-laws shall provide that the persons designated to administer the affairs of the project shall be assessed as the person in possession for any tangible personal property of the project owned or possessed in common by the co-owners. Personal property taxes based thereon shall be treated as expenses of administration. The by-laws shall contain

specific provisions directing the courses of action to be taken in the event of partial or complete destruction of the building or buildings in the project. The by-laws shall also provide that expenditures affecting the administration of the project shall include all costs incurred in the satisfaction of any liability arising within, caused by or connected with the common elements or the administration of the project, and that receipts affecting the administration of the project shall include all sums received as the proceeds of, or pursuant to, any policy of insurance securing the interests of the co-owners against liabilities or losses arising within, caused by or connected with the common elements or the administration of the project.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.14 Condominium project; books and records, examination, audit.

Sec. 14. All books and records concerning the administration and operation of the condominium project shall be available for examination by any of the co-owners at convenient hours on working days that shall be set and announced for general knowledge and all books and records shall be audited at reasonable intervals.

HISTORY: New 1963, p. 378, Act 229, Imd. Eff. May 23.

559.15 Apartment; contributions for administration, maintenance, repair, nonuse of common elements, abandonment.

Sec. 15. The owner of each apartment shall contribute to the expenses of administration and to the expenses of maintenance and repair of the common elements of the condominium project according to the percentage allocated to such apartment in the master deed. No owner shall be exempt from contributing as herein provided by non-use or waiver of the use of any of the common elements or by abandonment of his apartment.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23.

559.16 Assessments; lien, enforcement, priority.

Sec. 16. All sums assessed to a unit owner by the administering body which are unpaid constitute a lien on such unit prior to all other liens except tax liens on the unit in favor of any state or federal taxing authority and all sums unpaid on a first mortgage of record. The lien may be foreclosed by suit by the administering body in the name of the condominium project on behalf of the other owners in the same manner as a real estate mortgage foreclosure. The unit owner or anyone claiming under him may be required to pay a reasonable rental for the unit after commencement of the foreclosure if the by-laws so provide; the rental shall be treated as a portion of the proceeds from foreclosure sale. A receiver may be appointed to collect the rentals on application to the court. The administering body, acting on behalf of all owners, unless prohibited by the master deed or by-laws, may bid in the unit at foreclosure sale, and acquire, hold, lease, mortgage or convey the same. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing same.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23.

559.17 Assessments; liability of mortgagee who forecloses on unit.

Sec. 17. If the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such person, its successors and assigns, is not liable for the assessments by the administering body chargeable to the unit which became due prior to the acquisition of title to the unit by such person. The unpaid assessments are deemed to be common expenses collectible from all of the unit owners including such person, its successors and assigns.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23.

559.18 Mortgage on project's property; apportionment.

Sec. 18. If a mortgage on the project's property is recorded before or after establishment of the condominium project, such mortgage shall be apportioned among all the co-owners in accordance with their respective share of the total value of the condominium project. Property upon which there is a mortgage of record shall not be submitted to a condominium project without the written consent of the mortgagee.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23.

559.19 Homestead exemption.

Sec. 19. The laws of this state relating to the exemption of homestead property from levy and execution shall be applicable to apartments occupied as homesteads.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23.

559.20 Taxes and special assessments; assessment against project; apartment.

Sec. 20. Special assessments and property taxes shall be assessed against the individual apartments identified as units of the condominium subdivision plan and not on the total property of the project or any other part thereof, except for the year in which the condominium project was established subsequent to the tax day. Taxes and special assessments which have become a lien against the property in that year subsequent to the establishment of the condominium project shall be expenses of administration of the project and paid by the co-owners as provided in section 15 of this act. The taxes and special assessments shall not be divided or apportioned on the tax roll, any provision of any law to the contrary notwithstanding. Special assessments and property taxes in any year in which the property existed as an established condominium project on the tax day shall be assessed against the individual apartments, notwithstanding any subsequent vacation of the condominium. Apartments shall be described for such purposes by reference to the apartment number of the condominium subdivision plan and the caption thereof together with the liber and page of the county records in which the approved master deed is recorded. The value assessed for property tax purposes against each apartment shall bear the same relation to the assessment against the condominium project as the percentage assigned to each individual apartment bears to the total value pursuant to subdivision (6) of subsection (k) of section 2 which shall include the value of the undivided interest in the common elements appertaining to such apartment. Assessments for any subsequent real property improvements to a specific apartment shall be assessed to that apartment description only. For property tax and special assessment purposes each apartment shall be treated as a separate single unit of real property and shall not be combined with any other apartment or apartments and no assessment of any fraction of any apartment or combination of any apartment with other apartments or fractions thereof shall be made, nor shall any division or split of the assessment or taxes of any single apartment be made notwithstanding separate or common ownership thereof, any provision of any other law to the contrary notwithstanding.

HISTORY: New 1963, p. 379, Act 229, Imd. Eff. May 23;—Am. 1965, p. 277, Act 176, Imd. Eff. Jul. 15.

559.21 Apartment; sale, payment of assessments for expenses, priority, statement.

Sec. 21. Upon the sale or conveyance of an apartment all unpaid assessments against an owner for his share in the expenses to which section 15 refers, shall be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature except the following:

(a) Amounts due the state, or any subdivision thereof, or any municipality for taxes and special assessments due and unpaid on the apartment.

(b) Payments due under any mortgage or mortgages duly recorded.

A purchaser or grantee is entitled to a written statement from the administering body setting forth the amount of unpaid assessments against the seller or grantor and the purchaser or grantee is not liable for, nor is the unit conveyed or granted subject to a lien for, any unpaid assessments against the seller or grantor in excess of the amount set forth in the written statement.

HISTORY: New 1963, p. 390, Act 229, Imd. Eff. May 23.

559.22 Administrator; action on behalf of co-owners.

Sec. 22. Suits by the persons designated in the bylaws to administer the affairs of the condominium project or on behalf of the co-owners and suits against the co-owners shall be in the name of the condominium project designated substantially as in section 23 hereof.

HISTORY: New 1963, p. 390, Act 229, Imd. Eff. May 23.

559.23 Condominium subdivision plans, enumeration.

Sec. 23. The condominium subdivision plan for each condominium project shall number the apartments serially and shall clearly identify the numbered apartments with the detailed descriptions thereof as filed with the master deed. Condominium subdivision plans shall be numbered consecutively when recorded by the register of deeds and shall be designated County Condominium Subdivision Plan Number

HISTORY: New 1963, p. 390, Act 229, Imd. Eff. May 23.

559.24 Condominium project; master deed, filing fee; application for permit to sell apartments.

Sec. 24. Any developer desiring to establish a condominium project for any property shall prepare a master deed complying with the provisions of this act and shall forward such proposed master deed to the commission together with a fee of \$50.00 plus \$5.00 for each apartment in the proposed master deed. The developer may at the same time, or subsequently, make application to the commission for a permit to sell apartments in the condominium project. The proposed master deed and the application for a permit to sell shall be in such form and shall be accompanied by such reports, questionnaires and other material or data as the commission may require.

HISTORY: New 1963, p. 390, Act 229, Imd. Eff. May 23;—Am. 1967, p. 272, Act 196, Eff. Nov. 2.

559.25 Master deed; examination; property inspection; expenses; certificate of approval; notice of disapproval.

Sec. 25. Upon receipt of a proposed master deed the commission shall promptly examine the same to determine if it meets the requirements of this act and shall make such inspections of the property and conduct such investigations and surveys as it deems necessary. The commission shall keep an account of the expense incurred in conducting such inspections, examinations, surveys and investigations and shall assess such cost against the developer. Upon the approval of a proposed master deed the commission shall attach thereto its certificate of approval. If a proposed master deed is disapproved, the commission shall promptly notify the developer in writing of such disapproval setting forth its reasons therefor.

HISTORY: New 1963, p. 390, Act 229, Imd. Eff. May 23.

559.26 Permit to sell apartments; application, proposal to sell.

Sec. 26. No apartment in a condominium project shall be sold or offered for sale by or on behalf of the developer prior to the issuance by the commission of a permit to sell the apartments in such project. Upon receipt of the application for a permit to sell apartments in any condominium project the commission shall promptly investigate, and if satisfied that the proposal to sell is consistent with the master deed as approved

and recorded for the project and clearly and fairly represents the property offered for sale and will not tend to work a fraud or imposition on purchasers or the public, shall issue its permit to sell.

HISTORY: New 1963, p. 381, Act 229, Imd. Eff. May 23.

559.27 Condominium project; approval of changes, replat.

Sec. 27. No change shall be made in any condominium project as set forth in the recorded master deed without first obtaining the approval of the commission. The commission shall require that all approved changes in any condominium project are reflected in appropriate amendments to the master deed and such amendments to the master deed shall not become effective until recorded. If any change involves a change in the boundaries of any apartment, or the addition or elimination of apartments, a replat of the condominium subdivision plan shall be prepared and recorded assigning one apartment number to each apartment in the amended project. The replat of the condominium subdivision plan shall be designated replat number of county condominium subdivision plan number, using the same plan number assigned to the original condominium subdivision plan.

HISTORY: New 1963, p. 381, Act 229, Imd. Eff. May 23.

559.28 Misrepresentation; violation of act, penalty.

Sec. 28. (1) Every person who authorizes, directs or aids in publication, advertisement, distribution, or circulation of any statement or representation concerning any condominium project which misrepresents the facts concerning the project as set forth in the approved and recorded master deed or the application of a developer to the commission for permission to sell; every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any condominium project contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same; every person who represents or causes or permits the representation of any property as a condominium project when such property has not been approved and recorded as a condominium project under the terms of this act; and every person who violates or fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement of the commission issued under the terms of this act shall be fined not more than \$1,000.00 or imprisoned not more than 1 year or both.

Injunction.

(2) In addition the commission may bring an action in any court of competent jurisdiction against any person to enjoin such person from engaging or continuing in any violation of any order of the commission or any provision of this act.

Prosecution.

(3) Actions under this section shall be brought in the name of the people of the state by the prosecuting attorney of the county in which the property is located or by the attorney general.

HISTORY: New 1963, p. 381, Act 229, Imd. Eff. May 23.

559.29 Condominium project subject to local laws; ordinances, regulations.

Sec. 29. The establishment of any property as a condominium project under the terms of this act shall not relieve such property from compliance with applicable local laws, ordinances and regulations.

HISTORY: New 1963, p. 382, Act 229, Imd. Eff. May 23.

559.30 Fees credited to general fund.

Sec. 30. All fees and charges collected under this act shall be remitted by the commission to the state treasurer who shall credit the same to the general fund.

HISTORY: New 1963, p. 382, Act 229, Imd. Eff. May 23.

559.31 Department of commerce; promulgation of rules, forms, orders.

Sec. 31. The department of commerce may promulgate, amend and rescind such rules, forms and orders as are necessary to carry out the provisions of this act; and may define any terms necessary in administration of the act, whether or not used in this act, insofar as the definitions are not inconsistent with the provisions of this act. The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 20, Act 8, Imd. Eff. Mar. 23.

CHAPTER 560. SUBDIVISION CONTROL ACT OF 1967

PLAT ACT

Act 172 of 1929

560.1-560.80 Repealed.

SUBDIVISION CONTROL ACT OF 1967

Act 288 of 1967

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560.1-560.80 Repealed. 1954, p. 452, Act 186, Eff. Aug. 13;—1967, p. 615, Act 288, Eff. Jan. 1, 1968.

Sections related to plat act of 1929.

Act 288, 1967, p. 589; Eff. Jan. 1, 1968.

AN ACT to regulate the subdivision of land; to promote the public health, safety and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements, and that there be adequate drainage thereof; to provide for proper ingress and egress to lots; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained by subdividers prior to the recording and filing of plats; to establish the procedure for vacating, correcting and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

GENERAL PROVISIONS

560.101 Subdivision control act of 1967; short title.

Sec. 101. This act shall be known and may be cited as the "subdivision control act of 1967".

HISTORY: New 1967, p. 590, Act 288, Eff. Jan. 1, 1968.

CITED IN OTHER SECTIONS: Sections 560.101 to 560.293 are cited in §§ 247.321 and 323.405.

560.102 Subdivision control act; definitions.

Sec. 102. As used in this act:

- (a) "Plat" means a map or chart of a subdivision of land.
- (b) "Land" means all land areas occupied by real property.
- (c) "Preliminary plat" means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
- (d) "Subdivide" or "subdivision" means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area are created by successive divisions within a period of 10 years.
- (e) "Parcel" or "tract" means a continuous area or acreage of land which can be described as provided for in this act.
- (f) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
- (g) "Outlot", when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.
- (h) "Proprietor" means a natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land whether recorded or not.
- (i) "Governing body" means the legislative body of a city or village or the township board of a township.
- (j) "Municipality" means a township, city or village.
- (k) "County plat board" means the register of deeds, who shall act as chairman, the county clerk, who shall act as secretary, and the county treasurer. If the offices of county clerk and register of deeds have been combined, the chairman of the board of supervisors shall be a member of the plat board and shall act as chairman. In a county where a board of auditors is authorized by law such board may elect to serve on the county plat board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the state treasurer.
- (l) "Public utility" means all persons, firms, corporations, copartnerships or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.
- (m) "Caption" means the name by which the plat is legally and commonly known.
- (n) "Replat" means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.
- (o) "Surveyor" means either a land surveyor who is registered in this state as a registered land surveyor or a civil engineer who is registered in the state as a registered professional engineer.

(p) "Government survey" means the land surveyed, subdivided and monumented by the United States public land survey.

(q) "Michigan coordinate system" means the system defined in Act No. 9 of the Public Acts of 1964, being sections 54.231 to 54.239 of the Compiled Laws of 1948.

(r) "Alley" means a public or private right of way shown on a plat which provides secondary access to a lot, block or parcel of land.

(s) "Health department" means the state, city, county or district health department having jurisdiction.

(t) "Public sewer" means a sewerage system as defined in Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of the Compiled Laws of 1948.

(u) "Public water" means a water works system, as defined in Act No. 98 of the Public Acts of 1913, as amended.

(v) "Topographical map" means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

(w) "Flood plain" means that area of land adjoining the channel of a river, stream, water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

HISTORY: New 1967, p. 590, Act 288, Eff. Jan. 1, 1968.

560.103 Subdivisions of land; surveys and plats, requirement.

Sec. 103. (1) Any division of land which results in a subdivision as defined in section 102 shall be surveyed and a plat thereof submitted, approved and recorded as required by the provisions of this act.

(2) Plats of retracement or boundary surveys made by a department or agency of the United States or of state-owned lands made by a department or agency of the state for the retracement and division of public lands according to the survey instructions issued by the United States department of the interior may be recorded with the register of deeds of the county in which the lands represented on such plats are situated and need not comply with section 102 and this section, except that plat size shall be as provided in section 132.

(3) A survey and plat shall be made when any amendment, correction, alteration or revision of a recorded plat is ordered by a circuit court.

(4) Urban renewal plats authorized by the governing body of a municipality as provided in Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83 of the Compiled Laws of 1948, shall conform to this act.

HISTORY: New 1967, p. 591, Act 288, Eff. Jan. 1, 1968.

560.104 Replats; requirements; vacation of original plat.

Sec. 104. A replat of all or any part of a recorded subdivision plat may not be approved or recorded unless proper court action has been taken to vacate the original plat or the specific part thereof, with the following exceptions:

(a) When all the owners of lots which are to be part of the replat agree in writing thereto and record the agreement with the register of deeds, and proof that notice to the abutting property owners has been given by certified mail and the governing body of the municipality in which the land included in the recorded plat is situated, has adopted a resolution or other legislative enactment vacating all areas dedicated to public use within the proposed replat.

(b) Assessors plats made, approved and recorded as provided for in sections 201 to 213.

(c) Urban renewal plats authorized by the governing body of a municipality, as provided in Act No. 344 of the Public Acts of 1945, as amended. Roads, streets, alleys and other public places shall be vacated in accordance with the provisions of law.

HISTORY: New 1967, p. 591, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 588, Act 306, Imd. Eff. Aug. 14.

560.105 Preliminary and final plats; basis for approval.

Sec. 105. Approval of preliminary and final plats shall be conditioned upon compliance with:

- (a) The provisions of this act.
- (b) Any ordinance or published rules of a municipality or county adopted to carry out the provisions of this act.
- (c) Any published rules of a county drain commissioner, county road commission, or county plat board adopted to carry out the provisions of this act.
- (d) The rules of the department of state highways relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.
- (e) The rules of the department of the treasury adopted for the approval of plats, including forms, certificates of approval and other required certificates, captioning of plats and numbering of lots, as provided in this act, and as published in the state administrative code.
- (f) The rules of the water resources commission of the state department of conservation, adopted for the determination and establishment of floodplain areas of rivers, streams, creeks or lakes, as provided in this act, as published in the state administrative code.
- (g) The rules of the department of public health as published in the state administrative code relating to suitability of soils for subdivisions not served by public water and public sewers, the authority for which is granted by this act and the manner prescribed in section 7 of Act No. 146 of the Public Acts of 1919, as amended, being sections 325.1 to 325.14 of the Compiled Laws of 1948. The department of public health may authorize local city, county or district health departments to carry out the provisions of this act relating to suitability of soils for subdivisions not served by public water and public sewers. The department of public health may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of public health.

HISTORY: New 1967, p. 591, Act 288, Eff. Jan. 1, 1968.

560.106 Approving authorities; limitation on powers of approval or rejection.

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

HISTORY: New 1967, p. 592, Act 288, Eff. Jan. 1, 1968.

560.107 Preliminary plat; submission, discretion.

Sec. 107. (1) Nothing contained in this act shall prohibit a proprietor from submitting a prepreliminary plat to a governing body for the proprietors information and review.

(2) Nothing contained in this act shall allow a municipality, county, or state agency to require an approval of a preliminary plat or plan other than those provided for in sections 112 to 120.

HISTORY: Add. 1969, p. 588, Act 306, Imd. Eff. Aug. 14.

PRELIMINARY PLATS

560.111 Preliminary plat; specifications, requirements.

Sec. 111. (1) Before making or submitting a final plat for approval, the proprietor shall make a preliminary plat and submit copies to authorities as provided in sections 111 to 119. A preliminary plat shall show the name, location and position of the subdivision and the subdivision plan and layout in sufficient detail on a topographic map to enable a determination of whether the subdivision meets requirements for lots, streets, roads and highways including drainage and floodplains.

(2) The preliminary plat shall be drawn to a scale of not more than 200 feet to 1 inch and may be an original drawing or reproduction, on unbacked paper. It shall contain proper identification of the parcel of land to be divided, the name of the plat and proposed division of the land, the name and address of the proprietor and the name, address and seal of the surveyor who prepared it, all legibly printed or typewritten. Additional preliminary land development plans may be made by other qualified persons to assist approving authorities to visualize the type and scope of the development planned.

HISTORY: New 1967, p. 592, Act 288, Eff. Jan. 1, 1968.

560.112 Preliminary plat; tentative approval; time limit, extension.

Sec. 112. (1) The proprietor shall submit 4 but not more than 10 copies of the preliminary plat and other data to the clerk of the municipality.

(2) The governing body, within 90 days from the date of filing, shall tentatively approve and note its approval on the copy of the preliminary plat to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval.

(3) The governing body may require the submission of other related data as it deems necessary, if the requirement for such data has previously been adopted and published.

(4) Tentative approval under this section shall confer upon the proprietor for a period of 1 year from date, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the governing body in writing.

HISTORY: New 1967, p. 592, Act 288, Eff. Jan. 1, 1968.

560.113 Preliminary plat; county road commissioner's approval or rejection.

Sec. 113. (1) The proprietor shall submit 3 copies of the preliminary plat to the engineer or chairman of the county road commission if the proposed subdivision includes or abuts roads under the commission's jurisdiction.

(2) The county road commission may also require to be submitted with the preliminary plat a topographic map showing direction of drainage and proposed widths of roads under its jurisdiction or to come under its jurisdiction and private roads in unincorporated areas.

(3) The county road commission, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.

HISTORY: New 1967, p. 593, Act 288, Eff. Jan. 1, 1968.

560.114 Preliminary plat; county drain commissioner's approval or rejection.

Sec. 114. (1) The proprietor shall submit 3 copies of the preliminary plat to the county drain commissioner, if there is a county drain commissioner.

(2) The county drain commissioner or governing body, if there is no drain commissioner, may require a topographic map showing direction of storm water drainage both within the lands proposed to be subdivided and from the land as subdivided.

(3) The county drain commissioner or governing body, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.

HISTORY: New 1967, p. 583, Act 288, Eff. Jan. 1, 1968.

560.115 Preliminary plat; state highways department's approval or rejection.

Sec. 115. (1) The proprietor shall submit 3 copies of the preliminary plat to the department of state highways, if any of the proposed subdivision includes or abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right of way of state trunk line highways.

(2) The department of state highways, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.

HISTORY: New 1967, p. 583, Act 288, Eff. Jan. 1, 1968.

560.116 Preliminary plat; conservation department's approval or rejection.

Sec. 116. (1) The proprietor shall submit 2 copies of the preliminary plat to the conservation department for information purposes, if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.

(2) The department, within 30 days of receipt of the preliminary plat, shall place the proprietor, the governing body of the municipality and the county plat board on notice in writing if it approves or has any objections or may furnish such information to each as may be helpful or necessary in its opinion to adequately plan the development and secure approval of the final plat.

(3) Copies of such letters shall be sent to the state treasurer.

HISTORY: New 1967, p. 593, Act 288, Eff. Jan. 1, 1968.

560.117 Preliminary plat; water resources commission's approval or rejection.

Sec. 117. The proprietor shall submit 2 copies of the preliminary plat to the water resources commission of the department of conservation, if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek or lake. The commission, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given in writing to the proprietor. The determination of a floodplain area shall be based on rules specified in subdivision (f) of section 105.

HISTORY: New 1967, p. 594, Act 288, Eff. Jan. 1, 1968.

560.118 Preliminary plat; health department's approval or rejection.

Sec. 118. (1) The proprietor shall submit 3 copies of the preliminary plat to the health department having jurisdiction, if public water and public sewers are not available and accessible to the land proposed to be subdivided.

(2) The health department, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor or reject all or such portion of the proposed subdivision that is not suitable. If rejected, it shall give its reasons for rejection and requirements for approval to the proprietor and governing body in writing.

HISTORY: New 1967, p. 594, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 589, Act 306, Imd. Eff. Aug. 14.

560.119 Preliminary plat; submission to county plat board and public utilities.

Sec. 119. The proprietor shall submit 2 copies of the preliminary plat to the county plat board and to the public utilities serving the area for informational purposes.

HISTORY: New 1967, p. 594, Act 288, Eff. Jan. 1, 1968.

560.120 Final approval; proprietor's rights; procedure.

Sec. 120. (1) Final approval of the preliminary plat approval under this section shall confer upon the proprietor for a period of 2 years from date of approval, the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The 2-year period may be extended if applied for by the proprietor and granted by the governing body in writing. Written notice of the extension shall be sent by the governing body to the other approving authorities. The proprietor shall:

(a) Submit a preliminary plat to all authorities as required by sections 112 to 119.

(b) Submit a list of all such authorities to the clerk of the governing body of the municipality, certifying that the list shows all authorities as required by sections 112 to 119.

(c) Submit all approved copies to the clerk of the governing body, after all necessary approvals have been secured.

(2) The governing body of the municipality, after receipt of the necessary approved copies of the preliminary plat, shall:

(a) Consider and review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat.

(b) Instruct the clerk to promptly notify the proprietor of approval or rejection in writing, and if rejected to give the reasons.

(c) Instruct the clerk to note all proceedings in the minutes of the meeting which minutes shall be open for inspection.

HISTORY: New 1967, p. 594, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 589, Act 306, Imd. Eff. Aug. 14.

SURVEYS

560.125 Survey requirements; monuments.

Sec. 125. (1) For every subdivision of land there shall be a survey complying with the requirements of this section and section 126.

(2) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(3) All monuments used shall be made of solid iron or steel bars at least 1/2 inch in diameter and 36 inches long and completely encased in concrete at least 4 inches in diameter.

(4) Monuments shall be located in the ground at all angles in the boundaries of the subdivision; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the plat and at the intersection of alleys with the boundaries of the subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(5) If the required location of monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.

(6) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2 inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches.

(7) All required monuments shall be placed flush with the ground where practicable.

(8) All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2 inch in diameter, or other approved markers.

(9) The governing body of the municipality may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the clerk of the municipality cash or a certified check, or irrevocable bank letter of credit running to the municipality, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total, except that lot corner markers shall be at the rate of not less than \$10.00 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults the governing body shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

HISTORY: New 1967, p. 594, Act 288, Eff. Jan. 1, 1968.

560.126 Survey accuracy.

Sec. 126. (1) The survey of all subdivisions shall be performed by a surveyor.

(2) The relative error of closure of the surveyed land shall be less than the ratio of 1 part in 5,000.

(3) Bearings shall be expressed in relation to the true meridian, or a previously established meridian or bearing and a statement by the surveyor on the plat stating the source of information in obtaining the bearings outlined.

HISTORY: New 1967, p. 595, Act 288, Eff. Jan. 1, 1968.

FINAL PLATS

560.131 General survey requirements; date of expiration of approval.

Sec. 131. (1) Following final approval of the preliminary plat by the governing body, the proprietor shall cause a survey and 5 true plats thereof to be made by a surveyor.

(2) All approvals made on the preliminary plat shall expire as provided in section 120.

(3) A final plat shall not be accepted after the date of expiration of the preliminary plat approval.

(4) A final plat received by the state treasurer more than 1 year following the date of approval of the city or county treasurer shall be returned to the treasurer who shall make a new certificate currently dated, relative to paid or unpaid taxes, special assessments and tax liens or titles.

(5) All final plats of subdivided land shall comply with the provisions of sections 131 to 151.

HISTORY: New 1967, p. 595, Act 288, Eff. Jan. 1, 1968.

560.132 Plats; specifications.

Sec. 132. All plats shall be legibly prepared according to the following general requirements:

(a) On 1 or more sheets, 18 inches wide by 24 inches long in size, leaving a 1 ½ inch binding margin and a 1/2 inch margin on all other sides.

(b) Of an approved material, according to published specifications of the department of the treasury.

(c) Drawn or printed with nonfading black ink true to an adequate and plainly readable scale of not more than 100 feet to an inch.

(d) The name of the plat shall not duplicate the name of any plat previously recorded in the same county unless it is an addition contiguous to the same, or which is a part of the same previously approved preliminary plat under section 120. The first subdivision bearing the name may be designated as number 1, and all additions to it shall be consecutively numbered, beginning with number 2.

(e) Lots shall be numbered consecutively beginning with lot number 1 in the first subdivision bearing the name and continuing in consecutive order throughout the several additions.

(f) A north point shall be properly located thereon.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 589, Act 308, Imd. Eff. Aug. 14.

560.133 Final plat; caption.

Sec. 133. The caption of the final plat shall be printed at the top of the plat in large, bold letters, and shall include:

(a) Name of the plat.

(b) Part of section, number of section, town and range, municipality and county.

(c) If a private claim, the number of the claim and the municipality in which the land is situated.

(d) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and municipality in which the land is situated.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968.

560.134 Final plat; description of land.

Sec. 134. There shall be typewritten or printed on the final plat, a full and detailed description of the land embraced in the subdivision by distances and bearings. The description shall also include:

(a) The caption of the plat.

(b) If a private claim, the number of the claim and the municipality in which the land is situated.

(c) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and the municipality in which it is situated.

(d) The name of the original plat and any part of it replatted.

- (e) A description by distances and bearings of each excepted parcel.
- (f) The number of lots, the number of outlots and the number of private parks.
- (g) The intermediate traverse line, if one is required on the plat.
- (h) The area within the existing right of way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968.

560.135 Map and engineering requirements.

Sec. 135. The map of the subdivision, as drawn on the final plat shall comply with sections 135 to 141. It shall contain sufficient information to completely define, for the purpose of a resurvey, the location of any boundary, corner or angle point within the plat. All land lying within the boundaries of the plat shall be shown thereon in such a manner that title to the area may be clearly established as to whether dedicated to public use or reserved to private use.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968.

560.136 Final plat; exterior boundaries; requirements, specifications.

Sec. 136. The exterior boundaries of the subdivision as drawn on the plat shall include and correctly show:

- (a) The land surveyed and divided, with reference to a corner or corners established in the government survey and indicated by distances and bearings. The Michigan co-ordinate system may also be used for referencing such government survey points.
- (b) The exact length and bearings thereof.
- (c) Where the exterior boundary lines show bearings and distances which vary from those recorded in abutting plats the following note shall be placed along such lines, "recorded as (show recorded bearing or distance or both)".
- (d) The area within the existing right of way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land.
- (e) When the subdivision is bounded by an irregular shoreline of a body of water, the bearings and distances of a closing intermediate traverse, extending across the plat so that it intersects the sidelines of the shore lots; the dimensions of the sidelines of the shore lots from the street line to the traverse line, and the distance from the traverse line to the water's edge as found at the time of the survey; distances along the traverse line between its intersections with the sidelines of the lots; the location of monuments at all angle points of the intermediate traverse. All lots extending to the water's edge shall be noted accordingly on the plat. If the proprietor intends to retain possession of the area between the intermediate traverse and the water's edge, a statement to that effect shall be noted on the plat.
- (f) The location of all boundary monuments established in the field in their proper places.
- (g) When any part of the land being subdivided is not included in the government survey, boundaries shall be indicated by distances and bearings and related to a government survey corner or if in a private claim, to a private claim corner.

HISTORY: New 1967, p. 597, Act 288, Eff. Jan. 1, 1968.

560.137 Final plat; public and private grounds, streets, roads and alleys.

Sec. 137. All public or private grounds, streets, roads and alleys included in the plat shall be shown as follows:

- (a) All public or private commons, parks and other grounds except streets and alleys, by their boundaries, bearings and distances and names.

- (b) All streets and roads by their bearings, widths and names.
- (c) All streets, roads or alleys not dedicated to public use shall be marked "private" and named.
- (d) All curved portions of streets, roads or alleys shall be defined by curve data including points of curvature, points of tangency, points of compound curvature, radii of curves, central angles and the length and bearing of its long chord.
- (e) Curve data may be shown by a curve data chart or table.

HISTORY: New 1967, p. 597, Act 288, Eff. Jan. 1, 1968.

560.138 Final plat; flood plains.

Sec. 138. When any part of a subdivision lies within or abuts a floodplain area, the plat shall include and show the following:

- (a) The floodplain shall be shown within a contour line, established by the water resources commission, department of conservation.
- (b) The contour line shall intersect the side lines of the lots.
- (c) The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.
- (d) The floodplain area shall be clearly labeled on the plat with the words "floodplain area".

HISTORY: New 1967, p. 597, Act 288, Eff. Jan. 1, 1968.

560.139 Public utilities; easements.

Sec. 139. All public utility easements included in the plat shall be shown as follows:

- (a) By their widths and relationship to the lot or street lines.
- (b) As at least 12 feet wide where the rear lines of lots are contiguous.
- (c) As at least 6 feet wide if a lot has no adjoining subdivisions.

HISTORY: New 1967, p. 598, Act 288, Eff. Jan. 1, 1968.

560.140 Lots and outlots; description.

Sec. 140. All lots and outlots included in the plat shall be shown as follows:

- (a) All lots numbered consecutively.
- (b) All outlots lettered in alphabetical order.
- (c) The length and bearing of each side lot line.
- (d) The bearing of each front and rear lot line, except as otherwise provided in this section.
- (e) A note showing the front line of any lot fronting on 2 or more streets or a body of water except for lots served by public sewers and public water or available and accessible thereto.
- (f) The bearings and depths at each end of a tier of lots comprised of rectangles or parallelograms.
- (g) The width of lots at each end of a series of lots when the front and back lines are parallel. The intermediate lots may be marked with dittos.
- (h) The distance at the time of the survey from the traverse line to the water's edge.
- (i) All curved boundaries shall be shown by curve data as required for public grounds, streets, roads and alleys in section 137.
- (j) If a replat, outlines, numbers and other identification of lots of the previous survey shall be shown by dashed lines, figures or letters.

HISTORY: New 1967, p. 598, Act 288, Eff. Jan. 1, 1968.

560.141 Improvements.

Sec. 141. When the plat includes or abuts certain improvements other than streets, alleys, roads or highways, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public

waters, the included or abutting portions of such proposed improvement shall be shown on the plat.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968.

560.142 Certificate required for recording.

Sec. 142. To entitle a final plat to be recorded, the following certificates, in the form prescribed by the state treasurer, lettered or printed legibly with black, durable ink or typed legibly with black ribbon shall appear on it and the certificates shall contain the statements and information and shall be signed and dated as prescribed in sections 141 to 150:

- (a) A surveyor's certificate of compliance with the statute.
- (b) A certificate of the proprietor submitting the plat.
- (c) A certificate of taxes by the treasurer of the county in which the plat is situated, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.
- (d) A certificate of taxes signed by the treasurer of the municipality in which the plat is located if the municipality does not return delinquent taxes to the state treasurer, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.
- (e) A certificate of approval of the county drain commissioner, if there is a county drain commissioner.
- (f) A certificate of approval of the board of county road commissioners, if public streets and roads shown on the plat are under its jurisdiction or to come under its jurisdiction and if any private streets or roads shown on the plat are in an unincorporated area.
- (g) A certificate of approval of the governing body of the municipality. The certificate of the governing body of the municipality may not be placed on the plat unless the proprietor has deposited with the clerk both the filing and recording fee required by section 241 and the fee permitted by section 246 by the municipality for review and approval of a plat.
- (h) A certificate of approval of the county plat board. The certificate may not be placed on the plat unless the filing and recording fee required by section 241 has been received by the clerk of the county plat board.
- (i) A certificate of approval of the state highway commission when the subdivision includes or abuts state trunk line highways.
- (j) A certificate of approval of the state treasurer. The certificate of the state treasurer may not be placed on the plat unless the portion of the filing and recording fee due the state as provided by section 241 has been received by him.

HISTORY: New 1967, p. 596, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 590, Act 306, Imd. Eff. Aug. 14.

560.143 Surveyor's certificate.

Sec. 143. The certificate of the surveyor who surveyed, divided and mapped the land; and if a firm of surveyors also by a partner or principal officer, shall give the following information, which shall have the same force and effect as an affidavit:

- (a) By whose direction he made the survey, subdivision and plat of the land described on the plat.
- (b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and the subdivision of it.
- (c) A statement that he has prepared the description of the land shown on the plat and that he certifies to its correctness.
- (d) A statement that he has caused all of the monuments shown on the plat to be located in the ground, or that the required cash, certified check or irrevocable bank letter of credit has been deposited with the clerk of the municipality by the proprietor.

(e) A statement that the accuracy and closure of survey are within the limits required by section 126.

(f) A statement that the bearings shown on the plat are expressed as required by section 126.

HISTORY: New 1967, p. 599, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 590, Act 308, Imd. Eff. Aug. 14.

560.144 Proprietor's certificate.

Sec. 144. (1) The proprietor's certificate on the plat shall include the following:

(a) The caption of the plat.

(b) A statement that the proprietor has caused the land described on the plat to be surveyed, divided, monumented, mapped and dedicated as shown on the plat.

(c) A statement that the streets, alleys, parks and other places shown on it which are usually public are dedicated to the use of the public.

(d) A statement that all public utility easements are private easements and that all other easements are reserved to the uses shown on the plat.

(e) The name of each street, park or other place which is usually public and which is intended to be reserved to other than public use, and the character and purpose of such use.

(f) That the plat includes all land to the water's edge.

(2) The proprietor's certificate shall be signed by the following, each signature shall be witnessed by 2 persons, and the signatures shall be acknowledged as deeds conveying lands are required to be witnessed and acknowledged:

(a) All persons holding the title by deed of the lands.

(b) All persons holding any other title of record.

(c) All persons holding title as mortgagee or vendee under land contract, or who are in possession but shall not include renters.

(d) The wives of persons named in subdivisions (a), (b) and (c).

HISTORY: New 1967, p. 599, Act 288, Eff. Jan. 1, 1968.

560.145 County treasurer's certificate.

Sec. 145. (1) A certificate shall be signed and dated by the county treasurer relative to paid or unpaid taxes, special assessments and tax liens or titles, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.

(2) The certificate shall be signed and dated by the treasurer of the municipality, if the municipality does not return delinquent taxes to the state treasurer, as required by section 135 of Act No. 206 of the Public Acts of 1893, as amended.

HISTORY: New 1967, p. 599, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 590, Act 308, Imd. Eff. Aug. 14.

560.146 County drain commissioner's certificate.

Sec. 146. A certificate shall be signed and dated by the drain commissioner or where there is no drain commissioner, the body having jurisdiction, signifying that the provisions of section 192 have been met and that the plat meets his approval.

HISTORY: New 1967, p. 600, Act 288, Eff. Jan. 1, 1968.

560.147 County road commissioner's certificate.

Sec. 147. (1) A certificate shall be signed by the majority of the board of county road commissioners.

(2) The certificate shall show the date on which the board met and approved the plat and the date the certificate was placed on the plat.

(3) The certificate shall signify that:

(a) The plat has been reviewed and conforms to the requirements of this act and the board's published rules and regulations relative to streets, alleys, roads and highways under its jurisdiction.

(b) The plat has the board's approval.

HISTORY: New 1967, p. 600, Act 288, Eff. Jan. 1, 1968.

560.148 Municipality governing board's certificate.

Sec. 148. (1) A certificate shall be signed by the clerk of the governing body of the municipality signifying the approval of the plat by the governing body which shall show the date of the meeting at which the approval was made and the date the certificate was signed by the clerk.

(2) The certificate shall include a statement that the plat was reviewed by the governing body or that the review was made in part by persons authorized by the governing body and that the plat is in conformance with all applicable provisions of the act.

(3) If a copy of the preliminary plat was required to be approved by the health department, a statement to the effect that such approval was made and the name of the health department and the date of its approval shall be included.

(4) If the minimum lot width and area prescribed in this act has been waived and the subdivision is served by public sewers and public water or is accessible thereto, the certificate shall so state and shall also state that the municipality has legally adopted zoning and subdivision control ordinances which specify lot widths and areas.

(5) If there is no county drain commissioner, a statement that the plat is in compliance with the provisions of section 192.

HISTORY: New 1967, p. 600, Act 288, Eff. Jan. 1, 1968.

560.149 County plat board's certificate.

Sec. 149. (1) A certificate shall be signed and dated by the majority of the county plat board, signifying its approval of the plat.

(2) The certificate shall include a statement that the plat was reviewed for conformance to all applicable provisions of this act by the county plat board, by the county plat engineer, or both.

HISTORY: New 1967, p. 600, Act 288, Eff. Jan. 1, 1968.

560.150 State highway commission's certificate.

Sec. 150. (1) A certificate shall be signed and dated by the state highway commission or by an official of the department of state highways, authorized by the commission to certify its approval on plats.

(2) The certificate shall signify that:

(a) The plat has been reviewed and conforms to the requirements of this act and the commission's published rules and regulations relative to streets, roads and highways under its jurisdiction.

(b) The plat has the commission's approval.

HISTORY: New 1967, p. 600, Act 288, Eff. Jan. 1, 1968.

560.151 State treasurer's certificate.

Sec. 151. (1) A certificate shall be signed and dated by the state treasurer, or may be signed and dated for him by an officer of the department of treasury, if authorized by the state treasurer.

(2) The certificate shall signify that:

(a) The plat conforms, in his opinion, to all of the requirements of this act and to the published rules and regulations of the department of treasury, relative to plats.

(b) The plat has the state treasurer's approval.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.161 Approval; general requirements.

Sec. 161. The final plat shall be submitted in accordance with the procedure prescribed in sections 162 to 173.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.162 Drain commissioner; number of copies.

Sec. 162. The proprietor shall submit 5 true copies of the final plat to the drain commissioner, if his approval was required on the preliminary plat, or 6 true copies if the proprietor requests an additional copy to be returned to him.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.163 Drain commissioner; approval procedure.

Sec. 163. Within 10 days, the drain commissioner shall:

- (a) Certify his approval on all copies of the plat and return it to the proprietor; or
- (b) Reject the plat, give his reasons in writing, and return it to the proprietor.
- (c) Send a copy of the letter of rejection to the clerk of the governing body.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.164 Board of county road commissioners; submission of plat.

Sec. 164. When the plat has been approved by the drain commissioner, the proprietor shall submit all copies of the plat to the board of county road commissioners, when their approval was required on the preliminary plat.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.165 Board of county road commissioners; approval procedure.

Sec. 165. Within 15 days, a majority of the board of county road commissioners shall:

- (a) Certify their approval on all copies of the plat and return it to the proprietor; or
- (b) Reject the plat, give their reasons in writing, and return it to the proprietor.
- (c) Send a copy of the letter of rejection to the clerk of the governing body.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.166 Municipality governing body; submission of plat.

Sec. 166. When the plat has been approved by the drain commissioner and the county road commissioners, the proprietor shall submit all copies of the plat to the clerk of the governing body of the municipality, together with the filing fee required by section 241.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.167 Municipality governing body; approval procedure.

Sec. 167. At its next regular meeting, or at a meeting called within 20 days of the date of submission, the governing body shall:

(a) Approve the plat if it conforms to all of the provisions of this act and instruct the clerk to certify on the plat to the governing body's approval, showing the date of the governing body's approval, the approval of the health department, when required and the date thereof as shown on the approved preliminary plat; or

(b) Reject the plat, instruct the clerk to give the reasons in writing as set forth in the minutes of the meeting, and return the plat to the proprietor.

(c) Instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.168 Transmission to county plat board; procedure of board.

Sec. 168. (1) When approved by the governing body, the clerk shall promptly forward all copies of the plat to the clerk of the county plat board, together with the filing and recording fee.

(2) Within 15 days of the date of receipt of the plat, a majority of the county plat board shall:

(a) Review the plat for conformance to all provisions of the act and certify their approval on all copies; or

(b) Reject the plat and notify the proprietor of the reasons in writing when returning the plat, also sending a copy of the letter to the clerk of the governing body.

HISTORY: New 1967, p. 601, Act 288, Eff. Jan. 1, 1968.

560.169 Transmission to state treasurer; fee.

Sec. 169. When approved by a majority of the county plat board, the clerk of the board shall secure a warrant from the county treasurer for 1/2 the filing and recording fee required by section 241 and forward it with all copies of the plat to the state treasurer.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.170 State treasurer; procedure upon receipt of plat.

Sec. 170. (1) Within 15 days after receipt of the plat from the county plat board, the state treasurer shall promptly forward the plat to the state highway commission, if the plat includes or abuts a state trunk line highway.

(2) Within 10 days of receipt of the plat the state highway commission shall:

(a) Certify its approval on the plat and return it to the state treasurer; or

(b) Reject the plat and notify the proprietor directly, giving the reasons in writing, returning the plat to the state treasurer with a copy of the letter of rejection.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.171 State treasurer; plat approval or rejection; recording.

Sec. 171. Within 15 days after receipt of the plat, or within 25 days if the plat requires the approval of the state highway commission, the state treasurer shall:

(a) Review the plat and when it conforms to all of the provisions of this act, he shall approve it and send 1 copy of the plat to the register of deeds for recording; or

(b) Reject the plat and notify the proprietor in writing of the reasons.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.172 Register of deeds; recordings; notice to state treasurer.

Sec. 172. Upon receipt of the plat from the state treasurer the register of deeds shall:

(a) Certify on the plat the time of recording and the book and page where recorded. He shall not accept a plat for recording unless it is sent to him by the state treasurer and bears his certificate of approval.

(b) Note on the record the time when made.

(c) Record the book and page number of any building restrictions noted on or filed with the plat.

(d) Certify and promptly forward to the state treasurer on a form specified by him that the plat has been recorded.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.173 State treasurer; procedure following notice of recording.

Sec. 173. When notification of recording of 1 copy of plat has been received by the state treasurer, he shall:

(a) Transcribe the certificate of recording on all other copies.

(b) Retain 1 copy for his files.

(c) Mail 1 copy of the plat to the county treasurer, 1 copy to the clerk of the municipality in which the plat is located, 1 copy to the county road commission or the city

planning commission, and 1 copy to the proprietor if he has submitted an extra copy for certification and mailing.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.181 Final plat; streets, alleys, roads and highways; general requirements.

Sec. 181. All streets, alleys, roads and highways shown, or required to be shown on a plat shall comply with the requirements of sections 181 to 185 as a condition of approval of the final plat.

HISTORY: New 1967, p. 602, Act 288, Eff. Jan. 1, 1968.

560.182 Final plat; streets, alleys and roads; municipal requirements.

Sec. 182. (1) The governing body of a municipality in which the subdivision is situated may require the following as a condition of approval of final plat, for all public and private streets, alleys and roads in its jurisdiction:

(a) Conformance to the general plan, width and location requirements that it may have adopted and published, and greater width than shown on a county or state plan, but may not require conformance to a municipal plan that conflicts with a general plan adopted by the county or state for the location and width of certain streets, roads and highways.

(b) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.

(c) Installation of bridges and culverts where it deems necessary.

(d) Submission of complete plans for grading, drainage and construction to be prepared and sealed by a civil engineer registered in the state.

(e) Completion of all required improvements relative to streets, alleys and roads or a deposit by the proprietor with the clerk of the municipality in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the governing body, in an amount sufficient to insure completion within the time specified.

(2) As a condition of approval of the plat, the governing body may require a deposit to be made in the same manner as provided in subdivision (e) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.

(3) The governing body shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(4) The governing body shall:

(a) Reject a plat which is isolated from or which isolates other lands from existing public streets, unless suitable access is provided.

(b) Reject a plat showing a street or road name duplicating one already in use in the municipality, except in continuing a street or road.

(c) Reject a plat showing the name of a new street, alley or road that is so similar to the one already in existence in the municipality that permitting such use in the subdivision may be confusing for purposes of assessing, mail delivery and locating by the public.

HISTORY: New 1967, p. 603, Act 288, Eff. Jan. 1, 1968.

560.183 Final plat; highways, streets and roads; county road commission requirements.

Sec. 183. (1) The county road commission may require the following as a condition of approval of final plat for all highways, streets and alleys in its jurisdiction or to come under its jurisdiction and also for all private roads in unincorporated areas:

(a) Conformance to the general plan, width and location requirements that the board may have adopted and published.

(b) Adequate provision for traffic safety in laying out drives which enter county roads and streets, as provided in the board's current published construction standards.

(c) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.

(d) Submission of complete plans for grading, drainage and construction, to be prepared and sealed by a civil engineer registered in the state.

(e) Installation of bridges, culverts and drainage structures where it deems necessary.

(f) Completion of all required improvements relative to streets, alleys and roads, or a deposit by the proprietor with the board in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the board, in an amount sufficient to insure completion within the time specified.

(2) As a condition of approval of the final plat, the board may require a deposit to be made in the same manner as provided in subdivision (f) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.

(3) The board shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(4) The board shall reject a final plat isolating lands from existing public streets or roads, unless suitable access is provided, and shall also require that such access be granted by easement or dedicated to public use.

HISTORY: New 1967, p. 603, Act 288, Eff. Jan. 1, 1968.

560.184 State highways; dedication; other highways and streets.

Sec. 184. (1) The department of state highways may require, where a plat abuts a state trunk line highway, if the existing right of way was not previously dedicated to public use or acquired in fee simple, that there be included within the plat boundary and description the area within the existing right of way and that such area be dedicated to public use if it is the proprietor's land. The department of state highways may also require the following as a condition of approval for highways and streets shown on the final plat:

(a) Conformance in width and location to the plan on file at its main and district offices for state trunk line highways.

(b) Adequate provision for traffic safety in laying out roads, streets and alleys which enter state trunk line highways, as provided in the department's then currently published standards and specifications.

(c) That those portions of connecting streets and roads within state trunk line highway right of way be graded and surfaced in accordance with the department's then currently published standards and specifications.

(d) Completion of all required improvements, or a deposit by the proprietor with the department in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the department, in an amount sufficient to insure completion of all required improvements within the time specified.

(2) Following approval of the final plat, the department may require a deposit to be made in the same manner as provided in subdivision (d) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements. If a cash deposit is required, the department shall rebate to the proprietor, as

the work progresses, an amount of cash equal to the ratio of the work completed to the entire project.

HISTORY: New 1967, p. 604, Act 288, Eff. Jan. 1, 1968.

560.186 Final plat; lots and outlots; numbering and specifications.

Sec. 186. As a condition of approval of the final plat, the following shall apply to all lots and outlots subdivided as defined in section 102:

(a) Lots shall be numbered consecutively. If more than 1 subdivision is intended to be known by the same name or caption, the lots in those subdivisions shall be numbered consecutively throughout the several subdivisions bearing the same name.

(b) No residential lot shall be less than 65 feet wide at the distance of 25 feet from its front line. If a lot diminishes in width from front to rear, it shall be no less than 65 feet wide at a distance of 50 feet from its front line.

(c) No residential lot shall have an area of less than 12,000 square feet.

(d) Minimum width and area requirements for residential lots as set forth in this act may be waived in any subdivision where connection to a public water and a public sewer system is available and accessible or where the proprietor before approval of the plat has posted security with the clerk of the municipality as provided in section 182, and where the municipality in which the subdivision is proposed has legally adopted zoning and subdivision control ordinances which include minimum lot width and lot area provisions for residential buildings.

(e) The governing body may require that any outlots designated on the plat be of such size, extent and in such location as will not impair the intent of this act or of any adopted and published applicable municipal rules, regulations or policies for land development.

(f) Each lot and outlot shown on a plat shall have direct access to a street or road or assured permanent access is provided for in accordance with a local subdivision control ordinance or a zoning ordinance with subdivision control provisions.

HISTORY: New 1967, p. 604, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 591, Act 306, Imd. Eff. Aug. 14.

560.188 Improvements.

Sec. 188. (1) If the subdivision includes or abuts certain improvements other than streets and alleys, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters and such improvements are not in existence at the time of consideration by the governing body of the municipality, it may require, as a condition of approval of the final plat, the proprietor to enter into an agreement to construct such improvements within a reasonable time.

(2) The governing body may require a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or surety bond acceptable to the municipality, covering the estimated cost of construction, to be deposited with the clerk of the municipality to insure the faithful performance of the agreement. Outlots or parks used as buffer strips, if between the boundary of the subdivision and such improvements, shall not alter the requirements of this section.

(3) Any municipality may provide by ordinance for the installation of other improvements in addition to those required by this act. The governing body of the municipality, as a condition of approval of the plat, may require the proprietor to enter into an agreement, as provided in this section.

HISTORY: New 1967, p. 605, Act 288, Eff. Jan. 1, 1968.

560.190 Public utility easements.

Sec. 190. The proprietor shall provide public utility easements in accordance with the provisions of section 139. The following shall apply to all public utility easements included in a subdivision:

(a) Easements intended for use of public utilities shall not be deemed to be dedicated to the public but shall be private easements for public utilities and shall be equitably shared among such utilities.

(b) The public utilities first using an easement shall be reimbursed by later users for all rearrangement or relocation costs.

(c) Permanent structures may not be erected within easement limits by the owner of the fee but he shall have the right to make any other use of the land not inconsistent with the rights of public utilities, or the other uses as noted on the plat.

(d) The public utilities shall have the right to trim or remove trees that interfere with their use of easements.

(e) Nothing in this act shall be construed to limit any regulatory powers possessed by municipalities with respect to public utilities.

HISTORY: New 1967, p. 605, Act 288, Eff. Jan. 1, 1968.

560.192 Storm water drainage.

Sec. 192. The county drain commissioner or the governing body of the municipality in which the subdivision is situated, whichever has jurisdiction, shall require the following as a condition of approval of the final plat:

(a) That the proprietor provide for adequate storm water facilities within the lands proposed for platting and outlets thereto.

(b) If adequate storm water facilities within the land proposed for platting are not installed before approval of the final plat, the proprietor shall enter into an agreement with the governing body or county drain commissioner and shall post a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or a surety bond acceptable to the approving authority, in an amount sufficient for the faithful performance of the agreement. A rebate shall be made to the proprietor, as the work progresses, of amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(c) The county drain commissioner, or where there is no drain commissioner the body having jurisdiction may require the proprietor to establish a county drainage district according to the procedure provided in Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948, if deemed necessary to insure adequate maintenance of storm water outlet facilities.

HISTORY: New 1967, p. 605, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 591, Act 308, Imd. Eff. Aug. 14.

560.194 Flood plains; prohibit occupancy; alterations.

Sec. 194. If any part of a proposed subdivision lies within the floodplain of a river, stream, creek or lake, approval of the final plat shall be conditioned on the following:

(a) No buildings for residential purposes and occupancy shall be located on any portion of a lot lying within a floodplain, unless approved in accordance with the rules of the water resources commission of the department of conservation.

(b) Restrictive deed covenants shall be filed and recorded with the final plat that the floodplain area will be left essentially in its natural state.

(c) The natural floodplain may be altered if its original discharge capacity is preserved and the stream flow is not revised so as to affect the riparian rights of other owners.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968.

560.196 Subdivision names; consecutive numbering of additions.

Sec. 196. The following shall apply to all subdivisions as a condition of approval:

(a) The name of a subdivision as included in the caption of the plat shall not use the name of a previously recorded subdivision within the same county unless it is an addition thereto.

(b) The first subdivision bearing the name may be numbered 1 and all additions shall be numbered consecutively beginning with number 2.

(c) A plat duplicating the name of any existing subdivision within the same county shall be rejected by the governing body or county plat board.

(d) The governing body or county plat board may also reject plats submitted with subdivision names so closely approximating previously recorded plats that such use might easily lead to misunderstanding or confusion for purposes such as assessment and description of land.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 591, Act 306, Imd. Eff. Aug. 14.

560.198 Correction of errors; surveyor's affidavit.

Sec. 198. Subject to review and approval at a meeting of the county plat board of the county in which the subdivision is located, an affidavit by the surveyor who certified the plat may be recorded in the office of the register of deeds in which the plat is recorded but only for the purpose of correcting minor and typographical errors in distances, angles, directions, bearings, chords, lot numbers, street numbers or other details shown on a recorded plat as follows:

(a) The affidavit shall explain the purpose, exact nature, and details of the correction.

(b) If the county plat board rejects the request for recording of the affidavit, it shall give its reasons in writing.

(c) The register of deeds, after approval of the county plat board, shall note on the plat a reference to the book and page in which the affidavit is recorded and shall send a certified copy to the state treasurer, who shall note or reference it on his copy of the plat. The state treasurer shall send copies to all agencies which received a copy of the plat.

(d) A recorded affidavit, or a certified copy thereof, shall be prima facie evidence of the facts therein stated.

(e) Affidavits of correction may not be used to change the boundaries or shape of lots, outlots or parcels of land in a subdivision.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968.

ASSESSOR'S PLATS

560.201 Assessor's plats; requirements.

Sec. 201. (1) An assessor's plat shall comply with sections 201 to 213 and may be ordered if the following conditions exist:

(a) When a parcel or tract of land is owned by 2 or more persons.

(b) When the description of 1 or more of the different parcels within the area cannot be made sufficiently certain and accurate for the purposes of assessment and taxation without a survey or resurvey.

(2) The governing body of a municipality by adoption of a resolution may cause a plat to be made for such purposes after a report from the assessor or supervisor bringing to their attention an area of land in which the stated conditions exist. It shall in-

clude in the resolution the estimated cost assessable to each parcel of land to be included in the plat for the purpose of immediate assessment, subject to final adjustment in accordance with section 203.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968.

560.202 Name and boundary description; plat made by surveyor.

Sec. 202. (1) The plat shall be called an assessor's plat and given a name. It shall plainly define the boundary of each parcel, each street, alley or road and dedication to public or private use, as such, shall be evidenced by the records of the register of deeds.

(2) The plat shall be made by a surveyor.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968.

560.203 Assessment of costs.

Sec. 203. The actual and necessary costs and expenses of making assessor's plats shall be paid out of the general fund of the city, incorporated village or township whose governing body ordered the plat. All of the cost shall be charged to the land so platted. Half of the total cost shall be based on the proportion that the area of each parcel bears to the total area of the plat and half shall be charged equally to each parcel included in the assessor's plat, as a special assessment on such land, in the manner provided in Act No. 67 of the Public Acts of 1961, being sections 41.921 to 41.925 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 592, Act 306, Imd. Eff. Aug. 14.

560.204 Survey requirements; setting of monuments.

Sec. 204. (1) The surveyor making the plat shall survey and lay out the boundaries of each parcel, street, alley or road and dedication to public or private use, according to the records of the register of deeds and whatever other evidence that may be available to show the intent of the buyer and seller, in the chronological order of their conveyance or dedication.

(2) The surveyor shall also:

(a) Set temporary monuments to show the results of the survey.

(b) Make a map of the proposed plat to the scale of not more than 100 feet to 1 inch.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968.

560.205 Notice to proprietors.

Sec. 205. The proprietors of record of lands in the plat shall be notified by registered mail to their last known address, in order that they shall have opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968.

560.206 Reconciliation of boundaries within plat.

Sec. 206. (1) The surveyor making the plat shall reconcile any discrepancies that may be revealed, so that the plat as certified to the governing body shall be in conformity with the records of the register of deeds as nearly as is practicable.

(2) When boundary lines between adjacent parcels, as evidenced on the ground, are mutually agreed to in writing by the proprietors of record or in possession, such lines may be the true boundaries for all purposes thereafter, even though they vary from the metes and bounds descriptions previously of record. The written agreements shall be recorded in the office of the register of deeds.

(3) When reconciliation has been completed, the temporary monuments shall be replaced with permanent monuments meeting the specifications and provisions of this act for monuments.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968.

560.207 Boundaries and numbering of lots within plat.

Sec. 207. (1) On every assessor's plat, as certified to the governing body, shall appear the bearings and distances of lines of each parcel recorded in the office of the register of deeds, and each lot shall also be numbered as provided in this act for final plats.

(2) The provisions of this act as to surveys and monuments and as to form and procedure, insofar as they are applicable to the purposes of assessor's plats shall apply.

HISTORY: New 1967, p. 607, Act 288, Eff. Jan. 1, 1968.

560.208 Surveyor's certificate.

Sec. 208. The sworn certificate of the surveyor who made the plat and, if a firm of surveyors also by a partner or principal officer, shall appear on the plat and shall state the following:

(a) The name of the governing body by whose order the plat was made, and the date of the order.

(b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel or lot thereof.

(c) A statement that he has fully complied with the provisions of this act in filing the plat.

HISTORY: New 1967, p. 608, Act 288, Eff. Jan. 1, 1968.

560.209 Filing; county road commission approval; publication; action to correct plat.

Sec. 209. (1) When completed, the assessor's plat shall be filed with the clerk of the governing body that ordered the plat. In unincorporated areas, the certificate of the county road commission shall first be secured, stating that the public roads shown on the plat were in existence at the time the plat was made.

(2) The clerk shall promptly give notice thereof by publication for 3 successive weeks in a newspaper of general circulation in the city, village, township or county, or if there is none, in a newspaper published in the adjoining county and having general circulation in the locality where the plat is situated.

(3) The plat shall remain on file in the clerk's office for 30 days after the first publication. At any time within the 30-day period any person or public body having an interest in any lands affected by the plat may bring a suit to have such plat corrected.

(4) If no such suit is brought within such time, the plat may be approved by the governing body.

(5) If suit is brought, approval shall be withheld until it is decided. If necessary, the plat shall be revised in accordance with such decision, then approved by the governing body.

HISTORY: New 1967, p. 608, Act 288, Eff. Jan. 1, 1968.

560.210 Local authorities approval; acknowledgment; review by state treasurer; recording.

Sec. 210. The plat, when completed and certified as provided in this act with the exception of the certification by the county plat board and when approved by the governing body and in unincorporated areas by the board of county road commissioners, shall be acknowledged by the clerk thereof. When so approved and acknowledged, all copies of the plat shall be forwarded to the state treasurer together with the recording fee specified in this act for all plats. The state treasurer shall review the plat for adher-

ence to the provisions of this act, or may reject it giving his reasons in writing. Upon approval, the state treasurer shall forward the plat to the register of deeds for recording. On return of the proof of recording the required recording fee shall be sent to the register of deeds and the state treasurer shall distribute the copies as required for all other final plats.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968.

560.211 Recording; notification of local authorities; apportionment of taxes.

Sec. 211. When an assessor's plat is recorded, the register of deeds shall notify the county treasurer. The county treasurer shall notify the assessor if any part of the lands included in the plat are delinquent for taxes or special assessments for any year prior to the date of recording. The assessor or supervisor shall apportion such taxes or assessments against the individual or several lots in the plat. The apportionment of delinquent taxes and special assessments shall be governed by the provisions of section 53 of Act No. 206 of the Public Acts of 1893, as amended. The apportioned taxes and special assessment shall thereafter become a lien against the individual or several lots in the plat and treated in the same manner as taxes of the year of the original assessment for the purpose of collection and sale for delinquent taxes as provided by Act No. 206 of the Public Acts of 1893, as amended.

HISTORY: New 1967, p. 606, Act 288, Eff. Jan. 1, 1968.

560.212 References to plat descriptions; use; plats as evidence.

Sec. 212. Reference to any land, as it appears on a recorded assessor's plat is sufficient for purposes of assessment and taxation. Conveyance may be made by reference to the plat and shall be as effective to pass title to the land so described as it would be if the premises had been described by metes and bounds. The plat or record thereof shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated. After an assessor's plat has been made and recorded with the register of deeds, all conveyances of lands included in the assessor's plat shall be by reference to the plat. Any instrument dated and acknowledged after January 1, 1968, purporting to convey or mortgage any such lands except by reference to such assessor's plat may not be recorded by the register of deeds.

HISTORY: New 1967, p. 609, Act 288, Eff. Jan. 1, 1968.

560.213 Plat recorded after tax day; substitution of plat description; certification of acquisition of public lands.

Sec. 213. (1) Whenever a parcel of land has been subdivided and platted and the plat recorded after the tax day, the assessing officer shall substitute the recorded plat for the description of the parcel of land on the tax roll of the succeeding tax year, and shall utilize for tax purposes descriptions of property within the platted area by lot number instead of by metes and bounds in carrying out his duties as provided in section 53 of Act No. 206 of the Public Acts of 1893, as amended.

(2) The assessing officer shall certify under his hand and seal that the municipality has acquired the title to the highways, streets, alleys and public places shown on the assessor's plat by reason of purchase, dedication, condemnation or adverse possession for public use, and if there are any roads, streets, alleys or other such places to which the municipality has not acquired title for public use the extent of their use shall be plainly stated in the dedication, and the plat shall be signed and acknowledged by the officer.

HISTORY: New 1967, p. 609, Act 288, Eff. Jan. 1, 1968.

PLAT CHANGES

560.221 Circuit court; amendment, vacation, correction, alteration and revision.

Sec. 221. The circuit court may, as provided in sections 222 to 229:

- (a) Order a recorded plat to be amended by a change in a dimension which results in changing the size or shape of any part of the plat.
- (b) The circuit court may vacate, correct, alter or revise all or any part of a recorded plat.

HISTORY: New 1967, p. 609, Act 288, Eff. Jan. 1, 1968.

560.222 Plat changes; who may petition.

Sec. 222. (1) To amend a recorded plat, the proprietor of the subdivision or any lot in the subdivision may apply to the appropriate circuit court.

(2) To vacate, correct, alter or revise a recorded plat or any part of it, the proprietor of a subdivision or any lot in a subdivision; the governing body of a municipality which considers it necessary or advisable in the interests of the welfare, health or safety of its citizens; 2/3 of the proprietors collectively, of lands in the subdivision, and who also own 2/3 by area of the lands may apply to the appropriate circuit court.

HISTORY: New 1967, p. 609, Act 288, Eff. Jan. 1, 1968.

560.223 Petition; contents, time of filing.

Sec. 223. (1) The petition to the circuit court shall set forth:

- (a) The petitioner's reasons and the particular circumstances of the case.
- (b) The dimensions to be changed or the part of the plat to be vacated, corrected or revised.
- (c) The names of the persons to be particularly affected thereby, and the extent of their interest.

(2) The petition shall be filed with the clerk of the court at least 30 days previous to the sitting of the court to which the petitioner intends to make an application.

HISTORY: New 1967, p. 609, Act 288, Eff. Jan. 1, 1968.

560.224 Notice of petition.

Sec. 224. (1) At least 20 days before the hearing of the application, the petitioner shall give notice of the pendency of the petition and of the time when the application will be made:

- (a) By publishing the notice once each week for 3 successive weeks in a newspaper printed or circulated in the county in which the subdivision is located.
- (b) By posting the notice in 3 of the most public places in the municipality in which the subdivision is situated.
- (c) By mailing a copy of the notice by first class mail to those persons shown by the latest available assessor's records to be the owners of each lot or parcel of land included within or abutting the lands described in the petition.

(2) The notice shall contain the dimensions sought to be changed or a description of the property sought to be vacated, corrected or revised.

HISTORY: New 1967, p. 610, Act 288, Eff. Jan. 1, 1968.

560.225 Service.

Sec. 225. At least 20 days before the hearing of the application, personal service or service by registered or certified mail shall be made upon the following:

- (a) The presiding officer of the municipality in which the land is situated and on the chairman of the planning commission, if there is one, but they need not be so served if the municipality is the petitioner.

(b) The state treasurer, who shall also be made a party to the proceedings.

(c) The drain commissioner and the chairman of the board of road commissioners having jurisdiction in any of the land included in the plat.

(d) Each public utility which is known to the petitioner to have installations or equipment in the subdivision, or has a recorded easement or franchise rights which will be affected by the proceedings.

(e) The director of the department of state highways if any of the subdivision includes or borders a state highway or federal aid road.

HISTORY: New 1967, p. 610, Act 288, Eff. Jan. 1, 1968.

560.226 Hearing; order, limitations.

Sec. 226. After requiring proof that the required notices have been given and after hearing all interested parties, the court may order dimensional changes to be made in a recorded plat, or may order a recorded plat or any part of it to be vacated, corrected or revised, with the following exceptions:

(a) No part of a state highway or federal aid road may be vacated, corrected or revised except by the department of state highways.

(b) No part of a county road may be vacated, corrected or revised except by the county road commission having jurisdiction.

(c) No part of a street or alley under the jurisdiction of a city or village and no part of any public walkway, park or public square or any other land dedicated to the public may be vacated, corrected or revised under the provisions of this section except by both a resolution or other legislative enactment duly adopted by the governing body of the municipality and by court order.

(d) Any order under this section vacating, correcting or revising any highway, road, street or other land dedicated to the public and being used by any public utility for public utility purposes shall reserve an easement therein for the use of public utilities, and may reserve an easement in other cases.

HISTORY: New 1967, p. 610, Act 288, Eff. Jan. 1, 1968.

560.227 Part vacated; vesting of title.

Sec. 227. The part vacated, if it is a lot, shall vest in the rightful proprietor; and if it is a street or alley, shall be attached to the lot or ground included in the plat and bordering on the street or alley. If the land included in the plat on opposite sides of such street or alley is owned by different proprietors, then the title of the street or alley shall vest in the proprietor owning the property on each side thereof to the center of the street or alley, except when a part of 1 or both sides of a street or alley is vacated, then the part vacated shall be attached to and in any future legal description of the lot be a part of the title thereof vested in the proprietor of the lot included in the plat adjoining the same.

HISTORY: New 1967, p. 610, Act 288, Eff. Jan. 1, 1968.

560.228 Recording of order; fee.

Sec. 228. Within 30 days, the applicant for the vacation or revision shall record in the office of the register of deeds the order amending, vacating, correcting or revising the plat. The register of deeds shall place on the original plat the date, liber and page of the recording. A certified copy of the record shall first be given to the applicant by the clerk of the court, for which the clerk is entitled to receive the sum of \$1.00 per sheet.

HISTORY: New 1967, p. 611, Act 288, Eff. Jan. 1, 1968.

560.229 Amended plats; surveyor to show changes; caption; filing.

Sec. 229. (1) If the court orders a change in any of the dimensions of a recorded plat, the change shall be set forth in an amended plat made by a surveyor of the affected

part of the recorded plat as required by this act for final plats. Five true copies of the amended plat shall be filed with the state treasurer, accompanied by the filing and recording fee and certified copy of the judgment. The existing caption of the plat shall include the words "amended plat of". The filing and recording fee shall be the same as for a final plat.

(2) If the court orders a recorded plat, or any part of it to be corrected, altered or revised, a new plat shall be made and filed as required by this act for final plats. The filing and recording fee shall be the same as for a final plat.

(3) After the state treasurer has examined the plat for compliance with the court judgment and the provisions of this act for the making and filing of final plats and has approved the plat as made, he shall distribute 1 copy each to the register of deeds, clerk of the municipality, county treasurer and county road commission. One copy shall be filed in the office of the state treasurer.

HISTORY: New 1967, p. 611, Act 288, Eff. Jan. 1, 1968.

FEES AND ADMINISTRATION

560.241 Plat submission; fees, disposition.

Sec. 241. (1) When the final plat is submitted to the clerk of the governing body of the municipality, the proprietor shall deposit with the plat a fee of \$20.00, which shall be known as the filing and recording fee and shall be in addition to any fee the municipality may charge under the provisions of the act.

(2) On approval of the plat by the governing body, the clerk shall send the \$20.00 fee when sending the plat to the clerk of the county plat board.

(3) The clerk of the county plat board shall deposit the fee in the county trust and agency fund for subsequent payments by county warrant from this fund to:

(a) The state, in the amount of \$10.00, upon the approval of the plat by the county plat board.

(b) The county register of deeds in the amount of \$10.00, upon submission of proof to the clerk of the county plat board that the plat has been duly recorded in the office of the county register of deeds.

(4) The state treasurer shall deposit the state's portion of the fee in the state general fund.

(5) The state treasurer may also charge an additional \$10.00 fee if he is of the opinion that the review time is of an extraordinary nature.

HISTORY: New 1967, p. 611, Act 288, Eff. Jan. 1, 1968.

560.242 State treasurer; records and indexing; fees.

Sec. 242. (1) The state treasurer shall maintain a permanent file of plats and the index shall contain all pertinent information necessary to facilitate reference.

(2) A fee established by the state treasurer shall be collected for copies of plats.

HISTORY: New 1967, p. 611, Act 288, Eff. Jan. 1, 1968.

560.243 Register of deeds; procedure; fees.

Sec. 243. (1) The register of deeds shall maintain a permanent file of recorded plats.

(2) The expense of maintaining the file, such as for binders, cabinets, supplies and microfilming, shall be provided from the general fund of the county.

(3) A fee of not less than \$1.00 per sheet shall be collected by the register of deeds for copies of plats recorded in his office.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.244 Proprietor's copy.

Sec. 244. (1) If the proprietor of a subdivision desires to retain a copy of the final plat, he shall forward a sixth copy of it to the state treasurer for certification as an exact copy of the approved and recorded plat.

(2) The true copy requested may be made upon tracing linen or some similar material.

(3) No charge shall be made for certification of the sixth copy.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.245 Abstract of title or title policy; attorney's opinion in lieu of abstract.

Sec. 245. The proprietor submitting the plat for approval shall furnish to the governing body an abstract of title certified to date of the proprietor's certificate to establish recorded ownership interests and any other information deemed necessary for the purpose of ascertaining whether the proper parties have signed the plat, or a policy of title insurance currently in force, covering all of the land included within the boundaries of the proposed subdivision. The governing body, in lieu of an abstract of title, may accept on its own responsibility an attorney's opinion based on the abstract of title as to ownership and marketability of title of the land.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.246 Governing body; fees.

Sec. 246. (1) The governing body of a municipality may adopt by ordinance a reasonable schedule of fees, based on the number of lots in the proposed subdivision. The fee charged shall be in addition to the filing and recording fee, and shall be for the examination and inspection of plats and the land proposed to be subdivided, and related expenses.

(2) A proprietor submitting a plat for approval shall be required to deposit the established fee with the clerk of the municipality and until the fee is paid, the plat shall not be considered or reviewed.

(3) The governing body may employ a surveyor as an assistant. If it is deemed more practical in a county for the county to employ a surveyor to assist governing bodies of municipalities within the county, then the board of supervisors, by resolution, may employ the surveyor and may establish a reasonable schedule of fees for his services to be charged to the governing body receiving his assistance.

(4) Until an ordinance is adopted by the governing body establishing a schedule of fees, the governing body may require the payment of a fee not to exceed \$100.00.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.247 County plat board; compensation.

Sec. 247. (1) Each member of the county plat board shall be paid compensation and mileage for attendance at plat board meetings equal to compensation and mileage paid to supervisors for attendance at meetings of the board of supervisors. The compensation shall be payable from the general fund of the county.

(2) The duties of the county plat board shall not be considered as being a part of the duties of the regular offices of the members thereof.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.248 County road commission; fees.

Sec. 248. The county road commission may adopt as part of the published rules by resolution, a reasonable schedule of fees, to be charged proprietors seeking approval of plats. The fee shall be for the examination of those plat features which require approval of the county road commission as provided in section 183, and plans and inspection of highways, streets and alleys, together with bridges, culverts, drainage

structures or other improvements constructed in connection with the plat and related expenses.

HISTORY: Add. 1969, p. 592, Act 308, Imd. Eff. Aug. 14.

560.249 Board of supervisors; fees.

Sec. 249. The county board of supervisors may adopt a reasonable schedule of fees to be charged proprietors seeking approval of plats to compensate the county drain commissioner for his examination of those plat features which require approval of the county drain commissioner as provided in section 192 and plans and inspection of drainage facilities constructed by the proprietor or existing on the plat site.

HISTORY: Add. 1969, p. 592, Act 308, Imd. Eff. Aug. 14.

560.251 Recorded plats; evidence.

Sec. 251. A certified copy of the recorded plat in the register of deeds office shall be received in all courts in this state as prima facie evidence of the making and recording of the plat in conformity with the provisions of this act.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.252 Instruments affecting title; prohibit recording unless plat recorded.

Sec. 252. The register of deeds shall not accept for record any instrument purporting to convey or encumber lots designated by number in a subdivision of land unless a plat showing such lots has previously been recorded.

HISTORY: New 1967, p. 612, Act 288, Eff. Jan. 1, 1968.

560.253 Dedication of plats; reservation of mineral rights.

Sec. 253. (1) When a plat is certified, signed, acknowledged and recorded as prescribed in this act, every dedication, gift or grant to the public or any person, society or corporation marked or noted as such on the plat shall be deemed sufficient conveyance to vest the fee simple of all parcels of land so marked and noted, and shall be considered a general warranty against the donors, their heirs and assigns to the donees for their use for the purposes therein expressed and no other.

(2) The land intended for the streets, alleys, commons, parks or other public uses as designated on the plat shall be held by the municipality in which the plat is situated in trust to and for such uses and purposes.

(3) A reservation or an ownership interest in mineral rights or underground gas storage rights in land shall not constitute the holding of title for the purpose of signing the proprietor's certificate.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.254 Restrictions; enforcement.

Sec. 254. Any restriction required to be placed on platted land by a public body given the authority to review or approve plats by the provisions of this act or which names the public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction in a court of competent jurisdiction against anyone who has or acquires an interest in the land subject to the restriction. The restriction may be released or waived in writing but only by the public body having the right of enforcement.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.255 Lot numbers use.

Sec. 255. When a subdivision plat has been recorded, the lots in that plat shall be described by the caption of the plat and the lot number for all purposes, including those of assessment, taxation, sale and conveyance.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.256 Streets and alleys; alteration.

Sec. 256. When the governing body of a municipality by resolution or ordinance takes any of the following actions, the clerk of the municipality within 30 days shall record a certified copy with the register of deeds, giving the name of the plat or plats affected, and shall also send a copy to the state treasurer, and until recorded the ordinance or resolution shall have no force or effect:

- (a) Opens or vacates a street or alley, or any portion of same.
- (b) Extends, widens or changes the name of an existing street or alley.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.257 Public lands; discontinuance of use; retention of easements.

Sec. 257. (1) When the governing body of a municipality determines that it is necessary for the health, welfare, comfort and safety of the people of the municipality to discontinue an existing street, alley or other public lands shown on a plat, by resolution or ordinance, it may reserve an easement therein for public utility purposes and other public purposes within the right of way of any street, alley or other public lands vacated.

(2) The resolution or ordinance shall be recorded within 30 days with the register of deeds and a copy shall be sent to the state treasurer.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.258 Public lands; agreements for maintenance.

Sec. 258. As a condition of final plat approval the governing body of a municipality or the board of county road commissioners may require copies of agreements, covenants or other documents showing the manner in which areas to be reserved for the common use of the residents of the subdivision are to be maintained.

HISTORY: New 1967, p. 613, Act 288, Eff. Jan. 1, 1968.

560.259 Minimum standards.

Sec. 259. The standards for approval of plats prescribed in this act are minimum standards and any municipality, by ordinance, may impose stricter requirements and may reject any plat which does not conform to such requirements.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

PENALTIES

560.261 Sale of land; written disclosures to buyer; voidability of sale.

Sec. 261. No person shall sell any lot in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a street or road which has not been accepted as public unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the board of county road commissioners. In addition, any contract or agreement of sale entered into in violation of this section shall be voidable at the option of the purchaser.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.262 Monuments; removal or disturbance.

Sec. 262. No person shall knowingly remove or disturb any monument without the permission of the governing body of the municipality in which the subdivision is located.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.263 Lots; further division; regulation.

Sec. 263. No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the ordinances of the municipality.

The municipality may permit the partitioning or dividing of lots, outlots or other parcels of land into not more than 4 parts; however, any lot, outlot or other parcel of land not served by public sewer and public water systems shall not be further partitioned or divided if the resulting lots, outlots or other parcels are less than the minimum width and area provided for in this act.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.264 Sale of land without complying with act; penalty.

Sec. 264. Any person, firm or corporation who shall hereafter sell or agree to sell, any lot, piece or parcel of land without first having recorded a plat thereof when required by the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00, or imprisonment in the county jail not to exceed 180 days, or both, for the first offense and for each subsequent offense a like fine or imprisonment in the county jail not to exceed 1 year, or both: Provided, however, That agreement to sell does not include an option to buy extended from the seller for a money consideration to the prospective buyer. Any person who violates any other provision of this act is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.265 Enforcement of act; injunctive proceedings; venue.

Sec. 265. Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.266 Enforcement of act; prosecution, venue.

Sec. 266. The attorney general or the prosecuting attorney of any county may prosecute any violation of this act or may bring an action in the name of the state to restrain or prevent any violation of this act or any continuance of any such violation. Such action, in the case of the attorney general, shall be brought in the circuit court of Ingham county, upon which jurisdiction thereof is conferred, and in the case of the prosecuting attorney, in the county where the land involved is located, the defendant resides, or has his principal place of business or where the purchaser resides.

HISTORY: New 1967, p. 614, Act 288, Eff. Jan. 1, 1968.

560.267 Sale of lands in violation of act; voidability of sale.

Sec. 267. Any sale of lands subdivided in violation of the provisions of this act shall be voidable at the option of the purchaser thereof, and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged therefor, together with any damages sustained by said purchaser thereof, recoverable in an action at law.

HISTORY: New 1967, p. 615, Act 288, Eff. Jan. 1, 1968.

560.290 State treasurer; employee in charge of plat section; qualifications.

Sec. 290. The employee in direct charge of the plat section in the office of the state treasurer which performs services for the state treasurer under this act, and such employee's chief assistant, shall be a registered land surveyor registered in this state.

HISTORY: New 1967, p. 615, Act 288, Eff. Jan. 1, 1968.

560.291 Plats in process, approval.

Sec. 291. Any preliminary or final plat which on January 1, 1968, has been approved by the municipality or county road commission may be processed under the law in effect at the time of approval, but not after January 1, 1970, after which time all plats submitted for approval shall comply with the requirements of this act.

HISTORY: New 1967, p. 615, Act 288, Eff. Jan. 1, 1968;—Am. 1969, p. 592, Act 306, Imd. Eff. Aug. 14.

560.292 Repeal.

Sec. 292. Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 615, Act 288, Eff. Jan. 1, 1968.

560.293 Effective date.

Sec. 293. This act shall take effect on January 1, 1968.

HISTORY: New 1967, p. 615, Act 288, Eff. Jan. 1, 1968.

CHAPTER 561. BURNT RECORDS

BURNT RECORDS	
Act 52 of 1944 (1st Ex. Ses.)	
561.1	Purpose of act; public records, recreating.
561.2	Public records; loss or destruction; land titles; bill of complaint; order for appearance; hearing; property description.
561.3	Public records; form.
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561.5	Intervening petition to establish lien or interest; summons; service, form; file for re-recording.
561.6	Court determination of interest in, or title to, land not covered by decree or order.
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561.8	Decrees and orders; filing and recording.
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561.10	No filing fee required.
561.11	Amending bill; additional publication.
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Act 52, 1944 (1st Ex. Ses.), p. 108; Imd. Eff. Mar. 6.

AN ACT to provide for the establishment of and quieting the title to and the recreating of the public records of lands in counties where records of title have been destroyed in whole or in any material part by fire, flood or other major disaster, and to establish the procedure therefor and to provide an appropriation to pay certain costs thereof.

The People of the State of Michigan enact:

561.1 Purpose of act; public records, recreating.

Sec. 1. The property rights of the state of Michigan, its political subdivisions and private interests are imperiled when the public records in the office of the register of deeds of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by fire, flood or other disaster. It is the purpose of this act to provide a remedy to safeguard such property rights, and to foster the recreation of the public records.

HISTORY: CL 1948, 561.1.

561.2 Public records; loss or destruction; land titles; bill of complaint; order for appearance; hearing; property description.

Sec. 2. When the public records in the office of the register of deeds of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by fire, flood or other disaster, the circuit court in chancery for any such county shall have jurisdiction and authority to hear and determine any suit instituted under the provisions of this act, and the rights of the several parties in said suit, and it shall be the duty of the prosecuting attorney of such county, when directed by the board of supervisors of such county, to file a bill in chancery on behalf of the people of the state of Michigan and of the county to determine and quiet title in and to the lands in such county, the defendants in which shall be described as "all persons having or claiming any interest in or lien upon the real property herein described, or any part thereof." The bill of complaint shall contain an allegation setting forth that all or a material part of the public records in the office of the register of deeds of the county have been lost or destroyed by fire, flood or other disaster and the property rights of the state of Michigan, its political subdivisions and private citizens have been imperiled thereby; and shall describe all real property in said county, affected by said loss. Real property in said county shall be sufficiently described by giving the name of the county and de-

scribing the territory included therein at the time of the destruction of the records by using the same descriptions set forth in the act or acts of the legislature organizing and assigning territory to such county, or the applicable parts thereof. The court shall have jurisdiction of all real property affected by the loss or destruction of the records of the register of deeds. In case the entire records of the office of the register of deeds are not lost or destroyed, the circuit court shall take judicial notice thereof.

Upon the filing of the bill of complaint the circuit court shall enter an order for appearance and fix a time and place for hearing. Said order shall be deemed sufficient for the purposes of this act, if the persons ordered to appear are described as: "All persons having or claiming any interest in or lien upon the property described in the bill of complaint including their unknown heirs, devisees, legatees and assigns, as the case may be," and setting out the same descriptions of real property as are contained in the bill of complaint. The court may direct that the order for appearance shall include additional descriptions by name or otherwise of territory within the county, including without describing the several pieces or parcels thereof, the several townships by name, and sections thereof by number, and the names of cities and villages and recorded plats and subdivisions outside of cities and villages: Provided, however, That the inclusion or exclusion of such additional descriptions shall not affect the jurisdiction of the court or the validity of any proceeding under this act or any order or decree made therein. Such order for appearance shall be published for 6 successive weeks at least once each week, in a newspaper published in the county where the real estate is located, if there be one; and if no newspaper be published in such county, then such order for appearance shall be published in a newspaper published in an adjacent county and, in every case within 30 days after the first publication of such order for appearance, a true copy shall be posted in a conspicuous place on the building in which the circuit court is sitting. The circuit judge may order such additional publications as the court shall deem necessary to give reasonable notice of the pendency of such suit. The court may order that printed copies of the order for appearance be furnished to the supervisor of each township for distribution to the residents thereof and may order that copies thereof be posted in conspicuous places on townhalls, school buildings, post offices and other buildings where persons assemble and that copies be mailed to all persons within the county having a post office address therein, and to each person whose name on any township treasurer's assessment roll shows an address outside of said county.

After the expiration of 90 days from the date of said order and upon proof of the publication provided for in the foregoing paragraph, the court on the date set for hearing or on an adjourned date therefor and upon hearing and proof thereof, shall enter a decree which shall state that the records in the office of the register of deeds have been lost or destroyed, in whole or in any material part, by fire, flood or other disaster and shall authorize the filing of intervening petitions as provided in section 5 of this act, and the issuance of orders based on testimony introduced under sections 5 and 6 of this act determining the interest or title to particular parcels of land. The decree shall further provide that all persons entering appearance before the issuance of such decree shall be served personally or by registered mail by any petitioner in any proceedings hereafter instituted under section 5 of this act wherein such petitioner shall claim an interest in or lien upon the lands described in their appearance. Said decree shall further provide that all such appearances entered shall be recorded by the register of deeds and a reference to the book and page entered upon a map provided for in section 8 of this act. The court is authorized to issue such further orders as it shall deem necessary.

HISTORY: CL 1948, 561.2.

561.3 Public records; form.

Sec. 3. The order for appearance shall be substantially in the following form or in such other form as may be prescribed by order of the court:

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
IN CHANCERY

State of Michigan. In re Petition to Establish and Quiet Title to Lands and Recreating Public Records Thereof Under Act of the Public Acts of 1944, First Extra Session.

In the name of the people of the State of Michigan. To all persons claiming any interest in or lien upon the real property herein described or any part thereof including their unknown heirs, devisees, legatees and assigns, as the case may be greetings:

Take notice, that the record title to all of the lands in county is in question by reason of the loss or destruction of records in the office of the register of deeds thereof, and in consequence thereof on the day of A.D. 19 .. a bill of complaint was filed in the circuit court for the county of in chancery, to establish and quiet title to the aforementioned lands, more particularly described as: (here insert a description of the real property in said county as contained in the bill of complaint and such additional descriptive language as may be ordered by the court). Now, unless you appear on or before the day of 19 ..

19 .. in said court, (naming a return day at least 90 days from the date of said order of appearance) and show your interest in any part of said aforescribed real property, said bill of complaint shall be taken as confessed and a decree entered pursuant to Act No. of the Public Acts of 1944 Extra Session. Your appearance in (here insert number of this act) this action shall be substantially in the following form or in such other form as may be prescribed by order of the court.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
IN CHANCERY

In Re Petition to Establish and Quiet Title to Lands and Recreating Public Records Thereof Under Act of the Public Acts of 1944, First Extra Session.

APPEARANCE

I residing at
(Name) (Street or R.F.D.) (Village, town or city)
County of, State of do hereby
enter my appearance and claim an interest in or lien upon the following described property
to wit:

.....
(Signature)

.....
(Address)

.....
(Here type or print name and address given above)

Subscribed and sworn to before me this day of
A.D. 19

(Name, title and address of party administering
oath including commission or term expiration)

It is further ordered that within 10 days a copy of this order be published in the
....., (a newspaper published in the county of
.....) such publications to be continued therein once in each
week for 6 weeks in succession.

.....
(Circuit Judge)

Countersigned:

.....
Clerk of Circuit Court

Any and all persons appearing hereunder shall state the address at which they can be served with process in any proceedings under this act, and shall file with the register of deeds of the county any change of address, which change shall be noted by the register of deeds on the margin of the recorded appearance.

HISTORY: CL 1948, 561.3.

561.4 Conveyance, paper or document; re-recording.

Sec. 4. Any conveyance or other paper or document pertaining to real estate, the public record of which has been lost or destroyed as aforesaid, may be re-recorded with the register of deeds, with like force and effect as the original recording and compliance with the provisions of section 135 of Act No. 206 of the Public Acts of 1893, as amended, shall not be required as a prerequisite to the recording thereof. An abstract of title certified or authenticated as may be provided by order of the court shall be prima facie evidence of the facts therein contained in all suits and proceedings under the provisions of this act.

HISTORY: CL 1948, 561.4.

NOTE: Sec. 135, Act 206, 1893, above referred to, is Compilers' § 211.135.

561.5 Intervening petition to establish lien or interest; summons; service, form; file for re-recording.

Sec. 5. Any person having any interest in or lien upon any parcel or parcels of land covered by said bill of complaint may, at any time, intervene in said proceedings and petition the circuit court to establish his interest therein or lien thereon, and said circuit court shall have jurisdiction to hear and determine such interest or lien and determine the interest of all claims adverse thereto. Service of the summons issued under said intervening petition shall be made personally or by registered mail on any person or persons known to have an interest in any of the parcels of land described in said intervening petition, and service as to persons unknown shall be deemed to have been made by the general publication provided for in sections 2 and 3 of this act. The intervening petition shall be sworn to by the moving party, his agent or attorney, and shall state that the affiant does not know and has been unable after diligent search and inquiry to ascertain the names of the persons who are included as defendants therein without being named: Provided, however, That as to lands, the title to which heretofore or hereafter has vested in the state of Michigan by reason of tax reversion under the provisions of Act No. 206 of the Public Acts of 1893, no affidavit of search or inquiry as to parties in interest prior to the vesting of title in the state shall be required.

All persons, other than the intervening petitioner, in actual possession of land included within the claim under any intervening petition shall be served with a copy of

the summons required under this section and if personal service cannot be obtained upon such persons, then a copy of the summons shall be posted in a conspicuous place on a building used for residence purposes on such land, if any, or if there is no residence building, then on some other building thereon.

The summons to be used under this act shall be substantially in the following form:

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
IN CHANCERY

.....
Petitioner

vs.

Here insert the names of all known persons claiming any interest in the real property described in the petition and the following language: "and all other persons claiming any interest in or lien upon the real property herein described or any part thereof, and their unknown heirs, devisees, legatees and assigns, as the case may be")

Defendants

Petition filed

Date

In the name of the people of the State of Michigan, to
here insert names of all known holders of interest in the lands described in the petition and all the following language: "All other persons claiming any interest in, or lien upon, the real property herein described or any part thereof, and their unknown heirs, devisees, legatees and assigns"), defendants, greetings:

You are hereby required to appear and answer the intervening petition of
....., plaintiff, filed with the clerk of the above entitled court

(Here insert name of petitioner)

and county, within 3 months after the date of filing noted above and to set forth what interest or lien, if any, you have in or upon that certain real property or any part thereof, situated in the township of, county of (or city and county), state of Michigan, particularly described as follows: (here insert description).

And you are hereby notified that, unless you so appear and answer, the plaintiff will apply to the court for the relief demanded in the intervening petition, to wit: (here insert a statement of the relief so demanded).

Issued under the seal of this court, at the of
the place of holding said court, this day of, 19

.....
Clerk

SEAL)

.....
Deputy Clerk

One copy of each petition shall be filed with the register of deeds who shall make suitable entry thereof on the map provided for in section 8.

Any and all defendants appearing hereunder shall state the address at which they can be served with process in any proceedings under this act.

Petitioners hereunder shall be entitled to file for re-recording any conveyance or other instrument pertaining to the title of the particular parcel of land described in their petition and the same shall be re-recorded by the register of deeds without charge to the petitioner if filed within 1 year from the date of filing of the bill of complaint provided for in section 2. The court may order the determination of title to lands which are in dispute by proceedings under any other applicable statute.

HISTORY: CL 1948, 561.5;—Am. 1952, p. 167, Act 146, Eff. Sep. 18.

561.6 Court determination of interest in, or title to, land not covered by decree or order.

Sec. 6. After 3 years from the entering of the decree provided for in section 2 of this act, and no petition having been filed under section 5 of this act with respect to any particular parcel of land which is or may be owned by the state or any agency or political subdivision thereof, the circuit court may, on its own motion or on motion of the prosecuting attorney, determine interests in or title to any parcel of land not covered by any decree or order of the court. It shall be the duty of the prosecuting attorney to furnish the court with such evidence as shall be available. The prosecuting attorney shall serve personally or by registered mail all parties in interest as shown by the public records.

HISTORY: CL 1948, 561.6.

561.7 Court jurisdiction.

Sec. 7. The circuit court in chancery shall have jurisdiction to determine interest or title to any parcel of land, whether the person entitled to such decree is in possession or not.

HISTORY: CL 1948, 561.7.

561.8 Decrees and orders; filing and recording.

Sec. 8. The original or a certified copy of all decrees and orders determining interest or title to any parcel of land shall be filed with and shall be recorded without charge by the register of deeds. Said register of deeds shall record the same in a separate book, kept for that purpose, and shall also enter on a map or plat, kept for that purpose, a reference to the book and page wherein is recorded such decree or decrees. The register of deeds shall also enter on the map a reference to the book and page of the recording of any conveyance or other instrument recorded subsequent to the destruction of the records which contain a description of any of the lands involved in any proceeding under this act.

HISTORY: CL 1948, 561.8.

561.9 Expenses; payment.

Sec. 9. The expenses and compensation of the prosecuting attorney, the county clerk and the register of deeds in carrying out the provisions of this act shall be paid from the general fund of the county: Provided, That in counties where the register of deeds is compensated by fees the court shall fix by order the compensation to be paid in lieu of fees to the register of deeds for the recording of conveyances, petitions, decrees and other instruments required by this act to be recorded without charge to the person filing for record. The compensation so allowed shall not exceed the total sum which, except for the provisions of this act, the said register would have received under other acts as fees for such recording.

HISTORY: CL 1948, 561.9.

561.10 No filing fee required.

Sec. 10. No fee shall be charged by the circuit court as a condition to the filing of a petition in any proceedings instituted under the provisions of this act.

HISTORY: CL 1948, 561.10.

561.11 Amending bill; additional publication.

Sec. 11. The circuit court may permit the amendment of the bill of complaint filed under the provisions of this act, in which case publication shall not be necessary unless the amendment involves the description of property: Provided, That additional publication shall be required only as to property described in the amendment and no such amendment shall operate to stay any proceedings as to property other than that described in the amendment.

HISTORY: CL 1948, 561.11.

561.12 Remedies cumulative.

Sec. 12. The remedies provided for by this act shall be deemed cumulative, and in addition to any other remedy now or hereafter provided by law for quieting or establishing title to real property.

HISTORY: CL 1948, 561.12.

561.13 Person; definition.

Sec. 13. The word "person" as used in this act shall include public and private corporations, copartnerships, unincorporated or voluntary associations as well as individuals.

HISTORY: CL 1948, 561.13.

Sec. 14. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

561.15 State agencies; copies of deeds, conveyances, plats or patents.

Sec. 15. Any department or agency of the state of Michigan shall supply to the register of deeds of such county on request a certified or a photostat copy of any deeds, conveyances, plats or patents in its possession relating to the title to lands in such county and which, by order of the court, the said register is required to rerecord. The court is authorized by order to direct the register of deeds to obtain and rerecord such copies, which when so rerecorded shall have the same force and effect as the original records thereof. The court may order the register of deeds to obtain and record copies of United States patents to lands in such county.

HISTORY: CL 1948, 561.15.

561.16 Appropriation.

Sec. 16. There is hereby appropriated from the general fund from moneys not otherwise appropriated for the fiscal year ending June 30, 1945 the sum of \$10,000.00 which shall be paid out of the state treasury by order of the state administrative board at such times and in such amounts as the general accounting laws of the state provide for the reimbursement of the expenses of any department or agency of the state and of any county expense authorized and made necessary by the provisions of this act, including the cost of lease or purchase of a photostat machine to be used in reestablishment of the county records: Provided, however, The state administrative board before releasing any appropriations to a county may require that there be erected a suitable fireproof structure for the storage of public records, the plans for which have been approved by the state fire marshal.

HISTORY: CL 1948, 561.16.

CHAPTER 564. FAIR HOUSING ACT OF 1968

Act 112 of 1968

CHAPTER 1. GENERAL PROVISIONS

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CHAPTER 4. ENFORCEMENT BY CIVIL RIGHTS COMMISSION

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- 564.402 Court order to produce books and records.
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- 564.405 Temporary relief; duration; immediate disposition; *lis pendens*.
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Act 112, 1968, p. 166; Eff. Nov. 15.

AN ACT to prevent discrimination in real property transactions on the basis of race, color, religion or national origin; to prescribe the functions of the civil rights commission; to authorize the creation and prescribe the functions of local commissions; and to provide remedies for violations of the act.

The People of the State of Michigan enact:

CHAPTER 1. GENERAL PROVISIONS

564.101 Fair housing act of 1968; short title.

Sec. 101. This act shall be known and may be cited as the "fair housing act of 1968".

HISTORY: New 1968, p. 166, Act 112, Eff. Nov. 15.

564.102 Fair housing act; definitions.

Sec. 102. As used in this act:

(a) "Commission" means the civil rights commission established by the constitution of 1963.

(b) "Commissioner" means a member of the commission.

(c) "Complaint" means a written statement, given under oath, alleging an unfair housing practice.

(d) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of 1 or more individuals.

(e) "Local commission" means a commission on human relations created by 1 or more political subdivisions.

(f) "National origin" includes the national origin of an ancestor.

(g) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization; any other legal or commercial entity, the state or any governmental entity or agency.

(h) "Political subdivision" means a county, city, village or township.

(i) "Publicly advertised" means a communication by the owner or lessor or a person at his request relative to an offer of sale, rental or lease of a housing accommodation which may be directly received by the public at large or which is indiscriminate as to the recipient of the communication, whether or not the communication is actually directed to the public at large.

(j) "Real estate broker or salesman" means a person, whether licensed or not, who for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication, or a person employed by or acting on behalf of any of these.

(k) "Real estate transaction" includes the sale, exchange, rental or lease of real property.

(l) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums and hereditaments, corporeal and incorporeal, or any interest therein.

(m) "Unfair housing practice" means a practice described in chapter 2.

HISTORY: New 1968, p. 166, Act 112, Eff. Nov. 15.

564.103 Civil rights not affected.

Sec. 103. Nothing contained in this act shall be construed as preventing the commission from securing other civil rights guaranteed by law or by the Michigan constitution.

HISTORY: New 1968, p. 167, Act 112, Eff. Nov. 15.

564.104 Unencumbered transfers not prohibited.

Sec. 104. Nothing in this act shall prevent the unencumbered transfer of property by sale or rental prior to a complaint being filed with the state commission, local commission or circuit court. The state commission, local commission and the circuit courts shall not seek or issue injunctive relief, prior to a complaint being filed, to prevent the unencumbered transfer of properties by sale or rental.

HISTORY: New 1968, p. 167, Act 112, Eff. Nov. 15.

564.105 Severability; effect of partial invalidity.

Sec. 105. If any portion of this act or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or application of this act which can be given effect without the invalid portion or application unless such remaining portions are determined by the court to be inoperable.

HISTORY: New 1968, p. 167, Act 112, Eff. Nov. 15.

CHAPTER 2. UNFAIR HOUSING PRACTICES**564.201 Unfair housing practices.**

Sec. 201. It is an unfair housing practice for an owner, a real estate broker or real estate salesman, or any other person as defined in this act:

- (a) To refuse to negotiate for a real estate transaction with a person because of race, color, religion or national origin.
- (b) To refuse to engage in a real estate transaction with a person because of race, color, religion or national origin.
- (c) To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith because of race, color, religion or national origin.
- (d) To refuse to receive from, or to fail to transmit to, a person, a bona fide offer to engage in a real estate transaction because of race, color, religion or national origin.
- (e) To represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property, under reasonable conditions, because of race, color, religion or national origin.
- (f) To publish or advertise, directly or indirectly, an intent to make a limitation, specification or discrimination based on race, color, religion or national origin.
- (g) To use a form of application for a real estate transaction for the purpose of making a limitation, specification or discrimination based on race, color, religion or national origin.
- (h) To make a record or inquiry in connection with a prospective real estate transaction which indicates the race, color, religion or national origin of a person.
- (i) To offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith with respect to race, color, religion or national origin.

HISTORY: New 1968, p. 167, Act 112, Eff. Nov. 15.

564.202 Unfair housing practices by financial institutions.

Sec. 202. It is an unfair housing practice for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance or improvement of real property, or a representative of such a person:

- (a) To discriminate against the applicant because of race, color, religion or national origin.
- (b) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, the race, color, religion or national origin of the applicant.

HISTORY: New 1968, p. 167, Act 112, Eff. Nov. 15.

564.203 Blockbusting prohibited; persistent solicitation.

Sec. 203. It is an unfair housing practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(a) To initiate, instigate or participate in a series of representations, advertisements or contacts within a block, neighborhood or area designed to promote real estate transactions in the block, neighborhood or area based on the implication, directly or indirectly, that changes have occurred or will or may occur in the composition with respect to race, color, religion or national origin of the owners or occupants in the block, neighborhood or area in which the real property is located, or that the changes will or may result in the lowering of property values, or an increase in criminal or antisocial behavior or a decline in the quality of the schools in the block, neighborhood or area in which the real property is located.

(b) To solicit the sale or listing for sale of real property, by telephone, mail or personally, after the property owner has expressly requested the solicitor or the company he represents to cease such solicitation.

HISTORY: New 1968, p. 168, Act 112, Eff. Nov. 15.

564.204 Retaliation, coercion, interference or obstruction prohibited.

Sec. 204. It is an unfair housing practice:

(a) To retaliate or discriminate against a person because he has opposed an unfair housing practice, or because he has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under this act.

(b) To coerce a person to engage in an unfair housing practice.

(c) To interfere wilfully with the performance of a duty or the exercise of a power by the commission or one of its members or representatives under this act.

(d) To obstruct or prevent wilfully a person from complying with the provisions of this act or an order issued thereunder.

HISTORY: New 1968, p. 168, Act 112, Eff. Nov. 15.

564.205 Certain information permitted.

Sec. 205. Nothing in this chapter shall be deemed to prohibit an owner, lender or his agent from requiring that any person who seeks to buy, rent, lease or obtain financial assistance for housing accommodations supply information concerning his personal, family, marital, financial and business status, but not concerning race, color, religion or national origin.

HISTORY: New 1968, p. 168, Act 112, Eff. Nov. 15.

CHAPTER 3. EXCLUSIONS**564.301 Inapplicability of act.**

Sec. 301. Section 201 does not apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other, if the owner or lessor or a member of his family resides in 1 of the housing accommodations.

(b) To the rental of a room or rooms in a single family dwelling by the owner or lessor if he or a member of his family resides therein.

(c) To the sale or rental by the owner or lessor of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other which was not in any manner listed or publicly advertised for sale or rental.

(d) To the rental of a housing accommodation for not to exceed 12 months by the owner or lessor where it was occupied by him and maintained as his home for at least

3 months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

HISTORY: New 1968, p. 168, Act 112, Eff. Nov. 15.

CHAPTER 4. ENFORCEMENT BY CIVIL RIGHTS COMMISSION

564.401 Complaints; contents; filing, time; copy to respondent; investigation by commission.

Sec. 401. A person claiming to be aggrieved by an unfair housing practice may file with the commission a written complaint, under oath, stating that an unfair housing practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient for the commission to identify the person charged, hereinafter referred to as the respondent. The complaint shall further state that the actions of the complainant were to accomplish or to endeavor to accomplish the real estate transaction cited therein and that the complaint is made in good faith and not for the purpose of harassment or entrapment of the respondent. The commission shall determine if the complaint is made in good faith. The attorney general or the commission on its own initiative may file with the commission a written complaint based upon information and belief alleging that an unfair housing practice has been committed, setting forth the facts upon which the complaint is based and setting forth facts sufficient for the commission to identify the person charged. The complaint shall further state that the complaint is made in good faith and not for the purpose of harassment. In all actions where the attorney general or the commission files a complaint in the circuit court in the county in which the unfair housing practice allegedly occurred, or in which the respondent resides or transacts business the court shall first determine if the complaint is made in good faith. The complaint shall be filed with the commission within 90 days after the alleged unfair housing practice occurred. Amendments as to parties respondent may be made within 180 days after filing the complaint. The commission shall furnish all respondents with a complete copy of the complaint and then shall investigate the allegations of any unfair housing practice in the complaint without delay.

HISTORY: New 1968, p. 169, Act 112, Eff. Nov. 15.

564.401a Removal to circuit court; time, fee, order; costs.

Sec. 401a. Within 15 days of receiving the notice of hearing as provided in section 406, the respondent may file with the circuit court for the county in which the complaint is alleged to have taken place a petition for the removal of the proceedings to the circuit court. Upon payment of the required filing fee, the court shall immediately issue an order removing the complaint from the jurisdiction of the civil rights commission. The court shall assume jurisdiction of the proceedings and the civil rights commission shall take no further action in regard to the complaint upon receiving a copy of the court order. The circuit court shall have all the powers and duties in regard to the complaint as are provided in this act to the civil rights commission. The civil rights commission may represent the complainant in the proceedings before the circuit court. Upon a determination by the circuit court that the respondent has not been guilty of an unfair housing practice, the court may order all costs of the proceeding incurred by the respondent to be paid by the complainant.

HISTORY: New 1968, p. 169, Act 112, Eff. Nov. 15.

564.402 Court order to produce books and records.

Sec. 402. In connection with an investigation of a complaint filed with the commission, the commission may apply to the circuit court for the county in which the unfair housing practice allegedly occurred, or in which the respondent resides or transacts

business for an order requiring the respondent to produce books, papers, records, correspondence or other documents relevant to the complaint.

HISTORY: New 1968, p. 169, Act 112, Eff. Nov. 15.

564.403 Dismissal orders; copies; reconsideration.

Sec. 403. (1) If the commission determines that there are insufficient grounds to believe that the respondent has committed an unfair housing practice, the commission shall issue an order dismissing the complaint and furnish copies of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(2) The complainant, within 30 days after receiving a copy of an order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application the commission may either reaffirm its dismissal of the complaint or may conduct a hearing to determine if there are sufficient grounds to believe the respondent has committed an unfair housing practice. If the commission determines that there are insufficient grounds to believe that the respondent has committed an unfair housing practice, the commission shall issue an order dismissing the complaint and furnish copies of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

HISTORY: New 1968, p. 169, Act 112, Eff. Nov. 15.

564.404 Conciliation; procedure; orders, content; confidentiality.

Sec. 404. Unless the commission has issued an order dismissing the complaint pursuant to section 403, the commission or its staff may endeavor to eliminate the alleged unfair housing practice by conference, conciliation and persuasion. If a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent and the attorney general. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unfair housing practice by conference, conciliation or persuasion. No conciliation agreement shall contain any declaration or finding that an unfair housing practice has been committed by the respondent.

HISTORY: New 1968, p. 170, Act 112, Eff. Nov. 15.

564.405 Temporary relief; duration; immediate disposition; lis pendens.

Sec. 405. At any time after a complaint is filed, the commission may file a petition in the circuit court in a county in which the unfair housing practice allegedly occurred, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief for a period of time not to exceed 30 days against the respondent pending final determination of proceedings under this chapter, including an order or judgment restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court may grant such temporary relief or restraining order as it deems just and proper. On motion of the respondent, the complainant or on its own motion the court may hear the case on its merits for immediate disposition. Upon filing the petition the commission shall forthwith file for record a notice of pendency of the action seeking temporary relief. The notice shall be filed with the register of deeds in the manner defined in section 2701 of Act No. 236 of the Public Acts of 1961, being section 600.2701 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 170, Act 112, Eff. Nov. 15.

564.406 Formal charge and hearing notice; service; answer, copies, amendments.

Sec. 406. (1) Unless the commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement it shall serve on the respondent by registered or certified mail a formal charge, and notice of a hearing before 1 or more commissioners or a hearing examiner at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, attorney general and any other party to the proceeding. The notice and hearing shall comply with Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1945, and commission rules.

(2) The respondent may file an answer which need not be under oath with the commission in person or by registered or certified mail in accordance with commission rules. The commission shall furnish a copy of the answer to the complainant and any other party to the proceeding. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the charge, but no order shall be issued unless the respondent has had the opportunity of a hearing on the charge or amendment on which the order is based.

HISTORY: New 1968, p. 170, Act 112, Eff. Nov. 15.

564.407 Hearings; disqualified persons; attorney general; conciliation evidence; parties rights; interveners.

Sec. 407. (1) A commissioner or staff member who filed or investigated the complaint or endeavored to eliminate the alleged unfair housing practice by conference, conciliation or persuasion, shall not preside at the hearing or participate in the subsequent deliberations of the commission, but may appear as a witness at the hearing.

(2) The case in support of the complaint shall be presented at the hearing by the attorney general's office. Efforts in a particular case to eliminate an unfair housing practice by conference, conciliation and persuasion shall not be received in evidence.

(3) A respondent shall have the right to appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant may intervene, examine and cross-examine witnesses and present evidence. In the discretion of the commission, or if the hearing has begun in the discretion of the hearing examiner, hearing commissioner or commissioners, any party in interest may intervene, examine and cross-examine witnesses and present evidence.

HISTORY: New 1968, p. 171, Act 112, Eff. Nov. 15.

564.408 Subpoenas; application, contents, vacation or modification; witness fees; refusal to appear.

Sec. 408. (1) Upon application to the commission a party to a proceeding may have subpoenas issued for a deposition or a hearing, in the name of the commission, by an individual designated pursuant to its rules, requiring attendance and the giving of testimony by witnesses and the production of documents. A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(2) A witness whose deposition is taken or who is summoned before the commission or its agents is entitled to the same witness and mileage fees paid to a witness subpoenaed in the circuit court.

(3) If a person fails to comply with a subpoena issued by the commission, the circuit court for the county in which the unfair housing practice allegedly occurred, or in

which the respondent resides or transacts business, upon application of the commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this chapter, the court may modify or set aside the subpoena.

HISTORY: New 1968, p. 171, Act 112, Eff. Nov. 15.

564.409 Burden of proof; testimony, oath, transcription; further hearing.

Sec. 409. (1) In a proceeding under this chapter it shall be the burden of the commission staff, or the complainant, to prove by the preponderance of the evidence that an unfair housing practice was committed by the respondent.

(2) Testimony taken at the hearing shall be under oath and transcribed. If the testimony is not taken before the commission, the record shall be transmitted to the commission with recommendations of the hearing examiner or hearing commissioner or commissioners. After the hearing the commission, upon notice to all parties with an opportunity to be heard, may take further evidence or hear argument.

HISTORY: New 1968, p. 171, Act 112, Eff. Nov. 15.

564.410 Decision of commission; findings of fact; orders.

Sec. 410. (1) If the commission determines that the respondent has not committed an unfair housing practice, the commission shall state its findings of fact and issue an order dismissing the charge and complaint. The commission shall furnish a copy of the order to the complainant, the respondent and the attorney general.

(2) If the commission determines that the respondent has committed an unfair housing practice, the commission shall state its findings of fact and conclusions of law and issue an order requiring the respondent to cease and desist from the unfair housing practice and issue such appropriate orders as in the judgment of the commission will carry out the purposes of this act.

HISTORY: New 1968, p. 171, Act 112, Eff. Nov. 15.

564.411 Order to remedy unfair housing practice; contents; civil damages.

Sec. 411. Appropriate orders under section 410 to remedy an unfair housing practice of a respondent may include and shall be limited to:

(a) Petitioning the circuit court in the county where the unfair housing practice was committed for an order providing for the sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(b) Reporting as to the manner of compliance.

(c) Making, keeping, producing and reporting upon reasonable commission demand for a maximum period of 1 year such reasonable records as are relevant to assist the commission in determining whether the respondent is complying with the order issued under section 410.

(d) Petitioning the circuit court in the county where the unfair housing practice was committed for an order awarding the payment of economic damages not exceeding \$500.00 to the complainant for an injury caused by the unfair housing practice as shall be determined by the court.

HISTORY: New 1968, p. 172, Act 112, Eff. Nov. 15.

564.412 Unfair housing practices; civil fines, petition to court; multiple discriminations.

Sec. 412. (1) If the commission finds that an unfair housing practice was committed in the course of respondent's business of furnishing housing accommodations, real estate brokerage services, or financial assistance in connection with a real estate transaction, the commission may petition the circuit court in the county where the unfair housing practice was committed or where an appeal is taken by a respondent pursuant to section 415 for an order directing the respondent to pay a fine to the state to be de-

posited in the general fund. After notice and hearing the court may order the respondent to pay a fine in the sum of not more than \$1,000.00 per unfair housing practice, and if the court finds the practice was a violation of a previous order of the commission, the court may order a fine not to exceed the sum of \$2,000.00 per unfair housing practice.

(2) Such fines are civil and not criminal. Multiple acts of discrimination against the same complainant by the same respondent concerning the same property shall constitute a single unfair housing practice. Discrimination against an applicant relative to more than 1 property, which occurs as part of a unified course of dealing with the respondent constitutes a single unfair housing practice. A respondent's discrimination against multiple complainants, all of whom intend to reside together as a single family unit constitutes a single unfair housing practice.

HISTORY: New 1968, p. 172, Act 112, Eff. Nov. 15.

564.413 Reconsideration by commission; time.

Sec. 413. Within 15 days after receipt of a final order of the commission, following a hearing held pursuant to section 406, a party aggrieved by the order may file a written motion for reconsideration by the commission.

HISTORY: New 1968, p. 172, Act 112, Eff. Nov. 15.

564.414 Real estate dealer or builder; notice to licensing agency; commission finding irreversible; exception.

Sec. 414. In case of a real estate broker, real estate salesman or builder operating under a license issued by the state or a political subdivision or agency thereof, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in an unfair housing practice authorized, requested, commanded, performed or knowingly or recklessly permitted by the individual or the board of directors of the respondent or by an officer or executive agent acting within the scope of his employment, the commission shall so certify to the licensing agency. Unless the commission finding of an unfair housing practice is reversed in the course of judicial review, the finding of an unfair housing practice is not reversible by the licensing agency notwithstanding any other provision of law to the contrary.

HISTORY: New 1968, p. 172, Act 112, Eff. Nov. 15.

564.415 Appeals from commission; stay of proceedings; appeal period.

Sec. 415. An appeal from a final order of the commission, including an order dismissing a complaint, shall be taken in the manner provided by section 4 of Act No. 45 of the Public Acts of the Second Extra Session of 1963, being section 37.4 of the Compiled Laws of 1948. Michigan court rules relative to stay of proceedings on appeal shall pertain in regard to the commission's order. If a motion for reconsideration is filed pursuant to section 413, the appeal period shall begin to run from receipt of the commission order determining the motion for reconsideration.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.416 Respondent's cost and attorney fees.

Sec. 416. If a complaint is dismissed by final order of the commission or a court, the court, in the same or another action, may assess an amount not to exceed actual costs and actual attorney fees against the complainant and in favor of the respondent.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.417 Complaints and testimony; perjury.

Sec. 417. Complaints and sworn testimony referred to herein are subject to the law of perjury.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.418 Constitutional rights not denied.

Sec. 418. Nothing contained in this act shall be construed in such a manner, and no investigation or determination herein prescribed or permitted shall be made in such a manner, so as to deny any person suspected or accused of violating the provisions of this act, or otherwise affected by said provisions, any statutory or constitutional right, guarantee, safeguard, privilege or other prerogative that would exist in a corresponding criminal investigation and proceeding.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

CHAPTER 5. ENFORCEMENT BY DEPARTMENT OF LICENSING AND REGULATION

564.501 Revocation of licenses.

Sec. 501. If a certification is made pursuant to section 414, the licensing agency may take appropriate action to suspend or revoke the license of the respondent.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

CHAPTER 6. LOCAL COMMISSIONS

564.601 Local ordinance; adoption, enforcement.

Sec. 601. A political subdivision may adopt and enforce an ordinance prohibiting discrimination in real estate transactions because of race, color, religion or national origin which is not in conflict with the provisions of this act.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.602 Local commission, creation.

Sec. 602. A political subdivision, or 2 or more political subdivisions acting jointly, may create a local commission to promote the purposes of this act and to secure for all individuals within the jurisdiction of the political subdivision or subdivisions freedom from discrimination in real estate transactions because of race, color, religion or national origin, and may appropriate funds for the expenses of the local commission.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.603 Local commission; powers; review of final orders.

Sec. 603. (1) A local commission, to the extent authorized by local ordinance, may have all the powers within its geographical jurisdiction which the state commission has under chapter 4. However, neither the state commission nor a local commission shall accept a complaint from a complainant who has previously filed a complaint involving the same transaction with the other agency, or in court pursuant to chapter 7, unless the prior complaint was dismissed on grounds not dispositive of the merits. Records and reports required by a local commission shall conform as nearly as convenient to corresponding records and reports required by the state commission and by federal law. A local commission may issue cease and desist orders only with the written approval of the state commission, upon filing of the transcript of proceedings, the findings of fact and recommendations of the local commission presented to and concurred in by the state commission. If the local commission is authorized to conciliate claims of unfair housing practices but not issue cease and desist orders, nor petition for damages or fines, prior to accepting a claim the local commission shall give written notice to the claimant of the extent of its powers and may file his claim with the state commission.

(2) Proceedings for review or enforcement of a final order of a local commission shall be the same as proceedings for review or enforcement of a final order of the state commission.

HISTORY: New 1968, p. 173, Act 112, Eff. Nov. 15.

564.604 Jurisdiction; transfer to local commission; report and recommendations.

Sec. 604. (1) The state commission, whether or not a complaint has been filed under this act, may transfer jurisdiction of a matter involving discrimination in real estate transactions because of race, color, religion or national origin to a local commission for investigation, study and report, subject to the consent of the local commission and the parties.

(2) The state commission may transfer jurisdiction of a complaint alleging a violation of this act to a local commission for investigation, determination whether there is a reasonable cause to believe that the respondent has committed an unfair housing practice, or assistance in eliminating an unfair housing practice by conference, conciliation or persuasion, subject to the consent of the local commission and the parties.

(3) Upon transfer by the state commission, the local commission shall make a report and may make recommendations to the state commission and take other appropriate action within the scope of its powers.

HISTORY: New 1968, p. 174, Act 112, Eff. Nov. 15.

564.605 Jurisdiction; transfer to state commission; judicial transfer.

Sec. 605. (1) A local commission may transfer jurisdiction of a matter under its jurisdiction to the state commission, subject to the consent of the state commission.

(2) If the state commission believes there has been excessive delay in deciding a case by a local commission or that the local commission is for any reason unable or unwilling to dispose of a complaint in accordance with the provisions and purposes of this act, the state commission may apply to the circuit court in which the local commission is located for an order transferring jurisdiction over the complaint to the state commission.

HISTORY: New 1968, p. 174, Act 112, Eff. Nov. 15.

564.606 Construction of chapter.

Sec. 606. This chapter shall not be construed to imply the absence of power in a political subdivision to provide criminal sanctions in an ordinance passed pursuant to the police power or other power inherent in the political subdivision.

HISTORY: New 1968, p. 174, Act 112, Eff. Nov. 15.

CHAPTER 7. PRIVATE CIVIL ACTIONS**564.701 Private civil action; time; provisional and final relief; rescission of contract.**

Sec. 701. (1) A person claiming to be aggrieved by an unfair housing practice, in lieu of filing a written complaint with the state commission or a local commission, may initiate a private civil action in circuit court seeking appropriate injunctive relief for a period of time not to exceed 30 days and damages.

(2) The courts of this state are authorized, through appropriate civil procedures, to give provisional and final relief in such cases. The remedies shall conform insofar as possible to those stated in sections 410 to 412, except that such courts are not limited to the damages set forth in section 411.

(3) Where real property is the subject of a complaint of an unfair housing practice, the court may cancel, rescind or revoke a contract, deed, lease or other instrument transferring that property to any person who had actual knowledge or record notice of a finding by the state or local commission that an unfair housing practice had occurred with respect to such real property, if such actual knowledge or record notice occurred prior to the transfer of the real estate or the execution of a document creating a legal obligation to make such transfer.

HISTORY: New 1968, p. 174, Act 112, Eff. Nov. 15.

564.702 Civil act bar to commission action; defense to civil action.

Sec. 702. The state commission or a local commission shall not accept a complaint from a complainant who has previously filed a complaint in court involving the same transaction unless the court has previously dismissed the complaint for lack of jurisdiction or improper venue. It is a defense to an original civil action commenced under this chapter that the complainant previously filed a complaint involving the same transaction with the state commission or a local commission, unless such complaint was dismissed on grounds of lack of jurisdiction or improper venue.

HISTORY: New 1968, p. 175, Act 112, Eff. Nov. 15.

564.703 Jury trial.

Sec. 703. No respondent shall be precluded from a trial by jury as a matter of right in any matter covered in this act.

HISTORY: New 1968, p. 175, Act 112, Eff. Nov. 15.

564.704 Judicial remedies not diminished.

Sec. 704. Nothing contained in this act shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

HISTORY: New 1968, p. 175, Act 112, Eff. Nov. 15.

CHAPTER 565. CONVEYANCES OF REAL PROPERTY

ALIENATION BY DEED; PROOF AND RECORDING OF
CONVEYANCES, AND CANCELLING OF MORTGAGES

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R.S. 1846, Ch. 65.

ALIENATION BY DEED; AND THE PROOF AND RECORDING OF CONVEYANCES, AND THE CANCELLING OF MORTGAGES.

565.1 Conveyance of land made by deed.

Sec. 1. Conveyances of lands, or of any estate or interest therein, may be made by deed, signed and sealed by the person from whom the estate or interest is intended to pass, being of lawful age, or by his lawful agent or attorney, and acknowledged or proved and recorded as directed in this chapter, without any other act or ceremony whatever.

HISTORY: CL 1857, 2720;—CL 1871, 4203;—How. 5652;—CL 1897, 8956;—CL 1915, 11688;—CL 1929, 13278;—CL 1948, 565.1.

FORMER LAWS: Act of Aug. 1805; Woodward Code, Secs. 87-90; Terr. Laws, vol. 1, 38; Cass Code, Terr. Laws, vol. 1, 146; Act of March 27, 1820, Terr. Laws, vol. 1, 516; Act of April 12, 1827; R.L. 1827, p. 258; R.L. 1833, p. 379; Terr. Laws, vol. 2, 361; R.S. 1838, p. 257 as amended by Act 115 of 1839, Sec. 19, p. 219, Act 108 of 1840, p. 166; Act 5 of 1843, p. 6.

POWERS: By Compilers' § 556.121 instruments, except wills, made in execution of a power are deemed conveyances and subject to the provisions of R.S. 1846, Ch. 65.

RECORD AS EVIDENCE: See Compilers' §§ 600.2109 and 600.2110.

CITED IN OTHER SECTIONS: Sections 565.1 to 565.49 are cited in § 565.83.

Sec. 2.

HISTORY: CL 1857, 2721;—CL 1871, 4204;—Rep. 1875, p. 193, Act 164, Eff. Aug. 3.

This section authorized conveyance of wife's land by joint deed of husband and wife, but relieved her from obligation of covenants therein.

565.3 Quit claim deed; estate passed.

Sec. 3. A deed of quit claim and release, of the form in common use, shall be sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.

HISTORY: CL 1857, 2722;—CL 1871, 4205;—How. 5653;—CL 1897, 8957;—CL 1915, 11699;—CL 1929, 13279;—CL 1948, 565.3.

565.4 Conveyance of greater estate than possessed; effect.

Sec. 4. A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

HISTORY: CL 1857, 2723;—CL 1871, 4206;—How. 5654;—CL 1897, 8958;—CL 1915, 11690;—CL 1929, 13280;—CL 1948, 565.4.

565.5 Covenants; implication in conveyance.

Sec. 5. No covenant shall be implied in any conveyance of real estate, except oil and gas leases, whether such conveyance contain special covenants or not.

HISTORY: CL 1857, 2724;—CL 1871, 4207;—How. 5655;—CL 1897, 8959;—CL 1915, 11691;—Am. 1929, p. 459, Act 168, Eff. Aug. 28;—CL 1929, 13281;—CL 1948, 565.5.

565.6 Covenants; implication in mortgage.

Sec. 6. No mortgage shall be construed as implying a covenant for the payment of the sum thereby intended to be secured; and where there shall be no express covenant for such payment contained in the mortgage, and no bond or other separate instrument to secure such payment, shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

HISTORY: CL 1857, 2725;—CL 1871, 4208;—How. 5656;—CL 1897, 8960;—CL 1915, 11692;—CL 1929, 13282;—CL 1948, 565.6.

COVENANTS: See notes under preceding sections.

FORM OF MORTGAGE: See Compilers' § 565.154.

565.7 Conveyance of land adversely possessed; validity.

Sec. 7. No grant or conveyance of lands or interest therein, shall be void for the reason that, at the time of the execution thereof such lands shall be in the actual possession of another claiming adversely.

HISTORY: CL 1857, 2726;—CL 1871, 4209;—How. 5657;—CL 1897, 8961;—CL 1915, 11693;—CL 1929, 13283;—CL 1948, 565.7.

*NOTE: It is evident "adversly" should be spelled "adversely".

565.8 Execution of deed; witnesses, acknowledgment; validation of acknowledgments; deeds not properly witnessed, use in evidence.

Sec. 8. Deeds executed within this state of lands, or any interest in lands therein, shall be executed in the presence of 2 witnesses, who shall subscribe their names to the same as such, and the persons executing such deeds may acknowledge the execution thereof before any judge, clerk or commissioner of a court of record, or before any notary public, justice of the peace, or master in chancery, within the state, and the officer taking such acknowledgment shall endorse thereon a certificate of the acknowledgment thereof, and the true date of making the same, under his hand. And any deed which shall have been acknowledged before any county clerk or clerk of any circuit court, on any day prior to the eighteenth day of September, 1903, and such acknowledgment thereof, and, if recorded, the record thereof, shall be as valid for all purposes so far as such acknowledgment and record are concerned, as if the same had been ac-

knowledge before any of the officers named in this section, and the legality of such acknowledgment and record shall not be questioned in any court or place: Provided, That where any such deed has been heretofore recorded which lacks 1 or more witnesses and the same has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of such deed shall be effectual for all purposes of a legal record and the record of such deed or a transcript thereof may be given in evidence as in other cases and such instrument shall be as valid and effectual as if such instrument had been in such respect duly executed.

HISTORY: CL 1857, 2727;—CL 1871, 4210;—How. 5658;—CL 1897, 8962;—Am. 1903, p. 137, Act 117, Eff. Sept. 15;—Am. 1906, p. 150, Act 103, Imd. Eff. May 10;—CL 1915, 11694;—CL 1929, 13284;—Am. 1937, p. 257, Act 162, Imd. Eff. July 9;—CL 1948, 565.8.

ACKNOWLEDGMENT: See Compilers' § 565.261 et seq.

FORMER LAWS: By the act of August 29, 1805, the clerk of every court was authorized to record all deeds and writings which were acknowledged or proved before such court, or any judge thereof, or any justice of the peace, or any notary public. If the party did not reside in Michigan the acknowledgment or proof was to be "before any court of law, or the mayor or any chief magistrate of any city, town, or corporation in which the party shall dwell, certified by such court, mayor, or magistrate, in the manner such acts are usually authenticated by them." Woodward Code, p. 52, Secs. 87 and 89; Cass Code, p. 45; Terr. Laws, vol. 1, p. 36. Act of Sept. 16, 1810; Terr. Laws, vol. 1, p. 189, authorizes justices of the peace to take acknowledgments. By the act of 1820, deeds were required to be signed and sealed by the parties, and acknowledged or proved by one or more of the subscribing witnesses thereto, before one of the judges of the supreme court, or one of the justices of any county court, a notary public, or justice of the peace. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 516. Deeds executed in any other territory, state, or country, were required to be acknowledged or proved and certified according to the laws and usages of such territory, state, or country. The provisions of the act of 1820 were substantially re-enacted in 1827, and continued in force until August 31, 1838. Revision of 1827, p. 258, and 1833, p. 279; Terr. Laws, vol. 2, p. 361. By the R.S. 1838, p. 257, acknowledgments might be made "before any judge of any court of record, or before any notary public or justice of the peace within the state or of the United States, or in any foreign country, or before any minister or consul of the United States in any foreign country." And provision was made for proving deeds before a court of record, in case the grantor should die or depart from the state without having acknowledged the same. R.S. 1838, as amended by Act 115 of 1839, Sec. 17, p. 219, required two witnesses. R.S. 1838 required no witnesses to a deed. By Act 108 of 1840, p. 166, deeds might be acknowledged before a justice of the peace, judge of the circuit, district, or supreme courts of the state, or notary public, or master in chancery. If executed by a person residing in another state or territory, the deed was required to be executed according to the laws of such state or territory. If executed by a person residing in a foreign country, it might be executed according to the laws of such country, and acknowledged before a minister plenipotentiary, consul, or charge d'affaires of the United States. This act was in force until repealed by the R.S. 1846. For acts respecting conveyances by the governor and judges, and by the mayor, recorder, and aldermen of Detroit, see Laws of 1834, p. 38; Act 47 of 1844, p. 60, as amended by Act 106 of 1846, p. 156, and Act 226 of 1850, p. 232.

565.9 Execution of deed in another state; governing law, acknowledgment.

Sec. 9. If any such deed shall be executed in any other state, territory or district of the United States, such deed may be executed according to the laws of such state, territory or district, and the execution thereof may be acknowledged before any judge of a court of record, notary public, justice of the peace, master in chancery or other officer authorized by the laws of such state, territory or district to take the acknowledgment of deeds therein, or before any commissioner appointed by the governor of this state for such purpose.

HISTORY: CL 1857, 2728;—CL 1871, 4211;—How. 5659;—CL 1897, 8963;—CL 1915, 11695;—CL 1929, 13285;—CL 1948, 565.9.

FORMER LAWS: Law prior to 1846, see Sec. 2 of Act 108 of 1840, p. 666.

LAND CONTRACT: The execution and acknowledgment of a land contract in another state is governed by this section. See Compilers' § 565.352.

565.10 Execution of deed in another state; seal of officer, certificate; record of prior deeds as evidence.

Sec. 10. In the cases provided for in the last preceding section unless the acknowledgment be taken before a commissioner appointed by the governor of this state for that purpose the officer taking such acknowledgment shall attach thereto the seal of his office, and if such acknowledgment be taken before a justice of the peace or other officer having no seal of office, such deed or other conveyance or instrument shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district, or of the secretary of the state or territory within which such acknowledgment was taken under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person to such certificate of acknowledgment to be genuine, and that the deed is executed and acknowledged according to the laws of such state, territory or district. Whenever any deed or other instrument effecting [affecting] the title to land, executed, acknowledged and authenticated in accordance with this section and the last preceding section, has been heretofore recorded in the proper county,

such record, or a certified transcript thereof shall be prima facie evidence of the due execution of such instrument to the same extent as if it had been authenticated as required by the statute in force at the time such instrument was recorded.

HISTORY: CL 1857, 2729;—CL 1871, 4212;—Am. 1875, p. 259, Act 215, Eff. Aug. 3;—How. 5660;—Am. 1891, p. 131, Act 112, Eff. Oct. 2;—Am. 1893, p. 224, Act 137, Eff. Aug. 28;—CL 1897, 8964;—CL 1915, 11696;—CL 1929, 13296;—CL 1948, 565.10.

FORMER LAWS: The earlier acts did not require any clerk's certificate. Such certificate first became necessary May 20, 1839. Amendatory Act 115 of 1839, Sec. 34, p. 219, to R.S. 1838, which took effect 30 days thereafter, provided that "no register of deeds shall record any deed executed out of this state, unless there shall be attached thereto the official certificate of the proper certifying officer, showing that the officer taking the acknowledgment of such deed is such officer as by his certificate of acknowledgment he purports to be, duly commissioned and qualified." Act 108 of 1840, p. 166, which took effect April 1, 1840, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the proper county clerk, under the seal of his office, that such deed was executed according to the laws of such state or territory. Act 5 of 1843, p. 6, effective Feb. 15, 1843, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the clerk or proper certifying officer of any court of record in such state or territory, under the seal of his office, that such deed was executed and acknowledged according to the laws of such state or territory. This provision continued in force until R.S. 1846.

565.11 Execution of deed in foreign country; governing law; acknowledgment; certificate, seal; validation of certain deeds; record as evidence.

Sec. 11. If such deed be executed in any foreign country it may be executed according to the laws of such country, and the execution thereof may be acknowledged before any notary public therein or before any minister plenipotentiary, minister extraordinary, minister resident, charge d'affaires, commissioner, or consul of the United States, appointed to reside therein; which acknowledgment shall be certified thereon by the officer taking the same under his hand, and if taken before a notary public his seal of office shall be affixed to such certificate: Provided, That all deeds of land situated within this state, heretofore or hereafter made in any foreign country, and executed in the presence of 2 witnesses, who shall have subscribed their names to the same as such, and the execution thereof shall have been acknowledged by the persons executing the same before any 1 of the officers authorized by this section to take such acknowledgment, and such acknowledgment shall have been certified thereon, as above required, shall be deemed between the parties thereto and all parties claiming under or through them, as valid and effectual to convey the legal estate of the premises therein described; and whenever such deed has been recorded in the office of the register of deeds of the proper county such record shall be effectual for all purposes of a legal record, and the record of such deed, or a transcript thereof, may be given in evidence as in other cases: Provided, That nothing herein contained shall impair the rights of any person under a purchase heretofore made in good faith and on valuable consideration.

HISTORY: CL 1857, 2730;—CL 1871, 4213;—How. 5661;—Am. 1889, p. 321, Act 217, Eff. Oct. 2;—Am. 1889, p. 369, Act 248, Imd. Eff. July 3;—CL 1897, 8965;—CL 1915, 11697;—CL 1929, 13287;—CL 1948, 565.11.

LAND CONTRACT: The execution and acknowledgment of a land contract in a foreign country is governed by this section. See Compilers' § 565.353.

DEEDS EXECUTED IN FOREIGN COUNTRY: The acts cited under note "Former Laws," to Compilers' § 565.8 besides making provisions for the execution of deeds in other states also provide for their execution in foreign countries.

As to acknowledgment of such deeds, see Compilers' § 565.256.

DEEDS EXECUTED IN ANOTHER STATE: See Compilers' § 565.262.

Sec. 12.

HISTORY: CL 1857, 2731;—CL 1871, 4214;—Rep. 1875, p. 142, Act 104, Eff. Aug. 3.

The section read as follows: "Sec. 12. When any married woman residing in this state shall join with her husband in a deed of conveyance of real estate, situate within this state, the acknowledgment of the wife shall be taken separately and apart from her husband; and she shall acknowledge that she executed such deed freely and without any fear or compulsion from any one." Sec. 2 of the repealing act provided for the taking of the acknowledgment of a married woman as if she were sole. Two years later Act 62 of 1877, being Compilers' §§ 565.281 and 565.282 was passed.

565.13 Conveyance by nonresident married women; effect, procedure.

Sec. 13. When any married woman not residing in this state, shall join with her husband in any conveyance of real estate situated within this state, the conveyance shall have the same effect as if she were sole, and the acknowledgment or proof of the execution of such conveyance by her, may be the same as if she were sole.

HISTORY: CL 1857, 2732;—CL 1871, 4215;—How. 5663;—CL 1897, 8968;—CL 1915, 11700;—CL 1929, 13288;—CL 1948, 565.13.

565.14 Deed; failure to acknowledge; proof by witness of execution.

Sec. 14. When any grantor shall die, or depart from, or reside out of this state, not having acknowledged his deed, the due execution thereof may be proved by any competent subscribing witness thereto, before any court of record in this state.

HISTORY: CL 1857, 2733;—CL 1871, 4216;—How. 5064;—CL 1897, 8969;—CL 1915, 11701;—CL 1929, 13299;—CL 1948, 565.14.

565.15 Deed; failure to acknowledge; proof of handwriting where witnesses are unobtainable.

Sec. 15. If all the subscribing witnesses to such deed shall also be dead or out of this state, the same may be proved before any court of record in this state, by proving the handwriting of the grantor, and of any subscribing witness thereto.

HISTORY: CL 1857, 2734;—CL 1871, 4217;—How. 5065;—CL 1897, 8970;—CL 1915, 11702;—CL 1929, 13290;—CL 1948, 565.15.

565.16 Deed; refusal to acknowledge; application to justice, summons to grantor.

Sec. 16. If any grantor residing in this state, shall refuse to acknowledge his deed, the grantee or any person claiming under him, may apply to any justice of the peace in the county where the land lies, or where the grantor or any subscribing witness to the deed resides, who shall thereupon issue a summons to the grantor to appear at a certain time and place before the said justice, to hear the testimony of the subscribing witnesses to the deed; and the said summons with a copy of the deed annexed, shall be served at least 7 days before the time therein assigned for proving the deed.

HISTORY: CL 1857, 2735;—CL 1871, 4218;—How. 5066;—CL 1897, 8971;—CL 1915, 11703;—CL 1929, 13291;—CL 1948, 565.16.

565.17 Deed; refusal to acknowledge; proof of execution, certificate of justice.

Sec. 17. At the time mentioned in such summons, or at any time to which the hearing may *may be adjourned, the due execution of the deed may be proved by the testimony of 1 or more of the subscribing witnesses; and if proved to the satisfaction of the justice, he shall certify the same thereon, and in such certificate he shall note the presence or absence of the grantor, as the fact may be.

HISTORY: CL 1857, 2736;—CL 1871, 4219;—How. 5067;—CL 1897, 8972;—CL 1915, 11704;—CL 1929, 13292;—CL 1948, 565.17.

*COMPILERS' NOTE: The second "may" would seem to be needless repetition.

565.18 Deed; refusal to acknowledge; proof of execution by proving handwriting.

Sec. 18. If any grantor residing in this state shall refuse to acknowledge his deed, and the subscribing witnesses thereto shall all be dead, or out of the state, it may be proved before any court of record in this state, by proving the handwriting of the grantor, or of any subscribing witness; the said court first summoning the grantor for the purpose, in the manner before provided in this chapter.

HISTORY: CL 1857, 2737;—CL 1871, 4220;—How. 5068;—CL 1897, 8973;—CL 1915, 11705;—CL 1929, 13293;—CL 1948, 565.18.

565.19 Witnesses; subpoenas for attendance.

Sec. 19. The court or justice before whom any deed may be presented to be proved, as provided in the preceding sections, may issue subpoenas to the subscribing witnesses or others, as the case may require, to appear and testify touching the execution of such deed; which subpoenas may be served in any part of this state.

HISTORY: CL 1857, 2738;—CL 1871, 4221;—How. 5069;—CL 1897, 8974;—CL 1915, 11706;—CL 1929, 13294;—CL 1948, 565.19.

565.20 Witnesses; refusal to appear or testify; civil liability, penalty.

Sec. 20. Every person who being served with such subpoena, shall without reasonable cause, refuse or neglect to appear, or appearing shall refuse to answer on oath, touching the matters aforesaid, shall be liable to the injured party in the sum of 100 dollars damages, and for such further damages as such party may sustain thereby; and

may also be committed to prison as for a contempt by the court or justice who issued such subpoena, there to remain until he shall submit to answer upon oath as aforesaid.

HISTORY: CL 1857, 2739;—CL 1871, 4222;—How. 5670;—CL 1897, 8975;—CL 1915, 11707;—CL 1929, 13295;—CL 1948, 565.20.

565.21 Unacknowledged deed; filing of copy by person interested; effect.

Sec. 21. Any person interested in a deed that is not acknowledged, may at any time before or during such application to a court of record, or such proceedings before a justice, file in the office of the register of deeds of the county where the lands are situated, a copy of the deed compared with the original by the register, which shall, for the space of 30 days thereafter in case of proceedings before a justice, and in case of proceedings before a court of record, for the space of 10 days after the first day of the next term of such court, have the same effect as the recording of the deed, if such deed shall, within that time be duly proved and recorded.

HISTORY: CL 1857, 2740;—CL 1871, 4223;—How. 5671;—CL 1897, 8976;—CL 1915, 11708;—CL 1929, 13296;—CL 1948, 565.21.

565.22 Unacknowledged deed; extension of time of effectiveness.

Sec. 22. If at the expiration of the time mentioned in the preceding section for that purpose, such proceedings for proving the execution of the deed shall be pending before a justice of the peace, the effect of filing such copy shall continue until the expiration of 7 days after the termination of the proceedings, if such deed shall within that time be duly proved and recorded.

HISTORY: CL 1857, 2741;—CL 1871, 4224;—How. 5672;—CL 1897, 8977;—CL 1915, 11709;—CL 1929, 13297;—CL 1948, 565.22.

565.23 Certificate of acknowledgment or proof of execution; effect on right to have deed recorded.

Sec. 23. A certificate of the acknowledgment of any deed, or of the proof of the execution thereof before a court of record, or justice of the peace, signed by the clerk of such court, or by the justice before whom the same was taken, as provided in this chapter, and, in the cases where the same is necessary, the certificate required by the eleventh* section of this chapter, shall entitle such deed with the certificate or certificates aforesaid to be recorded in the office of the register of deeds of the county where the lands lie.

HISTORY: CL 1857, 2742;—CL 1871, 4225;—How. 5673;—CL 1897, 8978;—CL 1915, 11710;—CL 1929, 13298;—CL 1948, 565.23.

*NOTE: It is evident the word "eleventh" should be "tenth".

FORMER LAWS: From 1805 to 1815, deeds might be recorded in the office of any clerk of a court. Woodward Code, p. 52, sec. 87; Act of Aug. 29, 1805, Terr. Laws, vol. 1, p. 38; Act of Jan. 19, 1811, Terr. Laws, vol. 1, p. 182. The act of Nov. 4, 1815 required them to be recorded in the office of the register of probate of the district in which the lands were situate. Cass Code, p. 80; Terr. Laws, vol. 1, p. 176. See also Act of July 27, 1818, Terr. Laws, vol. 2, p. 140. By the act of March 27, 1820 deeds were to be recorded in the office of the register of probate for the county, or register of the city, in which the lands were situate. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 517. And see the Act of 1827, Rev. Laws of 1827, p. 258; Rev. Laws of 1833, p. 279; Terr. Laws, vol. 2, p. 261. See Starkweather v. Martin, 28 Mich. 477. The office of register of probate was abolished by the act of Jan. 29, 1835, and deeds, except of lands in Detroit, were required to be recorded in the office of the register of deeds elected for each county. Laws of 1835, p. 79; Terr. Laws, vol. 3, p. 1360. See also R.S. 1838, p. 260, Sec. 20; Ammendatory Act 115 of 1839, Sec. 19, p. 219, to R.S. 1838; Act 108 of 1840, p. 167. As to recording in Detroit, see Act of July 28, 1818, Terr. Laws, vol. 2, p. 141; Act of March 27, 1820, Terr. Laws, vol. 1, p. 518; Act of April 12, 1827; Terr. Laws, vol. 2, p. 362; Rev. Laws of 1827, p. 259, of 1833, p. 280; Act of July 14, 1830, Rev. Laws of 1833, p. 282. See Laws of 1834, p. 38. The office of city register of Detroit was abolished by Act 115 of 1837, p. 268 and his duties conferred upon the register of deeds for the county of Wayne. Act 116 of 1837, p. 268. See Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; Act 228 of 1850, p. 232.

CITED IN OTHER SECTIONS: The above section is cited in § 556.121.

565.24 Entry books; kept by register of deeds; form, consolidation.

Sec. 24. Every register of deeds shall keep an entry book of deeds and an entry book of mortgages, each page of which shall be divided into 6 columns, with title or heads to the respective columns, in the following form, to-wit:

Date of Reception	Grantors	Grantees	Township where the land lies			To whom delivered (after being recorded) and date (of delivery.)	Fee (Fees) Received.
			Town.	Range.	Section.		

He shall also keep a reception book of levies.

Where it is found desirable to consolidate reception book entries into 1 book, it may be done by providing a sheet divided into 9 vertical columns with title or heading to the respective columns in the following form:

RECEIPT NUMBER	DATE OF RECEIPT MONTH, DAY, HOUR	GRANTORS OR MORTGAGORS OR DEFENDANTS	GRANTEES OR MORTGAGEES OR PLAINTIFFS	LOCATION OF LAND TOWN, RANGE, SECTION.	KIND OF INSTRU- MENT.	TO WHOM DELIVERED	DATE MAILED	FEES RECEIVED
THIS COLUMN WOULD CONTAIN CONSECUTIVE ENTRY NUMBERS								THIS COLUMN WOULD CONTAIN ALL STATUTORY FEES CHARGED.

HISTORY: CL 1857, 2743;—CL 1871, 4226;—Am. 1879, p. 285, Act 262, Eff. Aug. 30;—How. 5674;—CL 1897, 8979;—CL 1915, 11711;—CL 1929, 13299;—Am. 1941, p. 459, Act 263, Eff. Jan. 10, 1942;—CL 1948, 565.24.

565.25 Entry books; effect of entry by register of deeds.

Sec. 25. In the entry book of deeds, the register shall enter all deeds of conveyance absolute in their terms, and not intended as mortgages or securities, and all copies left as cautions, and in the entry book of mortgages he shall enter all mortgages and other deeds intended as securities, and all assignments of any such mortgages or securities; and in the entry book of levies he shall enter all levies, attachments, notices or lis pendens, sheriffs' certificates of sale, and United States marshals' certificates of sale, noting in such books, the day, hour and minute of the reception and other particulars, in the appropriate columns in the order in which such instruments are respectively received, and every such instrument shall be considered as recorded at the time so noted. And the record of such levies, attachments, notices, lis pendens, sheriffs' certificates, marshals' certificates, and the original papers required by statute to be recorded to perfect such levies, attachments, notices, lis pendens and certificates on record in the office of the register of deeds, shall be notice to all persons, of the liens, rights and interests acquired by or involved in such proceedings, and all subsequent owners or incumbrances shall take subject to such liens, rights or interests.

HISTORY: CL 1857, 2744;—CL 1871, 4227;—Am. 1879, p. 285, Act 262, Eff. Aug. 30;—How. 5675;—CL 1897, 8980;—CL 1915, 11712;—CL 1929, 13300;—CL 1948, 565.25;—Am. 1958, p. 81, Act 74, Eff. Sep. 13.

565.26 Deeds and mortgages; different sets of books.

Sec. 26. Different sets of books shall be provided by the registers of deeds of the several counties, for the recording of deeds and mortgages; in 1 of which sets all deeds required by the preceding section to be entered in the entry book of deeds, shall be re-

corded at full length, with the certificates of acknowledgment or proof of the execution thereof, and in the other, all such instruments as are required to be entered in the entry book of mortgages, shall in like manner, be recorded, except in those counties using a photographic process as a method of recording, which counties may bind all photographic copies of instruments into 1 set of numbered books (libers) giving to each page a number. Said set of books shall be called: Register of Deeds Records.
Name of county

HISTORY: CL 1857, 2745;—CL 1871, 4228;—How. 5676;—CL 1897, 8981;—CL 1915, 11713;—CL 1929, 13301;—Am. 1941, p. 460, Act 263, Eff. Jan. 10, 1942;—CL 1948, 565.26.

565.27 Certificate on recorded instruments; contents.

Sec. 27. The register shall certify upon every instrument recorded by him, the time when it was received, and a reference to the book and page where it is recorded.

HISTORY: CL 1857, 2746;—CL 1871, 4229;—How. 5681;—CL 1897, 8986;—CL 1915, 11719;—CL 1929, 13302;—CL 1948, 565.27.

565.28 Indexes to be kept separately; discharges of mortgages.

Sec. 28. Every register of deeds shall also keep a proper general index to each of the sets of books in which he shall enter, alphabetically the name of each and every party to each instrument recorded by him, with a reference to the book and page where the same is recorded. In counties in which photographic copies of instruments are bound into 1 set of books, the register of deeds shall keep separate indexes of such instruments as previously required by law. He shall also keep a separate index in which shall be entered daily a minute of all discharges of mortgages as the same are entered, and whether the same be by written discharge or entered upon the margin of the record, together with a reference to the volume and page where recorded, or entered upon the margin.

HISTORY: CL 1857, 2747;—CL 1871, 4230;—How. 5682;—Am. 1893, p. 83, Act 80, Eff. Aug. 28;—CL 1897, 8987;—CL 1915, 11720;—CL 1929, 13303;—Am. 1941, p. 460, Act 263, Eff. Jan. 10, 1942;—CL 1948, 565.28.

565.29 Unrecorded conveyance; validity against subsequent purchaser; relation of quit claim deed to good faith.

Sec. 29. Every conveyance of real estate within the state hereafter made, which shall not be recorded as provided in this chapter, shall be void as against any subsequent purchaser in good faith and for a valuable consideration, of the same real estate or any portion thereof, whose conveyance shall be first duly recorded. The fact that such first recorded conveyance is in the form or contains the terms of a deed of quit-claim and release shall not affect the question of good faith of such subsequent purchaser, or be of itself notice to him of any unrecorded conveyance of the same real estate or any part thereof.

HISTORY: CL 1857, 2748;—CL 1871, 4231;—How. 5683;—CL 1897, 8988;—Am. 1915, p. 335, Act 199, Eff. Aug. 24;—CL 1915, 11721;—CL 1929, 13304;—CL 1948, 565.29.

565.30 Deeds of church pews and slips; recording.

Sec. 30. Deeds of pews or slips in any church, may be recorded by the clerk of the township in which such a church is situated, or by the clerk of the society or proprietors, if incorporated or legally organized; and such clerks shall receive the same fees as the register of deeds is entitled to for similar services.

HISTORY: CL 1857, 2749;—CL 1871, 4232;—How. 5684;—CL 1897, 8989;—CL 1915, 11722;—CL 1929, 13305;—CL 1948, 565.30.

Sec. 31.

HISTORY: CL 1857, 2750;—CL 1871, 4233;—How. 5685;—CL 1897, 8990;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act.)

This section provided for the effect of certain conveyances and other instruments as evidence.

565.32 Unrecorded deed of defeasance; validity against person without notice.

Sec. 32. When a deed purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by force of a deed of defeasance or other instrument for that purpose, the original conveyance shall not be thereby defeated or affected, as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded in the registry of deeds of the county where the lands lie.

HISTORY: CL 1857, 2751;—CL 1871, 4234;—How. 5686;—CL 1897, 8991;—CL 1915, 11723;—CL 1929, 13308;—CL 1948, 565.32.

565.33 Assignment of mortgage; effect of recording.

Sec. 33. The recording of an assignment of a mortgage shall not, in itself, be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either of them to the mortgagee.

HISTORY: CL 1857, 2752;—CL 1871, 4235;—How. 5687;—CL 1897, 8992;—CL 1915, 11724;—CL 1929, 13307;—CL 1948, 565.33.

565.34 Purchaser; definition.

Sec. 34. The term "purchaser," as used in this chapter, shall be construed to embrace every person to whom any estate or interest in real estate, shall be conveyed for a valuable consideration, and also every assignee of a mortgage, or lease or other conditional estate.

HISTORY: CL 1857, 2753;—CL 1871, 4236;—How. 5688;—CL 1897, 8993;—CL 1915, 11725;—CL 1929, 13309;—CL 1948, 565.34.

565.35 Conveyance; definition.

Sec. 35. The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing, by which any estate or interest in real estate is created, aliened, mortgaged or assigned; or by which the title to any real estate may be affected in law or equity, except wills, leases for a term not exceeding 3 years, and executory contracts for the sale or purchase of lands.

HISTORY: CL 1857, 2754;—CL 1871, 4237;—How. 5689;—CL 1897, 8994;—CL 1915, 11726;—CL 1929, 13309;—CL 1948, 565.35.

565.36 Power of attorney to convey lands; inapplicability of preceding section; executory land contract; recording; recording as evidence.

Sec. 36. The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the sale or purchase of lands, when acknowledged or proved in the manner prescribed in this chapter, may be recorded in the registry of deeds of any county in which the lands to which such power or contract relates, may be situated; and when so acknowledged or proved, and the record thereof when recorded, or a transcript of such record duly certified, may be read in evidence in the same manner, and with the like effect, as a conveyance recorded in such county.

HISTORY: CL 1857, 2755;—CL 1871, 4238;—How. 5690;—CL 1897, 8995;—CL 1915, 11727;—CL 1929, 13310;—CL 1948, 565.36.

565.37 Power of attorney to convey lands; recording of revocation.

Sec. 37. No letter of attorney or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office in which the instrument containing the power was recorded.

HISTORY: CL 1857, 2756;—CL 1871, 4239;—How. 5692;—CL 1897, 8998;—CL 1915, 11730;—CL 1929, 13311;—CL 1948, 565.37.

565.38 New county; transcription of instruments; effect, compensation of register.

Sec. 38. When a new county shall be organized, in whole or in part from an organized county, or from territory attached to such organized county for judicial purposes, all the records of deeds and other instruments relating to real estate in such new county, may be transcribed into the proper books by the register of deeds of such new county; which records so transcribed, shall have the same effect in all respects, as original records, and the register shall be paid for transcribing the same, such sum as the board of supervisors of his county may deem just and reasonable.

HISTORY: CL 1857, 2757;—CL 1871, 4240;—How. 5693;—CL 1897, 9999;—CL 1915, 11731;—CL 1929, 13312;—CL 1948, 565.38.

565.39 Device used as seal; effect; application to official seals.

Sec. 39. A scroll or device used as a seal upon any deed of conveyance or other instrument whatever, whether intended to be recorded or not, shall have the same force and effect as a seal attached thereto, or impressed thereon, but this section shall not be construed to apply to such official seals as are or may be provided for by law.

HISTORY: CL 1857, 2759;—CL 1871, 4241;—How. 5699;—CL 1897, 9005;—CL 1915, 11740;—CL 1929, 13313;—CL 1948, 565.39.

FORMER LAWS: Act of Oct. 23, 1822, Terr. Laws, vol. 1, p. 272, contains similar provisions. The act of June 10, 1828, provided that "any instrument to which the person making the same shall affix any device by way of seal, shall be adjudged and held to be of the same force and obligations as if it were actually sealed." And that "all instruments executed since the thirty-first day of December, 1827, to which the person or persons executing the same may have affixed any device by way of seal, shall be adjudged and held of the same force and obligation as if the same were actually sealed." Laws of 1828, p. 29; Revision of 1833, p. 516; Terr. Laws, vol. 2, p. 667; Starkweather v. Martin, 28 Mich. 479. A similar provision has been in force ever since. R.S. 1838, p. 438, 439; Sec. 8, Act 108 of 1840. Until the R.S. of 1846 (p. 487, Sec. 49), there was no statutory provision dispensing with the necessity of a seal, or a substitute therefor, to a conveyance of lands. See Compilers' § 611.1.

SEALS: See Compilers' § 565.1 and note "Seal" thereto. As to further substitutes for a seal, see Compilers' § 565.231.

565.40 Prior legal conveyances; effect as evidence, recording; conveyance under unacknowledged contract, record as evidence.

Sec. 40. All conveyances of real estate heretofore made and acknowledged or proved, in accordance with the laws of this state, in force at the time of such making and acknowledgment or proof, shall have the same force as evidence, and be recorded in the same manner, and with the like effect, as conveyances executed and acknowledged in pursuance of the provisions of this chapter. And where any conveyance, with an unacknowledged contract in writing attached, annexed or appended thereto, and referred to in the body of such conveyance as being thereto attached, appended or annexed, has been heretofore recorded, or that may be hereafter recorded; the record, or a transcript of the record of such conveyance and contract, certified by the register in whose office the same may have been recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent testimony.

HISTORY: CL 1857, 2759;—CL 1871, 4242;—How. 5700;—Am. 1899, p. 107, Act 101, Eff. Oct. 2;—CL 1897, 9006;—CL 1915, 11741;—CL 1929, 13314;—CL 1948, 565.40.

565.41 Discharge of mortgage; payment of filing fee by mortgagee.

Sec. 41. A mortgagee or his personal representative, successor or assign, within 90 days after a mortgage has been paid or otherwise satisfied and discharged, shall prepare and file a discharge thereof with the register of deeds for the county where the mortgaged property is located and pay the fee for recording the discharge.

HISTORY: Add. 1964, p. 109, Act 110, Eff. Aug. 28.

Original section 41 of R.S. 1846, Ch. 65, which provided for marginal discharge of mortgage, was repealed by Act 152 of 1945.

565.42 Discharge of mortgage; certificate of mortgagee; circuit court, or register in chancery.

Sec. 42. Any mortgage shall also be discharged upon the record thereof by the register of deeds, in whose custody it shall be, whenever there shall be presented to him a certificate executed by the mortgagee, his personal representative or assigns, acknowledged, approved and certified as in this chapter provided, to entitle conveyances or instruments in writing in any wise affecting the title to lands to be recorded, specifying

that such mortgage has been paid, or otherwise satisfied or discharged; or upon the presentation to such register of deeds of the certificate of the circuit court, signed by the judge of said court, and under the seal thereof, certifying that it has been made to appear to said court that said mortgage has been duly paid, or upon the presentation to such register of deeds of a certificate of the register in chancery of the county and under the seal thereof certifying that a decree of foreclosure of any such mortgage has been duly entered in his office, and that the records in his office shows that such decree has been fully paid and satisfied.

HISTORY: CL 1857, 2761;—Am. 1867, p. 139, Act 102, Imd. Eff. March 26;—CL 1871, 4244;—Am. 1875, p. 40, Act 47, Eff. Aug. 3;—How. 5702;—CL 1897, 9008;—CL 1915, 11743;—CL 1929, 13316;—CL 1948, 565.42.

DISCHARGE: For index of discharges, see Compilers' § 565.28.

REGISTER IN CHANCERY: Office abolished; powers and duties now performed by clerk of circuit court (county clerk) see Compilers' § 600.571.

565.43 Discharge of mortgage; recording of certificate; microphotographic process.

Sec. 43. Every such certificate, and the proof or acknowledgment thereof, shall be recorded at full length, and a reference shall be made to the book and page containing such record, in the minute of the discharge of such mortgage made by the register upon the record thereof. In counties where the register of deeds has been authorized by the board of supervisors to microphotograph deeds, mortgages, maps and instruments or writings, as provided in Act No. 7 of the Public Acts of 1941, as amended, being sections 691.661 to 691.662 of the Compiled Laws of 1948, it shall not be necessary for him to make reference to the book or page containing such record as above provided.

HISTORY: CL 1857, 2762;—CL 1871, 4245;—How. 5703;—CL 1897, 9009;—CL 1915, 11744;—CL 1929, 13317;—CL 1948, 565.43;—Am. 1959, p. 21, Act 22, Imd. Eff. Apr. 30.

565.44 Discharge of mortgage; refusal; civil liability, penalty.

Sec. 44. If any mortgagee, or his personal representative or assignee, as the case may be, after full performance of the condition of the mortgage, whether before or after a breach thereof, or if the same be entirely due and payable, after a tender of the whole amount so due and payable thereon, shall, for the space of 7 days after being thereto requested, and after tender of his reasonable charges, refuse or neglect to discharge the same as provided in this chapter, or to execute and acknowledge a certificate of discharge or release thereof, he shall be liable to the mortgagor, his heirs or assigns, in the sum of 100 dollars damages, and also for all actual damages, occasioned by such neglect, or refusal to the person who shall perform the condition of such mortgage, or make such tender to the mortgagee, his heirs or assigns, or to any one who may have an interest in the mortgaged premises, to be recovered in an action on the case, or be awarded by a court of equity upon a bill filed to procure a discharge, or a release of such mortgage, with double costs, in the discretion of the court.

HISTORY: CL 1857, 2763;—Am. 1861, p. 11, Act 13, Eff. June 15;—CL 1871, 4246;—How. 5704;—CL 1897, 9010;—CL 1915, 11745;—CL 1929, 13318;—CL 1948, 565.44.

Sec. 45.

HISTORY: Add. 1867, p. 140, Act 102, Imd. Eff. March 26;—CL 1871, 4247;—Am. 1877, p. 9, Act 16, Eff. Aug. 21;—How. 5705;—Am. 1945, p. 308, Act 225, Eff. Sept. 19;—Am. 1887, p. 3, Act 3, Imd. Eff. Feb. 3;—Am. 1893, p. 85, Act 82, Eff. Aug. 28;—CL 1897, 9011;—Am. 1915, p. 331, Act 197, Eff. Aug. 24;—CL 1915, 11746;—Rep. 1929, p. 839, Act 309, Imd. Eff. May 24.

This section dealt with discharge of mortgage by suit.

565.46 Proof and acknowledgment of deeds; application of law to instruments affecting lands.

Sec. 46. The preceding sections of this chapter to procure, enforce and obtain the proof and acknowledgment of deeds, shall be, and the same are hereby made applicable to all instruments in writing in any wise affecting the title to lands which are required or authorized to be acknowledged, or acknowledged and recorded.

HISTORY: Add. 1867, p. 141, Act 102, Imd. Eff. March 26;—CL 1871, 4248;—How. 5706;—CL 1897, 9012;—CL 1915, 11747;—CL 1929, 13319;—CL 1948, 565.46.

565.47 Instrument not witnessed or acknowledged; not recorded.

Sec. 47. No deed, mortgage, or other instruments in writing which by law are required to be acknowledged affecting the title to lands, or any interest therein, shall be recorded by the register of deeds of any county unless the same shall be duly witnessed and acknowledged, or proved as provided by this chapter and the amendments thereto.

HISTORY: Add. 1867, p. 141, Act 102, Imd. Eff. March 26;—CL 1871, 4249;—How. 5707;—CL 1897, 9013;—CL 1915, 11748;—CL 1929, 13320;—CL 1948, 565.47.

565.48 Deed by surviving joint tenant of lands; recording; certified copy of death.

Sec. 48. No deed or other instrument in writing, purporting to convey an interest in land by the survivor or survivors under a deed to joint tenants or tenants by the entirety shall be recorded by the register of deeds of any county, unless, for each joint tenant or tenant by the entirety who is therein indicated to be deceased, a certified copy of the death certificate or other proof of death which is permitted by the laws of this state to be received for record by said register, is shown to have been recorded in said register's office by liber and page reference or shall accompany such deed for record.

HISTORY: Add. 1947, p. 28, Act 20, Eff. Oct. 11;—CL 1948, 565.48.

565.49 Conveyances; same person or persons among grantors and grantees; joint tenancy, tenancy by entireties.

Sec. 49. Conveyances in which the grantor or 1 or more of the grantors are named among the grantees therein shall have the same force and effect as they would have if the conveyance were made by a grantor or grantors who are not named among the grantees. Conveyances expressing an intent to create a joint tenancy or tenancy by the entireties in the grantor or grantors together with the grantee or grantees shall be effective to create the type of ownership indicated by the terms of the conveyance.

HISTORY: Add. 1955, p. 3, Act 3, Eff. Oct. 14.

Act 66, 1956, p. 147; Eff. Aug. 11.

AN ACT to authorize the assignment of oil and gas, and the rents and profits from oil and gas properties, and the income from the sale of oil and gas produced or to be produced from oil and gas properties, as herein defined, whether presently owned or subsequently acquired, as security in, or in connection with, existing or future mortgages or deeds of trust of oil and gas properties.

The People of the State of Michigan enact:

565.81 Oil and gas assignment; security for indebtedness.

Sec. 1. Hereafter, in or in connection with any existing or future mortgage or deed of trust, it shall be lawful to assign in the mortgage or in a separate written instrument or instruments signed, sealed, acknowledged and proved in the same manner as deeds, all or any part of the oil and gas located in, on or under oil and gas properties, and all or any part of the rents and profits from oil and gas properties, and the income from the sale of oil and gas produced or to be produced from oil and gas properties, to the mortgagee or trustee named in the mortgage or deed of trust as security for the indebtedness secured by the mortgage or deed of trust.

HISTORY: New 1956, p. 147, Act 66, Eff. Aug. 11.

565.82 Oil and gas assignment; time of operation.

Sec. 2. The assignment may contain provisions making it immediately operative, or operative only upon the happening of an event of default as described in the assign-

ment or in the mortgage or deed of trust, or operative at such time as the mortgagee or trustee named in the mortgage or deed of trust may elect, and the assignment may contain further provisions to the effect that when it becomes operative the mortgagee or the trustee named in the mortgage or deed of trust thereupon shall be entitled to the present and full possession, receipt, use and right to the oil and gas, the rents, profits and income, and the oil and gas properties, as security and for application upon the indebtedness secured by the mortgage or deed of trust.

HISTORY: New 1956, p. 148, Act 66, Eff. Aug. 11.

565.83 Oil and gas assignment; validity; certified copy; service on pipe line company.

Sec. 3. The assignment shall become and be and remain effective and a good and valid assignment as against all persons, including the mortgagor or those claiming under or through him, from and after the date of execution and delivery thereof, subject however, as in the case of conveyances of an interest in real estate, to the provisions of chapter 65 of the Revised Statutes of 1846, as amended, being sections 565.1 to 565.49, inclusive, of the Compiled Laws of 1948. The assignment shall not be effective as to pipe line companies or other purchasers taking delivery of oil and gas produced from the mortgaged oil and gas properties at the time of execution and delivery of the assignment, until an executed or certified copy thereof shall have been served personally or by registered mail on the pipe line company or other purchaser.

HISTORY: New 1956, p. 148, Act 66, Eff. Aug. 11.

565.84 Oil and gas assignment; duration of effectiveness.

Sec. 4. The assignment shall become and be and remain in full force and effect until all of the indebtedness secured by the mortgage or deed of trust is fully paid, satisfied and discharged and the effectiveness in nowise shall be limited, suspended, revoked, or terminated by the occurrence of one or more events of default as described in the assignment or in the mortgage or deed of trust, or by reason of any step taken to foreclose the mortgage or deed of trust, by advertisement or by judicial proceedings, or during the period of redemption following a sheriff's or a judicial sale of the oil and gas properties.

HISTORY: New 1956, p. 148, Act 66, Eff. Aug. 11.

565.85 Oil and gas assignment; definitions.

Sec. 5. The term "oil and gas" as used herein, shall include oil or gas, or both, and the term "oil and gas properties", as used herein, shall include all types of fee, royalty, leasehold and contract interests and rights, in whole or in part, in all or any part of one or more parcels of real property in this state from which oil and gas is being or may at any time be produced; and all types of royalty, leasehold and contract interests, in whole or in part, in all or any part of oil and gas in place, in production, in storage or in transit; and all types of contract rights to explore for, drill for, produce and transport oil and gas which involve for their creation or termination a conveyance or transfer of an interest in real estate in this state; and all combinations of one or more of the foregoing types of interests or rights.

HISTORY: New 1956, p. 148, Act 66, Eff. Aug. 11.

Act 200, 1945, p. 267; Eff. Sep. 6.

AN ACT to define a marketable record title to an interest in land; to require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; to make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; to provide for certain penalties for filing

slandrous notices of claim of interest, and to provide certain exceptions to the applicability and operation thereof.

The People of the State of Michigan enact:

565.101 Marketable record title.

Sec. 1. Any person, having the legal capacity to own land in this state, who has an unbroken chain of title of record to any interest in land for 40 years, shall at the end of such period be deemed to have a marketable record title to such interest, subject only to such claims thereto and defects of title as are not extinguished or barred by application of the provisions of succeeding sections of this act and subject also to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed and which have been recorded during said 40 year period: Provided, however, That no one shall be deemed to have such a marketable record title by reason of the terms of this act, if the land in which such interest exists is in the hostile possession of another.

HISTORY: CL 1948, 565.101.

565.102 Marketable record title; person deemed to have.

Sec. 2. A person shall be deemed to have the unbroken chain of title to an interest in land as such terms are used in the preceding section when the official public records disclose:

(a) A conveyance or other title transaction not less than 40 years in the past, which said conveyance or other title transaction purports to create such interest in such person, with nothing appearing of record purporting to divest such person of such purported interest; or,

(b) A conveyance or other title transaction not less than 40 years in the past, which said conveyance or other title transaction purports to create such interest in some other person and other conveyances or title transactions of record by which such purported interest has become vested in the person first referred to in this section, with nothing appearing of record purporting to divest the person first referred to in this section of such purported interest.

HISTORY: CL 1948, 565.102.

565.103 Marketable record title; by whom held; successors in interest; notice of claims, filing for record.

Sec. 3. Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all interests, claims, and charges whatsoever the existence of which depends in whole or in part upon any act, transaction, event, or omission that occurred prior to such 40 year period, and all such interest, claims, and charges are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, That any such interest, claim, or charge may be preserved and kept effective by filing for record during such 40 year period, a notice in writing, duly verified by oath, setting forth the nature of the claims. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of said 40 year period. For the purpose of recording notices of claim for homestead interests the date from which the 40 year period shall run shall be the date of recording of the instrument, non-joinder in which is the basis for such claim. Such notice may be filed for record by the claimant or by any other person acting on behalf of any claimant who is:

- (a) Under a disability,
- (b) Unable to assert a claim on his own behalf,

(c) One of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

HISTORY: CL 1948, 565.103.

565.104 Marketable record title; failure to file notice not to bar right to possession.

Sec. 4. This act shall not be applied to bar any lessor or his successor as reversioner of his right to possession on the expiration of any lease or any lessee or his successor of his rights in and to any lease; or to bar any interest of a mortgagor or a mortgagee or interest in the nature of that of a mortgagor or mortgagee until after such instrument under which such interests are claimed shall have become due and payable, except where such instrument has no due date expressed, where such instrument has been executed by a railroad, railroad bridge, tunnel or union depot company, or any public utility or public service company; or to bar or extinguish any easement or interest in the nature of an easement, the existence of which is clearly observable by physical evidences of its use; or to bar or extinguish any easement or interest in the nature of an easement, or any rights appurtenant thereto granted, excepted or reserved by a recorded instrument creating such easement or interest, including any rights for future use, if the existence of such easement or interest is evidenced by the location beneath, upon or above any part of the land described in such instrument of any pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of such facility is observable, by reason of failure to file the notice herein required. Nor shall this act be deemed to affect any right, title or interest in land owned by the United States, nor any right, title or interest in any land owned by the state of Michigan, or by any department, commission or political subdivision thereof.

HISTORY: Am. 1946, 1st Ex. Ses., p. 61, Act 25, Imd. Eff. Feb. 26;—Am. 1947, p. 156, Act 117, Imd. Eff. May 22;—CL 1948, 565.104;—Am. 1951, p. 347, Act 235, Eff. Sep. 28;—Am. 1965, p. 611, Act 323, Eff. Mar. 31, 1966.

565.105 Notice of claim to contain land description; recording, fees, indexing.

Sec. 5. To be effective and to be entitled to record the notice above referred to shall contain an accurate and full description of all the land affected by such notice which description shall be set forth in particular terms and not by general inclusions, but if said claim is founded upon a recorded instrument then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the register of deeds office of the county or counties where the land described therein is situated. The register of deeds of each county shall accept all such notices presented to him which describe land located in the county in which he serves and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded and each register shall be entitled to charge the same fees for the recording thereof as are charged for recording deeds. In indexing such notices in his office each register shall enter such notices under the grantee indexes of deeds under the names of the claimants appearing in such notices.

HISTORY: Am. 1947, p. 156, Act 117, Imd. Eff. May 22;—CL 1948, 565.105.

565.106 Construction of act; purpose; extinguishment of claim.

Sec. 6. This act shall be construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons dealing with the record title owner, as defined herein, to rely on the record title covering a period of not more than 40 years prior to the date of such dealing and to that end to extinguish all claims that affect or may affect the interest thus dealt with, the existence of which claims arises out of or depends upon any act, transaction, event or omission antedating such 40 year period, unless within such 40 year period a notice of claim as provided in section 3

hereof shall have been duly filed for record. The claims hereby extinguished shall mean any and all interests of any nature whatever, however denominated, and whether such claims are asserted by a person sui juris or under disability, whether such person is within or without the state, and whether such person is natural or corporate, or private or governmental.

HISTORY: CL 1948, 565.106.

565.107 Limitations of actions.

Sec. 7. Nothing contained in this act shall be construed to extend the periods for the bringing of an action or for the doing of any other required act under any existing statutes of limitation nor to affect the operation of any existing acts governing the effect of the recording or of the failure to record any instruments affecting land nor to affect the operation of Act No. 216 of the Public Acts of 1929 nor of Act No. 58 of the Public Acts of 1917 as amended by Act No. 105 of the Public Acts of 1939.

HISTORY: CL 1948, 565.107.

NOTE: Act 216, 1929, above referred to, is Compilers' §§ 565.381-565.384. Act 58, 1917, is Compilers' §§ 558.81-558.82; Act 105, 1939, is Compilers' §§ 558.91-558.92.

565.108 Filing slanderous notices of claims; costs awarded to plaintiff.

Sec. 8. No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to land, and in any action brought for the purpose of quieting title to land, if the court shall find that any person has filed a claim for that reason only, he shall award the plaintiff all the costs of such action, including such attorney fees as the court may allow to the plaintiff, and in addition, shall decree that the defendant asserting such claim shall pay to plaintiff all damages that plaintiff may have sustained as the result of such notice of claim having been so filed for record.

HISTORY: CL 1948, 565.108.

565.109 Claims not barred; time for filing notice of claim.

Sec. 9. No interest, claim or charge shall be barred by the provisions of section 3 of this act until February 1, 1948, and any interest, claim or charge that would otherwise be barred by said section 3 may be preserved and kept effective by the filing of a notice of claim as required by this act prior to said first day of February, 1948.

HISTORY: Am. 1946, 1st Ex. Ses., p. 61, Act 25, Imd. Eff. Feb. 26;—Am. 1947, p. 157, Act 117, Imd. Eff. May 22;—CL 1948, 565.109.

Act 31, 1947, p. 38; Imd. Eff. Apr. 4.

AN ACT to authorize the state administrative board to discharge certain liens, mortgages and other claims of interest in land in which it is determined by the state administrative board the state has no interest; and to validate discharges heretofore executed.

The People of the State of Michigan enact:

565.131 Discharge of mortgages; liens, recorded claims in land by state administrative board.

Sec. 1. The state administrative board is hereby authorized to discharge liens, mortgages and other claims of interest in land on record in favor of the state of Michigan, or any of its departments, boards, commissions, institutions or agencies, in which the state has no interest, and which are not authorized by law to be discharged by any other agency of the state. The state administrative board shall determine the interest of the state.

HISTORY: CL 1948, 565.131.

7545 FORMS OF DEEDS, MORTGAGES AND ACKNOWLEDGMENTS §565.154

565.132 Validation of executed discharges.

Sec. 2. Any such discharge heretofore executed by the state administrative board is hereby validated.

HISTORY: CL 1948, 565.132.

Act 187, 1881, p. 227; Eff. Sep. 10.

AN ACT in relation to the form of deeds and mortgages of real estate and to the form of the acknowledgments of the same.

The People of the State of Michigan enact:

565.151 Form; warranty deed.

Sec. 1. That any conveyance of lands worded in substance as follows: "A.B. conveys and warrants to C.D. (here describe the premises) for the sum of (here insert the consideration)," the said conveyance being dated and duly signed, sealed and acknowledged by the grantor, shall be deemed and held to be a conveyance in fee simple to the grantee, his heirs and assigns, with covenant from the grantor for himself and his heirs and personal representatives, that he is lawfully seized of the premises, has good right to convey the same, and guarantees the quiet possession thereof; that the same are free from all incumbrances, and that he will warrant and defend the title to the same against all lawful claims.

HISTORY: How. 5728;—CL 1897, 9014;—CL 1915, 11749;—CL 1929, 13321;—CL 1948, 565.151.

DEEDS: For other requirements, see Compilers' § 565.1. For unlawful sale of deeds containing words of warranty, see Compilers' § 565.275.

565.152 Form; quit claim deed.

Sec. 2. Any conveyance of lands worded in substance as follows: "A.B. quit claims to C.D. (here describe the premises) for the sum of (here insert the consideration)," the said conveyance, being duly signed, sealed, and acknowledged by the grantor, shall be deemed to be a good and sufficient conveyance in quit claim to the grantee, his heirs, and assigns.

HISTORY: How. 5729;—CL 1897, 9015;—CL 1915, 11750;—CL 1929, 13322;—CL 1948, 565.152.

QUIT CLAIM DEED: See Compilers' § 565.3.

565.153 Estates; word of creation.

Sec. 3. It shall not be necessary to use the words "heirs and assigns of the grantee" to create in the grantee an estate of inheritance; and if it be the intention of the grantor to convey any lesser estate, it shall be so expressed in the deed.

HISTORY: How. 5730;—CL 1897, 9016;—CL 1915, 11751;—CL 1929, 13323;—CL 1948, 565.153.

565.154 Form; mortgage.

Sec. 4. Any mortgage of lands worded in substance as follows: "A.B. mortgages and warrants to C.D., (here describe the premises) to secure the re-payment of" (here recite the sum for which the mortgage is granted, or the notes or other evidence [evidences] of debt, or a description thereof, sought to be secured, also the date of the re-payment), the said mortgage being dated and duly signed, sealed and acknowledged by the grantor, shall be deemed and held to be a good and sufficient mortgage to the grantee, his heirs, assigns, executors and administrators, with warranty from the grantor and his legal representatives, of perfect title in the grantor, and against all previous incumbrances. And if in the above form the words "and warrant" be omitted, the mortgage shall be good, but without warranty.

HISTORY: How. 5731;—CL 1897, 9017;—CL 1915, 11752;—CL 1929, 13324;—CL 1948, 565.154.

IMPLIED COVENANTS: See Compilers' § 565.6.

Sec. 5.

HISTORY: How. 5732;—Rep. 1895, p. 348, Act 185, Eff. Aug. 30.
This section provided a form for acknowledgment.

Act 125, 1966, p. 153; Eff. Mar. 10, 1967.

AN ACT to require certain mortgagees and their agents to furnish annual statements to mortgagors.

The People of the State of Michigan enact:

565.161 Annual statements to mortgagor; when required, contents.

Sec. 1. Where, by the terms of a mortgage on real property, the mortgagor is required to make periodic payments which include sums to be allocated to an escrow account for the purpose of paying taxes, insurance or improvements to the property, or any combination of such purposes, the mortgagee or agent receiving the periodic payments shall furnish the mortgagor with a statement within 60 days of the close of the calendar year, showing the beginning balance of the escrow fund, total receipts received by the fund during the calendar year, an itemized statement of all expenditures from the fund during the calendar year and the balance in the fund at the end of the calendar year.

HISTORY: New 1966, p. 153, Act 125, Eff. Mar. 10, 1967.

565.162 Annual statements to mortgagor; exceptions to furnishing.

Sec. 2. The annual statement specified in section 1 is not required where the mortgagor is provided with a monthly billing form or mortgagor passbook either of which provides the escrow fund balance and record of expenditures for taxes.

HISTORY: New 1966, p. 153, Act 125, Eff. Mar. 10, 1967.

Act 103, 1937, p. 146; Eff. Oct. 29.

AN ACT to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds.

The People of the State of Michigan enact:

565.201 Requirements for recording with register of deeds.

Sec. 1. No instrument by which the title to real estate or any interest therein is conveyed, assigned, encumbered or otherwise disposed of, executed after the effective date of this act shall be received for record by the register of deeds of any county of the state unless the same complies with each of the following requirements:

(a) The name of each person who executed such instrument shall be legibly printed, typewritten or stamped upon such instrument immediately beneath the signature of such person and the address of each such person shall be printed, typewritten or stamped upon the face of the instrument;

(b) No discrepancy shall exist between the name of such person as it appears either in the body of such instrument, the acknowledgment or jurat, as printed, typewritten or stamped upon such instrument by the signature, or in the signature of such person;

(c) The name of each witness to such instrument shall be legibly printed, typewritten or stamped upon such instrument immediately beneath the signature of such witness;

(d) The name of any notary public whose signature appears upon such instrument

shall be legibly printed, typewritten or stamped upon such instrument immediately beneath the signature of such notary public.

(e) Wherever in this act it is required that the name of a person shall be “printed, typewritten or stamped upon such instrument immediately beneath the signature” of such person, it is the intent of the legislature to require that such signature be written upon such instrument directly preceding such name so “printed, typewritten or stamped”. Such signature shall not, however, be superimposed upon such name so as to render either illegible. Such instrument shall, however, be entitled to be received for record if such name and signature are in the discretion of the register of deeds so placed upon such instrument as to render the connection between the 2 apparent. Any instrument received and recorded by a register of deeds shall be conclusively presumed to comply with the requirements of this act. The requirements contained in this act shall be cumulative to the requirements imposed by any other act relating to the recording of instruments;

(f) The address of each of the grantees in each deed of conveyance or assignment of real estate, including the street number address if located within territory where such street number addresses are in common use, or, if not, the post office address shall be legibly printed, typewritten, or stamped in such instrument;

(g) Instruments shall not be typewritten or printed in type smaller than 8 point size, and the size of any sheet in any such instrument shall not exceed 8 ½ by 14 inches, and shall be legible and on paper of not less than 13 (17x22—500) pound weight. Nothing in this subdivision shall affect instruments executed outside the state or the filing or recording of plats or other instruments, the size of which are regulated by law.

HISTORY: Am. 1941, p. 272, Act 179, Eff. Jan. 10, 1942;—Am. 1945, p. 285, Act 213, Eff. Sep. 6;—CL 1948, 565.201;—Am. 1963, p. 210, Act 150, Eff. Sep. 6;—Am. 1964, p. 267, Act 196, Eff. Jan. 1, 1965.

565.201a Recording requirements; scrivener's name and address on recorded instruments.

Sec. 1a. Each instrument described in section 1 executed after January 1, 1964 shall contain the name of the person who drafted the instrument and the business address of such person.

HISTORY: Add. 1963, p. 211, Act 150, Eff. Sep. 6.

565.202 Affidavit; contents.

Sec. 2. The register of deeds shall, however, receive any such instrument for record, although the same does not comply with the requirements of this act: Provided, There is recorded therewith an affidavit of some person having personal knowledge of the facts, which affidavit shall be either printed or typewritten, shall comply with the requirements of this act, and shall state therein:

(a) The correct name of any person, the name of whom was not printed, typewritten or stamped upon such instrument as required by this act;

(b) In case such instrument does not comply with the requirements of paragraph (b) of section 1, the correct name of such person and shall state that each of the names used in such instrument refer to such person.

HISTORY: CL 1948, 565.202.

565.203 Inapplicability of act.

Sec. 3. The provisions of this act shall not apply to the following instruments: any decree, order, judgment or writ of any court, will, death certificate, or any instrument executed or acknowledged outside of the state of Michigan. The provisions of paragraphs (a), (c) and (d) of section 1 shall not apply to any instrument upon which the signature itself is printed, typewritten or stamped.

HISTORY: CL 1948, 565.203.

Act 79, 1915, p. 144; Eff. Aug. 24.

AN ACT to provide certain requirements in written instruments conveying or mortgaging real estate or any interest therein in which there are male grantors, mortgagors or other parties executing the same to entitle the same to record.

The People of the State of Michigan enact:

565.221 Written instruments; statement of marital status; register of deeds duties; certain instruments use in evidence.

Sec. 1. All written instruments conveying or mortgaging real estate or any interest therein, hereafter executed, shall state whether or not any and all male grantors, mortgagors, or other parties executing the same are married or single, and the register of deeds of the county in which any such instrument is offered for record shall refuse to receive the same for record unless it conforms to the provisions of this act: Provided, That where any such instrument has been heretofore recorded in the office of register of deeds of any county without said instrument showing the marital status as herein required, an affidavit by some person familiar with and showing the facts may be recorded in such register's office. Upon the recording of such affidavit showing the marital status of such grantor, mortgagor or party executing, on the date of such instrument, the record of such affidavit and the record of such instrument shall be effectual for all purposes of a legal record, and the record of such instrument and such affidavit or a transcript thereof may be given in evidence as in other cases, and such instrument shall be construed to be as valid and effectual as if such instrument had contained a statement showing the marital status of the person or persons executing the same.

Where any such instrument has been heretofore recorded in the office of register of deeds of any county without said instrument showing the marital status as herein required, and a period of 10 years has elapsed since the recording of such instrument, the record of such instrument or a transcript thereof may be given in evidence as in other cases and shall be effectual for all purposes of a legal record and such instrument shall be construed to be as valid and effectual as if such instrument had contained a statement showing the marital status of the person or persons executing the same.

HISTORY: CL 1915, 11716;—CL 1929, 13327;—Am. 1937, p. 258, Act 163, Imd. Eff. July 9;—CL 1948, 565.221.

AFFIDAVITS: Birth, marriage, death, relationship, etc., see Compilers' §§ 565.451a to 565.451c.

Act 198, 1895, p. 367; Eff. Aug. 30.

AN ACT to establish a law uniform with the laws of other states relating to the sealing of deeds and other written instruments.

The People of the State of Michigan enact:

565.231 Instruments deemed sealed.

Sec. 1. That in addition to the mode in which such instruments may now be executed in this state, hereafter all deeds and other instruments in writing executed by any person or by any private corporation, not having a corporate seal, and now required to be under seal, shall be deemed in all respects to be sealed instruments, and shall be received in evidence as such, provided the word "seal" or the letters "L.S." are added in the place where the seal should be affixed.

HISTORY: CL 1897, 9018;—CL 1915, 11753;—CL 1929, 13328;—CL 1948, 565.231.

SEALS: See Compilers' § 565.1 and note "Seal" thereto. As to further substitutes for a seal, see Compilers' § 565.39.

565.232 Impression of seal; corporate seal.

Sec. 2. A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper or other similar substance affixed thereto by mucilage or other adhesive substance. An instrument or writing duly executed in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under any seal, shall be deemed to have been executed under the corporate seal.

HISTORY: CL 1897, 9019;—CL 1915, 11754;—CL 1929, 13329;—CL 1948, 565.232.

Act 63, 1937, p. 83; Imd. Eff. Jun. 8.

AN ACT relative to the use of seals on instruments affecting real estate.

The People of the State of Michigan enact:

565.241 Seals on instruments affecting real estate.

Sec. 1. Hereafter the affixing of an actual seal, a scroll or device used as a seal, the word "seal" or letters "L.S." after the signature of any individual, partnership or corporation executing any deed, mortgage, or other instrument affecting the title to real estate, or any interest therein, shall be unnecessary, and such instruments hereafter executed without affixing an actual seal, a scroll or device used as a seal, the word "seal" or letters "L.S." after such signatures, shall be construed to be sealed instruments and valid and effectual to convey the legal estate of the premises therein described, and the record of such instrument, if otherwise eligible to record, or a transcript thereof, may be given in evidence as in other cases.

HISTORY: CL 1948, 565.241;—Am. 1949, p. 5, Act 4, Eff. Sep. 23.

565.242 Seals on instruments affecting real estate; instruments previously recorded; construction.

Sec. 2. The record of any instrument affecting the title to real estate or any interest therein heretofore recorded which does not show that an actual seal, a scroll or device used as a seal, the word "seal" or the letters "L.S." was affixed to the original instrument, or a transcript thereof, may be given in evidence as in other cases and shall be effectual for all purposes of a legal record and such instrument shall be construed to be as valid and effectual as if such instrument had been in such respect duly executed.

HISTORY: CL 1948, 565.242.

565.251-565.256 Repealed. 1969, p. 106, Act 57, Eff. Mar. 20, 1970.

Sections related to acknowledgment of written instruments.

Act 57, 1969, p. 104; Eff. Mar. 20, 1970.

AN ACT to establish the recognition to be given in this state to acknowledgments and notarial acts outside this state; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

565.261 Uniform recognition of acknowledgments act; short title.

Sec. 1. This act shall be known and may be cited as the "uniform recognition of acknowledgments act".

HISTORY: New 1969, p. 104, Act 57, Eff. Mar. 20, 1970.

565.262 Notarial acts; definition; recognition when performed out of state.

Sec. 2. For the purposes of this act, "notarial acts" means acts which the laws of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws of this state:

- (a) A notary public authorized to perform notarial acts in the place in which the act is performed.
- (b) A judge, clerk or deputy clerk of any court of record in the place in which the notarial act is performed.
- (c) An officer of the foreign service of the United States, a consular agent or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed.
- (d) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for 1 of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States or any other person serving with or accompanying the armed forces of the United States.
- (e) Any other person authorized to perform notarial acts in the place in which the act is performed.

HISTORY: New 1969, p. 104, Act 57, Eff. Mar. 20, 1970.

565.263 Authority of officer; authentication.

Sec. 3. (1) If the notarial act is performed by any of the persons described in subdivisions (a) to (d) of section 2, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(2) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if any of the following exist:

- (a) Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act.
- (b) The official seal of the person performing the notarial act is affixed to the document.
- (c) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.
- (3) If the notarial act is performed by a person other than 1 described in subsections (1) and (2), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(4) The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

HISTORY: New 1969, p. 104, Act 57, Eff. Mar. 20, 1970.

565.264 Certificate of person taking acknowledgment.

Sec. 4. The person taking an acknowledgment shall certify that the person acknowledging appeared before him and acknowledged he executed the instrument; and the person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

HISTORY: New 1989, p. 105, Act 57, Eff. Mar. 20, 1970.

565.265 Certificate of acknowledgment; form acceptable.

Sec. 5. The form of a certificate of acknowledgment used by a person whose authority is recognized under section 2 shall be accepted in this state if 1 of the following is true:

- (a) The certificate is in a form prescribed by the laws or regulations of this state.
- (b) The certificate is in a form prescribed by the laws applicable in the place in which the acknowledgment is taken.
- (c) The certificate contains the words "acknowledged before me", or their substantial equivalent.

HISTORY: New 1989, p. 105, Act 57, Eff. Mar. 20, 1970.

565.266 Acknowledged before me; definition.

Sec. 6. The words "acknowledged before me" means:

- (a) That the person acknowledging appeared before the person taking the acknowledgment.
- (b) That he acknowledged he executed the instrument.
- (c) That, in the case of:
 - (i) A natural person, he executed the instrument for the purposes therein stated.
 - (ii) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated.
 - (iii) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated.
 - (iv) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated.
 - (v) A person acknowledging as a public officer, trustee, administrator, guardian or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated.
- (d) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

HISTORY: New 1989, p. 105, Act 57, Eff. Mar. 20, 1970.

565.267 Statutory short forms of acknowledgment.

Sec. 7. (1) The forms of acknowledgment set forth in this section may be used and are sufficient for their purposes under any law of this state. The forms shall be known as "statutory short forms of acknowledgment" and may be referred to by that name.

The authorization of the forms in this section does not preclude the use of other forms.

(2) For an individual acting in his own right:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date)
by (name of person acknowledged).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(3) For a corporation:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by
(name of officer or agent, title or officer or agent) of (name of corporation
acknowledging) a (state or place of incorporation) corporation, on behalf of
the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(4) For a partnership:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by
(name of acknowledging partner or agent), partner (or agent) on behalf of
(name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(5) For an individual acting as principal by an attorney in fact:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by
(name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(6) By any public officer, trustee or personal representative:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by
(name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

HISTORY: New 1969, p. 105, Act 57, Eff. Mar. 20, 1970.

565.268 Acknowledgments unaffected by act.

Sec. 8. A notarial act performed prior to the effective date of this act is not affected by this act. This act provides an additional method of proving notarial acts. Nothing in

this act diminishes or invalidates the recognition accorded to notarial acts by other laws of this state.

HISTORY: New 1969, p. 106, Act 57, Eff. Mar. 20, 1970.

565.269 Uniformity of interpretation.

Sec. 9. This act shall be so interpreted as to make uniform the laws of those states which enact it.

HISTORY: New 1969, p. 106, Act 57, Eff. Mar. 20, 1970.

565.270 Repeal.

Sec. 10. Act No. 185 of the Public Acts of 1895, being sections 565.251 to 565.256 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 106, Act 57, Eff. Mar. 20, 1970.

Act 62, 1877, p. 50; Imd. Eff. Apr. 20.

AN ACT relative to the acknowledgment of deeds and other instruments affecting real property by married women.

The People of the State of Michigan enact:

565.281 Acknowledgment by married woman.

Sec. 1. That hereafter the acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property, may be taken in the same manner as if she were sole.

HISTORY: How. 5662;—CL 1897, 8966;—CL 1915, 11698;—CL 1929, 13337;—CL 1948, 565.281.

This act superseded Sec. 2 of Act 104 of 1875.

FORMER LAWS: The act of Aug. 29, 1805, provided that "when husband and wife have sealed and delivered a writing, if the wife appear before such court" (which it would seem must be a court of record), "judge, justice, or notary public, and being examined privily and apart from her husband, shall declare that she did freely and willingly seal and deliver the said writing, to be then shown and explained to her, and wishes not to retract it, and consenteth that it may be recorded, a certificate of such privy examination being returned and recorded with the writing; and the writing being acknowledged also by the husband, or proved by witnesses to be his act, in such case the said writing shall not only be sufficient to convey or release any right of dower thereby intended to be released or conveyed, but be as effectual for every other purpose as if she were an unmarried woman." Woodward Code, p. 53; Cass Code, page 45; Terr. Laws, vol. 1, p. 39. If the grantor did not reside in Michigan, no different acknowledgment seemed to be required of the married woman than of any other person; but the deed, executed as before stated in the case of non-residents, together with any relinquishment of dower, was to "be effectual." The act of May 27, 1820, provided that no estate of a feme covert residing in this territory should pass by her deed without a previous acknowledgment made "on a private examination apart from her husband, that she executed such deed freely, without any fear of compulsion of her husband;" but where any feme covert not residing in the territory should join with her husband in any deed or conveyance of, or relating to any lands or real estate within the territory, it might be executed and acknowledged in all respects as if she were sole, and she should thereby be barred of all claim of dower, and all other right and title therein as if she were sole. Code of 1820, p. 159; Terr. Laws, vol. 1, p. 518. This provision was re-enacted in 1827, and continued in force until and including August 31, 1838, when it was repealed by the Revised Statutes of that year. See revision of 1827, p. 259; and 1833, p. 280; Terr. Laws, Vol. 2, p. 362. The Revised Statutes of 1838 required the acknowledgment of the wife to be taken separately and apart from her husband, and that she should acknowledge that she executed the deed without any fear or compulsion of her husband, p. 258, Sec. 11. And to bar her dower she must in the deed release her claim thereto, p. 263, Sec. 7. Sec. 4 of Act 106, 1840, p. 167, provided that the right of dower which a married woman might have in the state should not be passed or conveyed except by deed executed by her, to be acknowledged by her on a private examination, separate and apart from her husband, that she had executed the deed without fear or compulsion from any one. This provision, it will be seen, relates only to the release of dower. It was in force until March 1, 1847, when the Revised Statutes of 1846 took effect.

565.282 Validation of acknowledgments.

Sec. 2. Any acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property taken since the fourth day of August, A.D. 1875, in the same manner as if such married woman had been sole, is hereby declared valid and effectual for all intents and purposes, and shall be so held in all courts and places.

HISTORY: How. 5662a;—CL 1897, 8967;—CL 1915, 11699;—CL 1929, 13338;—CL 1948, 565.282.

Act 188, 1881, p. 228; Eff. Sep. 10.

AN ACT requiring the holders of unrecorded deeds to record such deeds, or furnish the same for record.

The People of the State of Michigan enact:

565.291 Unrecorded deeds held by grantor; recording.

Sec. 1. That whenever any grantor, who has heretofore conveyed or shall hereafter convey, any real estate within this state, shall have or hold in his possession any unrecorded deed or deeds through or under which he derived title of any lands by him so conveyed, it shall be his duty on the written request of his grantee or any subsequent grantee, to cause such deed or deeds to be recorded in the office of the register of deeds of the proper county, or cause the same to be delivered to such grantee demanding the same for the purpose of recording, within 20 days from the time when such written request shall have been served upon him.

HISTORY: How. 5714;—CL 1897, 9029;—CL 1915, 11764;—CL 1929, 13342;—CL 1948, 565.291.

565.292 Unrecorded deeds; failure to record or deliver to grantee; penalty; civil liability.

Sec. 2. If such grantor shall neglect or refuse to record such deed or deliver the same to such grantee after having been requested so to do, as provided in the preceding section, within the time above limited, he shall be liable to said grantee, his heirs, representatives or assigns, in the penal sum of 100 dollars damages, and also for all actual damages occasioned by such neglect or refusal to the person or persons entitled thereto, to be recovered in an action on the case with costs of suit.

HISTORY: How. 5715;—CL 1897, 9030;—CL 1915, 11765;—CL 1929, 13343;—CL 1948, 565.292.

* Act 21, 1837, p. 15; Imd. Eff. Feb. 23.

AN ACT to provide for recording patents for land and for other purposes.

The People of the State of Michigan enact:

565.301 Land patents; recording; existing records; validation, use as evidence.

Sec. 1. It shall be the duty of the registers of deeds, in the several counties of this state, to receive for record, and record all patents of lands, from the United States, or this state, or any copy thereof, duly certified by the commissioner of the United States general land office, or by the secretary of state of this state, or other officer having the legal custody of the records of any such patents, in the same manner and with like effect, as by existing law he is required to receive and record deeds and conveyances; and it shall be the duty of the secretary of state of this state, to record all patents of lands issued by this state, in suitable records; and the existing record of patents, in the office of the secretary of state of this state, and all copies of the record of patents heretofore made and certified to by the secretary of state of this state, and recorded by the register of deeds of any county of this state, are hereby declared legal records, and shall have the same force and effect as if recorded after the passage of this act, and such certified copies of the record of patents heretofore recorded in the office of said secretary of state, and the record of such certified copies may be read in evidence in all courts of this state with the same force and effect as the original patents.

HISTORY: CL 1857, 2764;—CL 1871, 4257;—Am. 1875, p. 40, Act 46, Eff. Aug. 3;—Am. 1877, p. 22, Act 33, Imd. Eff. March 22;—How. 5679;—CL 1897, 8984;—CL 1915, 11717;—CL 1929, 13344;—CL 1948, 565.301.

*NOTE: The number "21" was assigned to this act in the printed volume of the acts of 1837, but in the records of the secretary of state the act was filed and numbered as the 16th act of the 1837 regular session.

565.302 Record of patent as evidence.

Sec. 2. The record of a patent, recorded in the register's office or a transcript of such record certified by the register in whose office the same may be recorded, under his hand, may be read in evidence, in any court in this state, without further proof thereof.

HISTORY: CL 1857, 2765;—CL 1871, 4258;—How. 5690;—CL 1897, 8985;—CL 1915, 11718;—CL 1929, 13345;—CL 1948, 565.302.

Act 59, 1875, p. 54; Eff. Aug. 3.

AN ACT to provide for recording certified copies of lost deeds, and other instruments affecting the title to real estate.

The People of the State of Michigan enact:

565.321 Lost or destroyed instrument; recordation of certified transcript; procedure.

Sec. 1. In all cases where a deed, mortgage, or other instrument affecting the title to real estate, shall have been, or shall be executed, affecting land in 2 or more counties, and when the same shall have been duly recorded in the office of the register of deeds in any county in which any part of the lands to be affected thereby is situate, and such instrument shall have been lost or destroyed before being recorded in other counties in which land affected thereby shall be situate, it shall be lawful for any party, or parties interested in such lost deed, or other writing, or in the real estate the title to which shall be affected thereby, to apply to the judge of the probate court of the county where such real estate may be situate in which the record shall not have been made, for an order to record a duly certified transcript of such deed, mortgage or other instrument, in such county, and thereupon such judge of probate shall give notice, by publication in accordance with the practice of such court, for 3 successive weeks, of such application, and of the time and place, when and where, a hearing will be had thereon, and on such hearing, if it shall appear to such probate judge that such deed, mortgage or other instrument, was duly executed, and has been legally recorded in any county in this state, and that the same was lost or destroyed before being recorded in other counties in which real estate to be affected thereby was situate, such probate judge shall make an order authorizing a certified transcript of such deed, mortgage, or other writing, to be recorded in said county, and shall annex a duly certified copy of such order to such copy of such deed, mortgage, or other instrument, and thereupon such certified copy of deed, mortgage, or other instrument, and such order authorizing a record thereof, may be recorded in the office of the register of deeds of the county in which such order shall be made, and such record shall have the same force and effect as the record of the original would have had had the same been recorded before being lost or destroyed.

HISTORY: How. 5717;—CL 1897, 9031;—CL 1915, 11766;—CL 1929, 13346;—CL 1948, 565.321.

LOST OR DESTROYED INSTRUMENT: As to recording of certified transcript, see also Compilers' § 565.632.

Act 71, 1877, p. 58; Eff. Aug. 21.

AN ACT to provide for replacing conveyances made on judicial sales, and which may have been lost or destroyed.

The People of the State of Michigan enact:

565.331 New deed; execution and recording upon loss or destruction of deed given at judicial sale.

Sec. 1. That whenever it shall be made to appear to any court of record by petition duly verified that a sale of real estate has or may hereafter be made in pursuance of a decree or order, or to satisfy any judgment of such court, and that a deed has been made therein, and said deed has not been recorded in the proper registry of deeds, but has been lost or destroyed; said court, upon due proof of such fact, may by order to be made in the cause in which such decree, order, or judgment was entered, direct a new deed to be made in place of the said original deed so lost or destroyed; said deed, when executed, may be acknowledged and recorded in the proper registry of deeds, and shall be as valid to convey the interest sold, and it, or the record thereof, shall have the same effect as evidence as said original deed would have.

HISTORY: How. 5718;—CL 1897, 9032;—CL 1915, 11767;—CL 1929, 13347;—CL 1948, 565.331.

565.332 New deed; person to execute.

Sec. 2. Such new deed shall be executed by the officer who made such sale, or by his successor in office: Provided, That in counties having 2 circuit court commissioners, if the commissioner who made such sale shall not be then in office, either of the then commissioners may be directed to execute the new conveyance: And provided further: That if such sale shall have been made by an executor, administrator, or guardian, or by any special commissioner appointed for that purpose by any court the court may direct the person who made such sale to execute such new deed, if he be within the jurisdiction of the court, but if he be dead, or be not within such jurisdiction, the court may appoint some proper person to execute such new deed.

HISTORY: How. 5719;—CL 1897, 9033;—CL 1915, 11768;—CL 1929, 13348;—CL 1948, 565.332.

565.333 Notice of application; personal service, publication.

Sec. 3. No conveyance shall be made under this act, excepting upon notice of the application, which notice shall be by personal service thereof, except where the opposite party or parties are non-residents of the state, in which latter case, the court may order publication of such notice in 1 or more newspapers published in the county where the court may be held and the land may be situated, for such time as the court may order, not less than once a week for 4 successive weeks.

HISTORY: How. 5720;—CL 1897, 9034;—CL 1915, 11769;—CL 1929, 13349;—CL 1948, 565.333.

Act 237, 1879, p. 213; Eff. Aug. 30.

AN ACT to provide for the execution, acknowledgment, and recording of contracts for the sale of land.

The People of the State of Michigan enact:

565.351 Land contract; witnesses, acknowledgment.

Sec. 1. That contracts for the sale of land or any interest therein, shall be executed in the presence of 2 witnesses, who shall subscribe their names thereto as such, and the vendor named in such contract, and executing the same may acknowledge the execution thereof before any judge, or commissioner of a court of record or before any notary public or justice of the peace within this state; and the officer taking such acknowledgment shall endorse thereon a certificate of the acknowledgment thereof, and the date of making the same under his hand.

HISTORY: How. 5709;—CL 1897, 9035;—CL 1915, 11770;—CL 1929, 13350;—CL 1948, 565.351.

DOWER: Barring of dower, see Compilers' § 558.13.

565.352 Land contract; execution and acknowledgment in another state.

Sec. 2. If any such contract be executed in any other state, district or territory, the same shall be executed and acknowledged in the same manner as provided in section 9 of chapter 150 of the Compiled Laws of 1871, for the execution of deeds in any other state, district, or territory.

HISTORY: How. 5710;—CL 1897, 9036;—CL 1915, 11771;—CL 1929, 13351;—CL 1948, 565.352.

NOTE: The section above referred to is Compilers' § 565.9.

565.353 Land contract; execution and acknowledgment in foreign country.

Sec. 3. If any such contract be executed in any foreign country, it may be executed and acknowledged according to the provisions contained in section 11 of chapter 150 Compiled Laws of 1871, providing for the execution of deeds in any foreign country.

HISTORY: How. 5711;—CL 1897, 9037;—CL 1915, 11772;—CL 1929, 13352;—CL 1948, 565.353.

NOTE: The section above referred to is Compilers' § 565.11.

565.354 Land contract; recording, effect.

Sec. 4. Any contract executed and acknowledged, according to the foregoing provisions, shall, with the certificates [certificate] thereto attached, be entitled to be recorded in the office of the register of deeds of the county where the lands lie, and the recording of the same shall have the same force and effect, as to subsequent encumbrances and purchasers, as the recording of deeds and mortgages as now provided by law.

HISTORY: How. 5712;—CL 1897, 9038;—CL 1915, 11773;—CL 1929, 13353;—CL 1948, 565.354.

565.355 Land contract; refusal to discharge; penalty; want of acknowledgment or recordation; effect.

Sec. 5. When the vendor named in said contract has ceased in law to be bound by the provisions of the contract, and is entitled to a release therefrom, the vendee named in said contract, his heirs or assigns, shall, when requested by said vendor, execute a discharge of said contract in the same manner as now provided by law for the discharge [discharging] of mortgages, and for a refusal to so discharge the same he shall be subject to the same penalties as are now provided by law for a refusal to discharge a mortgage after the same has been fully paid, and the party entitled to have said contract discharged from the records may proceed to enforce the discharge of the same as provided in section 45 of chapter 150 of the Compiled Laws of 1871 for enforcing the discharge of mortgages, and the petition or bill asking for said discharge shall contain all the material averments regarding the subject matter thereof required by said section in regard to mortgages, so far as the same are applicable to contracts for the sale of lands: Provided however, That no contract for the sale of lands shall be deemed invalid for want of acknowledgment or recording.

HISTORY: How. 5713;—CL 1897, 9039;—CL 1915, 11774;—CL 1929, 13354;—CL 1948, 565.355.

NOTE: The section above referred to was repealed by Act 309 of 1929.

PENALTY: See Compilers' § 565.44.

Act 98, 1883, p. 93; Eff. Sep. 8.

AN ACT to punish persons who procure or place upon record spurious or fraudulent conveyances of real estate, with intent to deceive.

The People of the State of Michigan enact:

565.371 Recording fraudulent conveyance of realty; penalty.

Sec. 1. That whoever procures or places upon record any conveyance of real estate, with intent to deceive any person as to the identity of the grantor mentioned in such conveyance, shall upon conviction be punished by imprisonment in the state prison at

hard labor, not to exceed 3 years, or by a fine not exceeding 5,000 dollars, or both, in the discretion of the court.

HISTORY: How. 9234a;—CL 1897, 11087;—CL 1915, 15461;—CL 1929, 13355;—CL 1948, 565.371.

Act 216, 1929, p. 546; Imd. Eff. May 20.

AN ACT to provide for the recording after the due date thereof of affidavits for renewal of real estate mortgages; to establish the legal effect thereof and to provide that real estate mortgages not renewed by affidavit or extension agreement within a certain period after recording, shall be considered as discharged. Am. 1951, p. 8, Act 8, Eff. Sep. 28.

The People of the State of Michigan enact:

565.381 Affidavit of mortgage renewal; recording.

Sec. 1. The register of deeds of each county shall provide, at the expense of the county, books of record for the recording of affidavits of renewal of real estate mortgages, and shall record therein such affidavits when presented for that purpose when accompanied by a fee therefor at the same rate as for other instruments.

HISTORY: CL 1929, 13356;—CL 1948, 565.381.

565.382 Affidavit of mortgage renewal; time limitation, effect.

Sec. 2. Every mortgage not renewed by the affidavit of the owner or 1 of the owners thereof, or by the affidavit of the agent or attorney of the owner or owners, showing the amount remaining unpaid on said mortgage, or by extension agreement, filed in the office of the register of deeds of the county in which the lands are situated which are covered by said mortgage, within 30 years after the due date as set forth in said mortgage, or when no due date is set forth in said mortgage, then within 30 years after the recording of said mortgage, shall be considered as discharged.

HISTORY: CL 1929, 13357;—CL 1948, 565.382;—Am. 1951, p. 8, Act 8, Eff. Sep. 28.

565.383 Effective date for preceding section.

Sec. 3. The operation of section 2 of this act shall be deferred for 3 months after the taking effect of the act in general.

HISTORY: CL 1929, 13358;—CL 1948, 565.383.

565.384 Mortgage tax; effect of act.

Sec. 4. Nothing contained in this act shall be construed to require the payment of a mortgage tax by reason of the recording of any affidavit of renewal.

HISTORY: CL 1929, 13359;—CL 1948, 565.384.

Act 236, 1929, p. 579; Eff. Aug. 28.

AN ACT to provide for the recording of waivers of priority of mortgages, and to make such record thereof constructive notice to all persons dealing with mortgages, the lien of which has been waived and with the property described in said mortgage; also to provide for the fees for the recording thereof.

The People of the State of Michigan enact:

565.391 Waiver of mortgage priority; recording, fees.

Sec. 1. When any mortgagee named in any mortgage of property within this state, or the party or parties to whom such mortgage has been properly assigned of record, desire to waive the priority of said mortgage in favor of any other lien or mortgage, the

holder thereof may in writing on said mortgage, or by separate instrument duly acknowledged and witnessed in the same manner as is provided for deeds and other instruments for the transfer of an interest in real estate, waive the priority of said mortgage in favor of any other mortgage or lien, to the extent of the lien of the mortgage so waived and such waiver when recorded whether upon the margin of the record, or as a separate instrument, shall be constructive notice thereof to all persons dealing with the mortgage, the lien of which has been so waived, or with property described in said mortgage, from the date of filing said waiver for record. If said waiver be a separate instrument, it shall be recorded in the same manner provided for the recording of discharges of mortgages, and the recorder shall be entitled to the same fees for recording waivers of priority as are charged for assignments and discharges of mortgages.

HISTORY: CL 1929, 13360;—CL 1948, 565.391.

FEES: Register of deeds, see Compilers' § 600.2567.

Act 5, 1873, p. 4; Eff. Jul. 31.

AN ACT to provide for the recording of judgments in actions affecting or relating to the title of real estate.

The People of the State of Michigan enact:

565.401 Judgment relating to realty title; copy recordation, effect.

Sec. 1. That whenever any final judgment shall have been rendered in any suit or action at law, affecting or relating to the title of real estate, by any court having competent jurisdiction thereof, a copy of such judgment, duly certified by the clerk of said court, under the seal thereof, may be received and recorded in the office of the register of deeds for the county where such real estate is situated and when so recorded it shall have the same effect as evidence and notice of title as the recording of deeds and other conveyances, and such register of deeds shall be entitled, for the recording of such judgment, to the same fees as for the recording of deeds.

HISTORY: How. 7985;—CL 1897, 9043;—CL 1915, 11778;—CL 1929, 13361;—CL 1948, 565.401.

FEES: Register of deeds, see Compilers' § 600.2567.

Act 107, 1895, p. 217; Eff. Aug. 30.

AN ACT to provide for recording in the offices of registers of deeds certified copies of judgments and decrees of courts of record and making the record thereof evidence in courts, and making such records heretofore made like evidence.

The People of the State of Michigan enact:

565.411 Judgment or decree affecting realty title; copy recordation.

Sec. 1. That whenever any circuit court, court of chancery, probate court, or other court of record in this state, shall have rendered any final judgment or decree by the terms of which any person or persons shall be decided to be the owner or owners of any land in this state described therein, or wherein any person or persons shall be determined to be the heirs and entitled to inherit the lands of any deceased owner, or whereby any lands shall be distributed, assigned or partitioned to any person or persons, a copy of such judgment or decree duly certified under the seal of such court may be recorded in the office of the register of deeds of any county or counties in which lands described in or affected by such judgment or decree shall be situated.

HISTORY: Am. 1897, p. 155, Act 133, Eff. Aug. 30;—CL 1897, 9044;—CL 1915, 11779;—CL 1929, 13362;—CL 1948, 565.411.

RECORDING DECREE: See also CCR 530.

565.412 Recording fee; disposal.

Sec. 2. Every register of deeds shall be entitled to the same fee for recording such certified copy as by law he may receive for recording conveyances: Provided, That in counties where the register of deeds receives an annual salary, he shall turn over all such fees to the county treasurer.

HISTORY: CL 1897, 9045;—CL 1915, 11780;—CL 1929, 13363;—CL 1948, 565.412.

FEES: Register of deeds, see Compilers' § 800.2567.

Secs. 3-4.

HISTORY: CL 1897, 9046, 9047;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act). These sections referred to the use of certified copies of judgments or decrees, recorded in any register of deeds' office, as evidence and the effect of the same.

Act 123, 1915, p. 204; Eff. Aug. 24.

AN ACT to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits. Am. 1937, p. 298, Act 190, Imd. Eff. Jul. 14;—Am. 1965, p. 279, Act 178, Imd. Eff. Jul. 15.

The People of the State of Michigan enact:

565.451 Repealed. 1965, p. 280, Act 178, Imd. Eff. Jul. 15.

Section related to affidavits as to parties to instruments, recording and perjury.

565.451a Affidavit stating facts relating to matters affecting realty; recording.

Sec. 1a. An affidavit stating facts relating to any of the following matters which may affect the title to real property in this state made by any person having knowledge of the facts or by any person competent to testify concerning such facts in open court, may be recorded in the office of the register of deeds of the county where the real property is situated:

(a) Birth, age, sex, marital status, death, name, residence, identity, capacity, relationship, family history, heirship, homestead status and service in the armed forces of parties named in deeds, wills, mortgages and other instruments affecting real property;

(b) Knowledge of the happening of any condition or event which may terminate an estate or interest in real property;

(c) Knowledge of surveyors duly registered under the laws of this state with respect to the existence and location of monuments and physical boundaries, such as fences, streams, roads and rights of way of real property;

(d) Knowledge of such registered surveyors reconciling conflicting and ambiguous descriptions in conveyances with descriptions in a regular chain of title;

(e) Knowledge of facts incident to possession or the actual, open, notorious and adverse possession of real property; or

(f) Knowledge of the purchaser, or in the case of a corporation, of its president, vice president, secretary or other duly authorized representative acting in a fiduciary or representative capacity, of real property sold upon foreclosure or conveyed in lieu of foreclosure of a trust mortgage or deed of trust securing an issue of bonds or other evidences of indebtedness, or of any mortgage, land contract or other security instrument held by a fiduciary or other representative, as to the authority of such purchaser to purchase the real property and as to the terms and conditions upon which the real property is to be held and disposed of.

HISTORY: Add. 1965, p. 279, Act 178, Imd. Eff. Jul. 15.

565.451b Affidavit stating facts relating to matters affecting realty; perjury.

Sec. 1b. Any person who knowingly makes any false statement in an affidavit is guilty of perjury.

HISTORY: Add. 1965, p. 280, Act 178, Imd. Eff. Jul. 15.

565.451c Affidavit stating fact relating to matters affecting realty; land description.

Sec. 1c. The affidavit shall include a description of the land, title to which may be affected by facts stated in the affidavit. If there appears in the regular chain of title of the land a deed, will, mortgage or other instrument affecting the title which contains a full and adequate description of the land, the description may be incorporated in the affidavit by reference to the record of the instrument in the register of deeds office in lieu of including the full description of the land.

HISTORY: Add. 1965, p. 280, Act 178, Imd. Eff. Jul. 15.

565.452 Affidavit; register duties, fees.

Sec. 2. The register of deeds of the county where the affidavit is offered for record shall receive and record it in the manner that deeds are recorded. The register of deeds shall collect the same fee for recording the affidavit as is provided by law for recording deeds.

HISTORY: CL 1915, 11737;—CL 1929, 13365;—CL 1948, 565.452;—Am. 1965, p. 280, Act 178, Imd. Eff. Jul. 15.

565.453 Affidavit; use as evidence.

Sec. 3. The affidavit, whether recorded before or after the passage of this act, may be received in evidence in any civil cause, in any court of this state and by any board or officer of the state in any suit or proceeding affecting the real estate and shall be prima facie evidence of the facts and circumstances therein contained.

HISTORY: CL 1915, 11738;—CL 1929, 13366;—CL 1948, 565.453;—Am. 1965, p. 280, Act 178, Imd. Eff. Jul. 15.

Act 172, 1893, p. 272; Eff. Aug. 28.

AN ACT to provide for the discharge from record of statements claiming liens upon real estate.

The People of the State of Michigan enact:

565.481 Mechanic's lien of record; procedure for discharge.

Sec. 1. Whenever any statements [statement] shall have been filed in the office of any register of deeds claiming a lien upon any real estate by any mechanic or other person, in accordance with Act No. 179, of the session laws of 1891, of the state of Michigan, or acts amendatory thereof, and the time shall have elapsed within which proceedings should be commenced to enforce the same, and no such proceedings shall have been commenced the owner of said real estate or of any interest therein, his agent or attorney, may make and present to the register of the court in which such proceedings might have been taken, an affidavit showing the time when such statement claiming lien shall have been filed and the names of the parties thereto, and thereupon it shall be the duty of such register to make examination of the records in his office, and if it shall appear upon such examination that no such proceedings shall have been commenced within the time required by law, it shall be the duty of such register to execute and deliver to such owner or part owner a certificate of such facts [fact] under his hand and the seal of said court. The said register of deeds, on receipt of such certificate and on payment to him of a fee of 25 cents, shall file and preserve the same, and shall make an abstract thereof in the book kept by him for the purpose

of entering such claims of lien; and shall mark on the record containing the abstract of such statements [statement] of lien "discharged by certificate of register of said court," naming it, with the date of the filing of such certificate, and thereafter the effect of such statement and lien shall cease and determine.

HISTORY: CL 1897, 9055;—CL 1915, 11787;—CL 1929, 13370;—CL 1948, 565.481.

NOTE: Act 179 of 1891, above referred to, is Compilers' § 570.1 et seq.

565.482 Application of act.

Sec. 2. The provisions of this act shall also apply to cases where such claim of lien shall have been filed under former statutes and where rights thereunder have been saved in accordance with section 31 of said Act 179, of the session laws of 1891 of the state of Michigan, in any case where the time within which proceedings should have been commenced according to the terms of the statutes under which such claim of lien shall have been filed, shall have elapsed.

HISTORY: CL 1897, 9056;—CL 1915, 11788;—CL 1929, 13371;—CL 1948, 565.482.

NOTE: Sec. 31 of Act 179 of 1891, above referred to, is CL 1929, 13131. This section is a repeal section following Compilers' § 570.30.

Act 20, 1867, p. 22; Eff. Jun. 27.

AN ACT relative to recording deeds, mortgages and instruments of record, and to declare the effect thereof.

The People of the State of Michigan enact:

565.491 Instruments recordation; methods, blank spaces, marginal notes.

Sec. 1. Every register of deeds shall, upon the payment of his proper fees, record or cause to be recorded, at length, upon the pages of the proper record books in his office in a plain and legible hand writing, or in print or in symbols of drawing or by photographic process or partly in writing, partly in printing, partly in symbols of drawing or partly by photographic process or by any combination of writing, printing, drawing or photography or either or any 2 of them, all deeds, mortgages, maps and instruments or writings authorized by law to be recorded in his office, and left with him for that purpose; and unless such record shall be made in continuous successive lines, he shall rule the blank space with lines running diagonally across the same. He shall carefully compare the record with the original instrument, and before attesting the same shall note on the margin of such record over his initials all erasures and interlineations made in the record to make same conform to the instrument recorded, and when he shall have received any instrument to be recorded he shall not deliver it up to the parties, or either of them, or permit the same to go out of his office until it has been duly entered at large upon the record.

HISTORY: CL 1871, 4254;—How. 5677;—CL 1897, 8982;—Am. 1911, p. 182, Act 122, Eff. Aug. 1;—CL 1915, 11714;—Am. 1921, p. 697, Act 379, Eff. Aug. 18;—CL 1929, 13372;—CL 1948, 565.491.

565.492 Conveyance made under court order; indexing, record as evidence.

Sec. 2. When a deed or other conveyance made by an executor, administrator, guardian, commissioner, sheriff, marshal or person acting under authority of an order of court, is left for record, the register of deeds shall enter in the indexes of the officer or person the names of the testators[,], wards or persons, who owned the estate, and from whom it passes when the same appear by such deed, and also the name of such executor, administrator, guardian, commissioner, sheriff, marshal, or other person executing the same; and when a decree or order for the partition of land[,], or the commissioner[s] return thereof is so left for record, the register shall enter in the indexes the names of all the persons whose estates plainly appear to be affected thereby. And all such deeds, the record or a certified copy of such record, shall be in all courts and

places prima facie evidence of the regularity of all the proceedings required by law anterior to such deeds, and of the authority of the grantor therein named to execute such deed or deeds.

HISTORY: CL 1871, 4255;—How. 5678;—CL 1897, 8983;—CL 1915, 11715;—CL 1929, 13373;—CL 1948, 565.492.

Act 79, 1841, p. 176; Eff. May 13.

AN ACT to provide for making a general index to all books in the offices of the registers of deeds, of the respective counties of this state.

Be it enacted by the senate and house of representatives of the state of Michigan:

565.501 General index of records; duties and compensation of register.

Sec. 1. That the county commissioners of the respective counties of this state, be, and they are hereby authorized, if in the opinion of the commissioners they shall deem it necessary, to cause the registers of their respective counties, to prepare a general index to all books in their offices, used for the purpose of recording deeds, mortgages and other instruments, in order that the records containing the title of lands, may the more easily be preserved, and a search of said records, to ascertain such title, facilitated; and the said registers shall receive for their compensation such sum as the county commissioners may deem *and just and right.

HISTORY: CL 1857, 2770;—CL 1871, 4267;—How. 5722;—CL 1897, 9058;—CL 1915, 11789;—CL 1929, 13374;—CL 1948, 565.501.

COUNTY COMMISSIONERS: These officers were provided by law before this state was admitted to the union. The first reference to them in a state code will be found in R.S. 1838, Pt. 1st, Title III, Ch. 3, Secs. 1-19. By Act 19 of 1842 the office was abolished and its duties transferred to boards of supervisors.

*NOTE: It is evident the word "and" should be "as".

565.502 General index of records; compensation of register for indexing instruments.

Sec. 2. That no compensation shall be allowed for indexing in the general index, deeds, mortgages and other instruments, that shall be left for record after the general index books shall be furnished to the registers of the respective counties, or when said books may have been already furnished, and the registers are hereby required without charge, to index all such deeds, mortgages, and other instruments in said general index.

HISTORY: CL 1857, 2771;—CL 1871, 4268;—How. 5723;—CL 1897, 9059;—CL 1915, 11790;—CL 1929, 13375;—CL 1948, 565.502.

Act 158, 1887, p. 168; Eff. Sep. 28.

AN ACT providing for the forfeiture by every register of deeds in this state who shall neglect or refuse to keep up such indexes as are required by law, and for the recovery of the same.

The People of the State of Michigan enact:

565.531 Index; failure to keep up; forfeiture.

Sec. 1. That every register of deeds who shall neglect or refuse to keep up such indexes as are required by law shall forfeit the sum of 10 dollars for each and every such neglect or refusal, which may be recovered in an action of debt before any court of competent jurisdiction.

HISTORY: How. 5723a;—CL 1897, 9060;—CL 1915, 11791;—CL 1929, 13376;—CL 1948, 565.531.

Act 54, 1875, p. 51; Imd. Eff. Mar. 26.

AN ACT to facilitate the inspection of the records and files in the offices of the registers of deeds.

The People of the State of Michigan enact:

565.551 Records of register of deeds; inspection, copying with ink, photography.

Sec. 1. That the registers of deeds in this state shall furnish proper and reasonable facilities for the inspection and examination of the records and files in their respective offices, and for making memorandums or transcripts therefrom during the usual business hours, to all persons having occasion to make examination of them for any lawful purpose: Provided, That the custodian of said records and files may make such reasonable rules and regulations with reference to the inspection and examination of them as shall be necessary for the protection of said records and files, and to prevent the interference with the regular discharge of the duties of said register: And provided further, That said register of deeds may prohibit the use of pen and ink in making copies or notes of records and files, but shall permit the use of photography for making copies of records and files.

HISTORY: How. 5721;—CL 1897, 9053;—CL 1915, 11766;—CL 1929, 13377;—Am. 1931, p. 179, Act 112, Eff. Sept. 18;—CL 1948, 565.551.

INSPECTION OF RECORDS: County, city and township officials to provide for examination of records. See Compilers' § 750.492.

Act 25 of 1836, p. 114; Imd. Eff. Mar. 24.

AN ACT concerning the records of deeds and other conveyances of land.

Be it enacted by the senate and house of representatives of the state of Michigan:

565.581 County attached to another for judicial purposes; record of instruments; copying, copy as evidence.

Sec. 1. That the board of supervisors or a majority of them, of all such organized counties as have been attached to other counties for judicial purposes, are hereby authorized to direct the register of deeds of their county, either in person or by deputy, to provide a good and sufficient book or books, and procure and record therein a complete copy of all such, deeds, mortgages, powers of attorney or other instruments relating to the title of land as may belong to their county and on record in the county to which it had been so attached; and it shall be the duty of said register or deputy under his oath of office to certify each and every copy so taken to be a true copy of the original record; and such copy so certified shall be received as evidence in all courts of justice in this state, in the same manner and for the same purposes as the original record would be received.

HISTORY: CL 1857, 2766;—CL 1871, 4259;—How. 5694;—CL 1897, 9000;—CL 1915, 11732;—CL 1929, 13378;—CL 1948, 565.581.

RECORD AS EVIDENCE: See also Compilers' § 600.2110.

565.582 Application of preceding section.

Sec. 2. All counties that now are or may hereafter be organized shall have all the rights and privileges specified in the first section of this act.

HISTORY: CL 1857, 2767;—CL 1871, 4260;—How. 5695;—CL 1897, 9001;—CL 1915, 11733;—CL 1929, 13379;—CL 1948, 565.582.

565.583 Register; duties, fees.

Sec. 3. It shall be the duty of the register of the county applying for a copy of records to transcribe the same in the book or books to be provided for that purpose as aforesaid; and the said register shall receive for his services the fees allowed to registers for recording deeds, to be paid out of the county treasury; and the register to whom application may be made as aforesaid is hereby authorized and directed to permit the register first mentioned in this section to have the use of the books and records in his office for the purpose aforesaid.

HISTORY: CL 1857, 2768;—CL 1871, 4261;—How. 5696;—CL 1897, 9002;—CL 1915, 11734;—CL 1929, 13380;—CL 1948, 565.583.

FEES: Register of deeds, see Compilers' § 600.2567.

565.584 Register; additional compensation.

Sec. 4. The supervisors are authorized and directed to make such further compensation to the register who may transcribe such records as may be proper and just.

HISTORY: CL 1857, 2769;—CL 1871, 4202;—How. 5697;—CL 1897, 9003;—CL 1915, 11735;—CL 1929, 13381;—CL 1948, 565.584.

Act 177, 1879, p. 166; Eff. Aug. 30.

AN ACT to provide for the transcribing of records of deeds, mortgages and other instruments in certain cases.

The People of the State of Michigan enact:

565.591 Failure or mistake in copying records for new county; copy of original; right to obtain, recording.

Sec. 1. That when a new county has been, or shall be organized, in whole or in part, from an organized county, or from territory attached to such organized county for judicial purposes, and the supervisors of such new county have or shall have neglected to cause copies or transcripts of the records of deeds, mortgages or other instruments relating to real estate in such new county, to be made as provided by law; or if from any cause the same has not, or shall not have been done; or in case there are or shall be informalities, irregularities or mistakes in the copying, transcribing or certifying of such records, then in either such case, any person may procure from the register of deeds of the county in which such original deed, mortgage or other instrument had been recorded, a copy, duly certified by such register, of the original record of any deed, mortgage or other instrument relative to or affecting the title of land, in which such person may be interested, and situated in such new county, and cause such certified copy to be recorded in the office of the register of deeds of the proper county. When any such certified copy shall be presented to the register of deeds of any county in this state, it shall be the duty of such register to record the same in the same manner and with like effect as original instruments or papers entitled to record in his office, and when so recorded, such record shall have the same effect in all respects as original records.

HISTORY: How. 5698;—CL 1897, 9004;—CL 1915, 11739;—CL 1929, 13382;—CL 1948, 565.591.

Act 21, 1861, p. 16; Imd. Eff. Feb. 2.

AN ACT to confirm deeds and instruments intended for the conveyance of real estate in certain cases.

The People of the State of Michigan enact:

565.601 Deed executed according to law of place of execution; validity.

Sec. 1. That all deeds of lands situated within this state, heretofore or hereafter made without this state, and executed according to the laws of the place where made, and acknowledged to be the free act of the grantor or grantors therein named, before any person authorized to take the acknowledgment of deeds by the laws of the place where executed, or of the laws of the territory or state of Michigan, in force at the date of such acknowledgment, shall be deemed between the parties thereto, and all persons claiming under or through them, as valid and effectual to convey the legal estate of the premises therein described, as if the said deed had been in all respects legally executed.

HISTORY: CL 1871, 4250;—How. 5724;—CL 1897, 9048;—CL 1915, 11781;—CL 1929, 13383;—CL 1948, 565.601.

565.602 Married woman's joint deed with husband; validity.

Sec. 2. All deeds of lands situated in this state, heretofore or hereafter made by any married woman jointly with her husband by their attorney in fact, under a joint power of attorney, executed and acknowledged as required in the joint deed of a husband and wife, and recorded in the office of the register of deeds of the proper county, shall be taken and deemed as between the parties thereto, and all persons claiming under or through them as valid and effectual to convey the legal title of the premises therein described, as if the same had been executed and acknowledged by the husband and wife in person.

HISTORY: CL 1871, 4251;—How. 5725;—CL 1897, 9049;—CL 1915, 11782;—CL 1929, 13384;—CL 1948, 565.602.

565.603 Certificate of acknowledgment; effect of imperfection.

Sec. 3. No deed of lands situate in this state heretofore or hereafter executed, shall be deemed defective by reason of any informality or imperfection in the certificate of acknowledgment, if it shall sufficiently appear by such certificate that the person making the same was legally authorized to take such acknowledgment, and that the grantor or grantors named in such deed were personally known to him, and that he or they personally appeared before him and acknowledged such deed to be his or their free act, and if such deed was executed out of this state, it shall be sufficient if the certificate under the seal of office of the clerk or other proper certifying officer of the court of record of the county or district within which such acknowledgment was taken, in cases where any such certificate was required, sufficiently shows that the person before whom such acknowledgment was taken, was at the date thereof such officer as he is therein represented to be. And whenever such deed has been recorded in the office of the register of deeds of the proper county, such record shall be effectual for all purposes of a legal record, and the record of such deed or a transcript thereof may be given in evidence as in other cases: Provided, That nothing in this section, or in the preceding 2 sections contained, shall impair the rights of any person under a purchase heretofore made in good faith, and on valuable consideration.

HISTORY: CL 1871, 4252;—How. 5726;—CL 1897, 9050;—CL 1915, 11783;—CL 1929, 13385;—CL 1948, 565.603.

As to deeds acknowledged before Michigan commissioners, see Compilers' § 565.10.

565.604 Land conveyances; statutory requirements defect; effect.

Sec. 4. No conveyance of land or instrument intended to operate as such conveyance, made in good faith and upon a valuable consideration, whether heretofore made or hereafter to be made, shall be wholly void by reason of any defect in any statutory requisite in the sealing, signing, attestation, acknowledgment, or certificate of acknowledgment thereof; nor shall any deed or conveyance, heretofore or hereafter to be made, designed and intended to operate as a conveyance to any religious, fraternal, scientific or benevolent society, or corporation, be wholly void by reason of any mistake in the name or description of the grantee, nor because of any failure of such society or corporation to comply with any statutory provisions concerning the organization of such society or corporation: Provided, Such society or corporation shall hereafter comply with the provisions of the statute touching the organization or incorporation of such societies; but the same, when not otherwise effectual to the purposes intended, may be allowed to operate as an agreement for a proper and lawful conveyance of the premises in question, and may be enforced specifically by suit in equity in any court of competent jurisdiction, subject to the rights of subsequent purchasers in good faith and for a valuable consideration; and when any such defective instrument has been or shall hereafter be recorded in the office of the register of deeds of the county in which such lands are situate, such record shall hereafter operate as legal notice of all the rights secured by such instrument.

HISTORY: CL 1871, 4253;—Am. 1873, p. 240, Act 174, Imd. Eff. Apr. 29;—How. 5727;—CL 1897, 9051;—CL 1915, 11784;—CL 1929, 13386;—Am. 1933, p. 54, Act 56, Imd. Eff. April 14;—CL 1948, 565.604.

Act 191, 1871, p. 320; Eff. Jul. 18.

AN ACT to confirm the record of letters of attorney in certain cases.

The People of the State of Michigan enact:

565.631 Power of attorney; record as evidence of execution and acknowledgment.

Sec. 1. That any letter of attorney or other instrument containing a power to convey lands, as agent or attorney for the owners of such lands, executed and acknowledged in the manner provided by the statutes of this state for the execution and acknowledgment of deeds or other conveyances of land, and which shall have been actually recorded in the office of the register of deeds in any county in the state prior to the first day of March in the year 1847, may be proved in any court by the production of such record or a duly certified copy thereof and such record or a duly certified copy, shall be prima facie evidence of the due execution and acknowledgment of such letter of attorney or other instrument.

HISTORY: CL 1871, 4256;—Am. 1873, p. 463, Act 183, Eff. July 31;—How. 5691;—Am. 1897, p. 112, Act 103, Imd. Eff. Apr. 28;—CL 1897, 8996;—CL 1915, 11728;—CL 1929, 13387;—CL 1948, 565.631.

565.632 Destruction or loss of recorded instrument entitled to record in another county; transcript, recording, evidence.

Sec. 2. When deeds and instruments conveying title to real estate or any letter of attorney or other instrument containing a power to convey lands as agent or attorney for the owners of such lands, executed and acknowledged in the manner provided by the statutes of this state for the execution and acknowledgment of deeds or other conveyances of land, shall have been actually and regularly recorded in the office of the register of deeds of any of the counties of the state; and when such deeds, mortgages, instruments or other papers duly executed and designed for and entitled to record in more than 1 county of the state; and when such original papers have been consumed by fire or otherwise destroyed or lost before such other records have been completed; on satisfactory proof of such loss or destruction being made to the circuit judge of the district wherein such papers have been recorded, he may make an order authorizing the register of deeds to furnish certified transcript copies of such deeds, mortgages, instruments or other papers as set forth in this section. When such papers, with the circuit judge's order attached thereto, shall be presented to the register of deeds for any county of this state, it shall be the duty of such register to record the same; and when so recorded, such copy, and the record thereof, shall be as valid and entitled to the same credit in all matters of notice and proof of title as where the originals have been so entered on record; and a certified copy thereof, and such record or a duly certified copy shall be prima facie evidence of the due execution and acknowledgment of such letter of attorney or other instrument.

HISTORY: Add. 1873, p. 464, Act 183, Eff. July 31;—How. 5716;—Am. 1897, p. 112, Act 103, Imd. Eff. Apr. 28;—CL 1897, 8997;—CL 1915, 11729;—CL 1929, 13388;—CL 1948, 565.632.

The title of the amendatory act of 1873 is "An act to amend section one of an act entitled 'An act to confirm the record of letters of attorney in certain cases,' approved April seventeen, eighteen hundred and seventy-one, being section 4256 of the Compiled Laws of eighteen hundred and seventy-one, and to add a new section thereto to stand as section two, relative to certified transcript copies of deeds, instruments, and letters of attorneys conveying title to real estate."

LOST OR DESTROYED INSTRUMENT: As to recording certified copy, see also Compilers' § 565.321.

Act 72, 1875, p. 110; Imd. Eff. Apr. 8.

AN ACT to confirm and legalize all acts changing representative districts passed prior to the enumeration of 1874, and to confirm records, taxes and official acts in territory affected by such changes.

Preamble. Whereas, The supreme court of this state has decided that an act of the legislature passed in 1873 for the purpose of enlarging the boundaries of the city of Detroit, and which did, in fact, annex to said city of Detroit, territory which before then was in a representative district other than the one to which said territory was annexed, was void, as being in conflict with section 4 of article 4 of the constitution of this state;

And Whereas, Said decision, if applied to all existing acts on that subject of like character which have been passed since the enumeration of 1870 and prior, would unsettle and throw into confusion a large portion of the territory in this state, affect the legality of the records of deeds, mortgages, and other instruments, the validity of taxes assessed and the election of officers in many cases;

Now, therefore, For the purpose of settling all questions which might be raised by reason of legislation of the character indicated, and to ratify and confirm all such acts and proceedings thereunder,

HISTORY: How. 73;—CL 1897, 9061;—CL 1915 11792;—CL 1929, 13389.

NOTE: Sec. 4 of Art. IV of the constitution, above referred to, undoubtedly refers to the 1850 constitution.

The People of the State of Michigan enact:

565.651 Acts confirmed.

Sec. 1. All acts and parts of acts heretofore passed by the legislature and approved by the governor changing the boundaries of cities, townships or counties, by taking territory from 1 representative district and placing the same in another, or transferring territory from 1 representative district to another, shall be and the same are hereby ratified and confirmed.

HISTORY: How. 74;—CL 1897, 9062;—CL 1915, 11793;—CL 1929, 13390;—CL 1948, 565.651.

565.652 Records, suits, taxes, official acts; validation.

Sec. 2. All records made in the office of any register of deeds, all suits commenced and pending, or determined, all taxes levied, and all other official acts in or concerning territory so transferred, which would have been legal and valid had the division of territory taken place next subsequent to an enumeration of the inhabitants, shall be held to be as legal and valid as if the territory transferred from 1 representative district to another had been so transferred at a session next subsequent to such general enumeration: Provided, That nothing in this act contained shall be held as affecting or intending to affect the particular case which was decided by the supreme court in the recital above alluded to.

HISTORY: How. 75;—CL 1897, 9063;—CL 1915, 11794;—CL 1929, 13391;—CL 1948, 565.652.

Act 53, 1941, p. 49; Eff. Jan. 10, 1942.

AN ACT concerning the risk of loss after a contract to sell realty, and to make uniform the law with reference thereto, and to repeal all acts or parts of acts inconsistent therewith.

The People of the State of Michigan enact:

565.701 Uniform vendor and purchaser risk act; provisions governing same deemed part of contract.

Sec. 1. Any contract hereafter made in this state for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

(a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid;

(b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.

HISTORY: CL 1948, 565.701. This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted by the legislatures of the following states: Hawaii, Louisiana, Michigan, New York, South Dakota, and Wisconsin.

565.702 Construction of act; uniformity.

Sec. 2. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: CL 1948, 565.702.

565.703 Uniform vendor and purchaser risk act; short title.

Sec. 3. This may be cited as the uniform vendor and purchaser risk act.

HISTORY: CL 1948, 565.703.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

CHAPTER 566. FRAUDULENT CONVEYANCES AND CONTRACTS

AGREEMENTS TO MODIFY OR DISCHARGE CONTRACTS
Act 238 of 1941

- 566.1 Agreements to modify or discharge contracts and obligations valid without consideration.

UNIFORM FRAUDULENT CONVEYANCE ACT
Act 310 of 1919

- 566.11 Uniform fraudulent conveyance act; definitions.
 566.12 Insolvency; definition.
 566.13 Fair consideration; definition.
 566.14 Conveyances by insolvent.
 566.15 Conveyances by persons in business.
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 566.17 Conveyance made with intent to defraud.
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 566.20 Rights of creditors whose claims have not matured.
 566.21 Cases not provided for in act.
 566.22 Construction of act.
 566.23 Uniform fraudulent conveyance act; short title.

FRAUDULENT CONVEYANCES AND CONTRACTS
RELATIVE TO LANDS
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- 566.101 Conveyance with intent to defraud; invalidity.
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 566.107 Statute of frauds; will, trust by implication or operation of law.
 566.108 Statute of frauds; contract for interest in lands other than one year lease; sales at auction.
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- 566.131 Transfers in trust of personalty void as against creditors.
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- 566.136 Consideration; evidence.
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PURCHASERS AT FORECLOSURE SALE
Act 57 of 1877

- 566.191 Repealed.

DISCHARGE OF CHATTEL MORTGAGES
Act 117 of 1881

- 566.201-566.202 Repealed.

GENERAL PROVISIONS RELATING TO FRAUDULENT
CONVEYANCES AND CONTRACTS

R.S. 1846, Ch. 82

- 566.221 Acts to hinder or defraud creditors; invalidity.
 566.222 Grant or assignment of trust to be in writing.
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 566.224 Fraudulent intent; question of fact.
 566.225 Purchaser without notice; protection.
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Act 305 of 1937

- 566.251 Automobile accessories sold upon chattel mortgage or conditional sale; vendor to forward title and copy of mortgage to secretary of state; fee.
 566.252 Automobile accessories sold upon chattel mortgage or conditional sale; recording upon title; additional information.
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Act 305 of 1939

- 566.301 Motor vehicle installment sales contracts; definitions.
 566.302 Contract; contents; delivery of copy and insurance policy to buyer.
 566.303-566.314 Repealed.

CHATTEL MORTGAGE DEFICIENCY JUDGMENTS

Act 290 of 1939

- 566.401-566.412 Repealed.

MORTGAGE OR PLEDGE OF SECURITIES

Act 187 of 1943

- 566.501 Repealed.

CORRESPONDENCE SCHOOL CONTRACTS

Act 331 of 1937

- 566.551 Contracts with correspondence schools; construction, negotiability.
 566.552 Correspondence school contracts; definitions.

Act 238, 1941, p. 391; Eff. Jan. 10, 1942.

AN ACT relative to agreements to change or modify, or to discharge in whole or in part, any contract, obligation, or lease, or any mortgage or other security interest in personal or real property; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

566.1 Agreements to modify or discharge contracts and obligations valid without consideration.

Sec. 1. An agreement hereafter made to change or modify, or to discharge in whole or in part, any contract, obligation, or lease, or any mortgage or other security interest in personal or real property, shall not be invalid because of the absence of consideration: Provided, That the agreement changing, modifying, or discharging such contract, obligation, lease, mortgage or security interest shall not be valid or binding unless it shall be in writing and signed by the party against whom it is sought to enforce the change, modification, or discharge.

HISTORY: CL 1948, 566.1.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 310, 1919, p. 546; Eff. Aug. 14.

AN ACT concerning fraudulent conveyances and to make uniform the law relating thereto.

The People of the State of Michigan enact:

DEFINITION OF TERMS.

566.11 Uniform fraudulent conveyance act; definitions.

Sec. 1. In this act "assets" of a debtor means property not exempt from liability for his debts. To the extent that any property is liable for any debts of the debtor, such property shall be included in his assets. "Conveyance" includes every payment of money, assignment, release, transfer, lease, mortgage or pledge of tangible or intangible property, and also the creation of any lien or incumbrance. "Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent. "Debt" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

HISTORY: CL 1929, 13392;—CL 1948, 566.11.

This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commission for passage by the several states. It has been adopted by the legislatures of the following states: Arizona, California, Delaware, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Dakota, Tennessee, Utah, Washington, Wisconsin and Wyoming.

INSOLVENCY.

566.12 Insolvency; definition.

Sec. 2. (1) A person is insolvent when the present fair salable value of his assets is less than the amount that will be required to pay his probable liability on his existing debts as they become absolute and matured.

(2) In determining whether a partnership is insolvent there shall be added to the partnership property the present fair salable value of the separate assets of each general partner in excess of the amount probably sufficient to meet the claims of his separate creditors, and also the amount of any unpaid subscription to the partnership of

each limited partner, provided the present fair salable value of the assets of such limited partner is probably sufficient to pay his debts, including such unpaid subscription.

HISTORY: CL 1929, 13393;—CL 1948, 566.12.

FAIR CONSIDERATION.

566.13 Fair consideration; definition.

Sec. 3. Fair consideration is given for property, or obligation;

(a) When in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied, or

(b) When such property, or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property or obligation obtained.

HISTORY: CL 1929, 13394;—CL 1948, 566.13.

CONVEYANCE BY INSOLVENT.

566.14 Conveyances by insolvent.

Sec. 4. Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent is fraudulent as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration.

HISTORY: CL 1929, 13395;—CL 1948, 566.14.

CONVEYANCES BY PERSONS IN BUSINESS.

566.15 Conveyances by persons in business.

Sec. 5. Every conveyance made without fair consideration when the person making it is engaged or is about to engage in a business or transaction for which the property remaining in his hands after the conveyance is an unreasonably small capital, is fraudulent as to creditors and as to other persons who become creditors during the continuance of such business or transaction without regard to his actual intent.

HISTORY: CL 1929, 13396;—CL 1948, 566.15.

CONVEYANCES BY A PERSON ABOUT TO INCUR DEBTS.

566.16 Conveyances by person about to incur debts.

Sec. 6. Every conveyance made and every obligation incurred without fair consideration when the person making the conveyance or entering into the obligation intends or believes that he will incur debts beyond his ability to pay as they mature, is fraudulent as to both present and future creditors.

HISTORY: CL 1929, 13397;—CL 1948, 566.16.

CONVEYANCE MADE WITH INTENT TO DEFRAUD.

566.17 Conveyance made with intent to defraud.

Sec. 7. Every conveyance made and every obligation incurred with actual intent, as distinguished from intent presumed in law, to hinder, delay, or defraud either present or future creditors, is fraudulent as to both present and future creditors.

HISTORY: CL 1929, 13398;—CL 1948, 566.17.

CONVEYANCE BY DECEASED: With intent to defraud, duty of fiduciary to recover, see Compilers' § 707.14 et seq.

CONVEYANCE OF PARTNERSHIP PROPERTY.

566.18 Conveyance of partnership property.

Sec. 8. Every conveyance of partnership property and every partnership obligation incurred when the partnership is or will be thereby rendered insolvent, is fraudulent as to partnership creditors, if the conveyance is made or obligation is incurred;

(a) To a partner, whether with or without a promise by him to pay partnership debts, or

(b) To a person not a partner without fair consideration to the partnership as distinguished from consideration to the individual partners.

HISTORY: CL 1929, 13399;—CL 1948, 566.18.

PARTNERSHIPS: In general, see Title XX, being Compilers' § 449.1 et seq., conveyance of real property, see Compilers' § 449.10.

RIGHTS OF CREDITORS WHOSE CLAIMS HAVE MATURED.

566.19 Rights of creditors whose claims have matured.

Sec. 9. (1) Where a conveyance or obligation is fraudulent as to a creditor, such creditor, when his claim has matured, may, as against any person except a purchaser for fair consideration without knowledge of the fraud at the time of the purchase, or one who has derived title immediately or mediately from such purchaser;

(a) Have the conveyance set aside or obligation annulled to the extent necessary to satisfy his claim, or

(b) Disregard the conveyance and attach or levy execution upon the property conveyed.

(2) A purchaser who without actual fraudulent intent has given less than a fair consideration for the conveyance or obligation, may retain the property or obligation as security for repayment.

HISTORY: CL 1929, 13400;—CL 1948, 566.19.

RIGHTS OF CREDITORS WHOSE CLAIMS HAVE NOT MATURED.

566.20 Rights of creditors whose claims have not matured.

Sec. 10. Where a conveyance made or obligation incurred is fraudulent as to a creditor whose claim has not matured, he may proceed in a court of competent jurisdiction against any person against whom he could have proceeded had his claim matured, and the court may,

(a) Restrain the defendant from disposing of his property,

(b) Appoint a receiver to take charge of the property,

(c) Set aside the conveyance or annul the obligation, or

(d) Make any order which the circumstances of the case may require.

HISTORY: CL 1929, 13401;—CL 1948, 566.20.

CASES NOT PROVIDED FOR IN ACT.

566.21 Cases not provided for in act.

Sec. 11. In any case not provided for in this act, the rules of law and equity including the law merchant, and in particular the rules relating to the law of principal and agent, and the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy or other invalidating cause shall govern.

HISTORY: CL 1929, 13402;—CL 1948, 566.21.

CONSTRUCTION OF ACT.

566.22 Construction of act.

Sec. 12. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: CL 1929, 13403;—CL 1948, 566.22.

NAME OF ACT.

566.23 Uniform fraudulent conveyance act; short title.

Sec. 13. This act may be cited as the uniform fraudulent conveyance act.

HISTORY: CL 1929, 13404;—CL 1948, 566.23.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1929, 13405;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

R.S. 1846, Ch. 80.

FRAUDULENT CONVEYANCES AND CONTRACTS RELATIVE TO LANDS.**566.101 Conveyance with intent to defraud; invalidity.**

Sec. 1. Every conveyance of any estate or interest in lands, or the rents and profits of lands, and every charge upon lands or upon the rents and profits thereof, made or created with intent to defraud prior or subsequent purchasers for a valuable consideration, of the same lands, rents or profits, as against such purchasers, shall be void.

HISTORY: CL 1857, 3172;—CL 1871, 4687;—How. 6174;—CL 1897, 9504;—CL 1915, 11970;—CL 1929, 13406;—CL 1948, 566.101.

FRAUDULENT INTENT: Construction in cases arising under this chapter, see Compilers' § 566.224.

PURCHASER WITHOUT NOTICE: Protection in cases arising under this chapter, see Compilers' § 566.225.

CONVEYANCE: Construed as used in this chapter, see Compilers' § 566.226.

SAME: BY DECEASED: With intent to defraud, duty of executor or administrator to recover, see Compilers' § 707.14 et seq.

566.102 Notice of prior conveyance; effect.

Sec. 2. No such conveyance or charge shall be deemed fraudulent, in favor of a subsequent purchaser, who shall have actual or legal notice of the prior conveyance or charge, at the time of his purchase, unless it shall appear that the grantee in such prior conveyance, or person to be benefited by such charge, was privy to the fraud intended.

HISTORY: CL 1857, 3173;—CL 1871, 4688;—How. 6175;—CL 1897, 9505;—CL 1915, 11971;—CL 1929, 13407;—CL 1948, 566.102.

566.103 Conveyance reserving powers of revocation or alteration; invalidity.

Sec. 3. Every conveyance or charge of, or upon, any estate or interest in lands, containing any provision for the revocation, determination or alteration of such estate or interest, or any part thereof, at the will of the grantor, shall be void, as against subsequent purchasers from such grantor for a valuable consideration, of any estate or interest so liable to be revoked or determined, although the same be not expressly revoked, determined or altered by such grantor, by virtue of the power reserved or expressed in such prior conveyance or charge.

HISTORY: CL 1857, 3174;—CL 1871, 4689;—How. 6176;—CL 1897, 9506;—CL 1915, 11972;—CL 1929, 13408;—CL 1948, 566.103.

566.104 Conveyance by person authorized to revoke grant; validity.

Sec. 4. When a power to revoke a conveyance of any lands, or the rents and profits thereof, and to re-convey the same, shall be given to any person, other than the grantor in such conveyance, and such person shall thereafter convey the same lands, rents or profits, to a purchaser for a valuable consideration, such subsequent conveyance shall be valid, in the same manner, and to the same extent, as if the power of revocation were recited therein, and the intent to revoke the former conveyance expressly declared.

HISTORY: CL 1857, 3175;—CL 1871, 4690;—How. 6177;—CL 1897, 9507;—CL 1915, 11973;—CL 1929, 13409;—CL 1948, 566.104.

566.105 Conveyance before vesting of power to revoke; validity.

Sec. 5. If a conveyance to a purchaser, under either of the 2 last preceding sections, shall be made before the person making the same shall be entitled to execute his power of revocation, it shall nevertheless be valid, from the time the power of revocation shall actually vest in such person, in the same manner and to the same extent, as if then made.

HISTORY: CL 1857, 3176;—CL 1871, 4691;—How. 6178;—CL 1897, 9508;—CL 1915, 11974;—CL 1929, 13410;—CL 1948, 566.105.

566.106 Statute of frauds; conveyance of interest in lands other than one year lease.

Sec. 6. No estate or interest in lands, other than leases for a term not exceeding 1 year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by some person thereunto by him lawfully authorized by writing.

HISTORY: CL 1857, 3177;—CL 1871, 4692;—How. 6179;—CL 1897, 9509;—CL 1915, 11975;—CL 1929, 13411;—CL 1948, 566.106.

CONSTRUCTION OF STATUTE: See notes to Compilers' § 566.106 for cases dealing with contracts bearing on interests in land.

SPECIFIC PERFORMANCE: As to power of courts to compel specific performance of oral agreements, see notes to Compilers' § 566.110.

566.107 Statute of frauds; will, trust by implication or operation of law.

Sec. 7. The preceding section shall not be construed to affect in any manner, the power of a testator in the disposition of his real estate, by a last will and testament; nor to prevent any trust from arising, or being extinguished, by implication or operation of law.

HISTORY: CL 1857, 3178;—CL 1871, 4693;—How. 6180;—CL 1897, 9510;—CL 1915, 11976;—CL 1929, 13412;—CL 1948, 566.107.

566.108 Statute of frauds; contract for interest in lands other than one year lease; sales at auction.

Sec. 8. Every contract for the leasing for a longer period than 1 year, or for the sale of any lands, or any interest in lands, shall be void, unless the contract, or some note or memorandum thereof be in writing, and signed by the party by whom the lease or sale is to be made, or by some person thereunto by him lawfully authorized in writing: Provided, That whenever any lands or interest in lands shall be sold at public auction and the auctioneer or the clerk of the auction at the time of the sale enters in a sale book a memorandum specifying the description and price of the land sold and the name of the purchaser, such memorandum, together with the auction bills, catalog or written or printed notice of sale containing the name of the person on whose account the sale is made and the terms of sale, shall be deemed a memorandum of the contract of sale within the meaning of this section.

HISTORY: CL 1857, 3179;—CL 1871, 4694;—How. 6181;—CL 1897, 9511;—CL 1915, 11977;—Am. 1917, p. 153, Act 83, Eff. Aug. 10;—CL 1948, 566.108. Proviso added in 1917;—CL 1929, 13413.

CONSTRUCTION OF STATUTE: Notes to Compilers' § 566.108 should be consulted for the cases dealing with creation, granting, assignment, surrender and declaration of any interest in land.

566.109 Statute of frauds; consideration, statement in contract, evidence.

Sec. 9. The consideration of any contract or agreement, required by the provisions of this chapter to be in writing, need not be set forth in the contract or agreement, or in the note or memorandum thereof, but may be proved by any other legal evidence.

HISTORY: CL 1857, 3180;—CL 1871, 4695;—How. 6182;—CL 1897, 9512;—CL 1915, 11978;—CL 1929, 13414;—CL 1948, 566.109.

566.110 Court of chancery; powers not abridged.

Sec. 10. Nothing in this chapter contained shall be construed to abridge the powers of the court of chancery to compel the specific performance of agreements, in cases of part performance of such agreements.

HISTORY: CL 1857, 3181;—CL 1871, 4696;—How. 6183;—CL 1897, 9513;—CL 1915, 11979;—CL 1929, 13415;—CL 1948, 566.110.

R.S. 1846, Ch. 81.

FRAUDULENT CONVEYANCES AND CONTRACTS, RELATIVE TO
GOODS, CHATTELS, AND THINGS IN ACTION.

566.131 Transfers in trust of personalty void as against creditors.

Sec. 1. All deeds of gift, all conveyances, and all transfers or assignments, verbal or

written, of goods, chattels or things in action, made in trust for the use of the person making the same, shall be void, as against the creditors existing or subsequent, of such person.

HISTORY: CL 1857, 3182;—CL 1871, 4697;—How. 6184;—CL 1897, 9514;—CL 1915, 11980;—CL 1929, 13416;—CL 1948, 566.131.

FRAUDULENT INTENT: Construction in cases arising under this chapter, see Compilers' § 566.224.

PURCHASER WITHOUT NOTICE: Protection in cases arising under this chapter, see Compilers' § 566.225.

566.132 Invalidity of certain agreements in absence of a signed writing.

Sec. 2. In the following cases specified in this section, every agreement, contract and promise shall be void, unless such agreement, contract or promise, or some note or memorandum thereof be in writing and signed by the party to be charged therewith, or by some person by him thereunto lawfully authorized, that is to say:

1. Every agreement that, by its terms, is not to be performed in 1 year from the making thereof;
2. Every special promise to answer for the debt, default or misdoings of another person;
3. Every agreement, promise or undertaking, made upon consideration of marriage, except mutual promises to marry;
4. Every special promise made by an executor or administrator, to answer damages out of his own estate;
5. Every agreement, promise or contract to pay any commission for or upon the sale of any interest in real estate;
6. Every assignment of things in action, whether intended as a transfer for sale, for security or otherwise.

HISTORY: CL 1857, 3183;—CL 1871, 4698;—How. 6185;—CL 1897, 9515;—Am. 1913, p. 456, Act 238, Eff. Aug. 14;—CL 1915, 11961;—CL 1929, 13417;—Am. 1945, p. 375, Act 261, Eff. Sept. 6;—CL 1948, 566.132.

Sec. 3.

HISTORY: CL 1857, 3184;—CL 1871, 4699;—How. 6186;—CL 1897, 9516;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

This section was that part of the statute of frauds relating to the sale of goods, wares and merchandise. It is superseded by the uniform sales act. The maximum sale without memorandum was given in this section as \$50, while the maximum has been raised in the uniform sales act to \$100.

566.134 Auction sales; memorandum of contract.

Sec. 4. Whenever any goods shall be sold at auction and the auctioneer or the clerk of the auction at the time of sale enters in a sale book a memorandum specifying the nature and price of the property sold and the name of the purchaser, such memorandum, together with the auction bills, catalogue, or written or printed notice of sale containing the name of the person on whose account the sale is made and the terms of sale, shall be deemed a memorandum of the contract of sale within the meaning of the last section.

HISTORY: CL 1857, 3185;—CL 1871, 4700;—How. 6187;—CL 1897, 9517;—Am. 1907, p. 306, Act 237, Eff. Sept. 28;—CL 1915, 11982;—CL 1929, 13418;—CL 1948, 566.134.

AUCTION SALES: This section should be construed with Sec. 21 of the uniform sales act, being Compilers' § 440.2328.

566.135 Representation concerning character; business or credit of another.

Sec. 5. No action shall be brought to charge any person, upon or by reason of any favorable representation or assurance, made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance be made in writing, and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

HISTORY: CL 1857, 3186;—CL 1871, 4701;—How. 6188;—CL 1897, 9518;—CL 1915, 11963;—CL 1929, 13419;—CL 1948, 566.135.

566.136 Consideration; evidence.

Sec. 6. The consideration of any contract, agreement or promise required by this chapter to be in writing, need not be expressed in the written contract, agreement or promise, or in any note or memorandum thereof, but may be proved by any other legal evidence.

HISTORY: CL 1857, 3187;—CL 1871, 4702;—How. 6189;—CL 1897, 9519;—CL 1915, 11984;—CL 1929, 13420;—CL 1948, 566.136.

566.137-566.146 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections related to fraudulent conveyances and contracts with respect to goods, chattels, and things in action.

566.191 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Section related to foreclosure of chattel mortgage or pledge; purchasers.

566.201-566.202 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections related to discharge of chattel mortgage and failure to discharge.

R.S. 1846, Ch. 82.

GENERAL PROVISIONS RELATING TO FRAUDULENT CONVEYANCES AND CONTRACTS.

566.221 Acts to hinder or defraud creditors; invalidity.

Sec. 1. Every conveyance or assignment, in writing or otherwise, of any estate or interest in lands, or in goods or things in action, or of any rents or profits issuing therefrom, and any charge upon lands, goods or things in action, or upon the rents or profits thereof, made with the intent to hinder, delay or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts or demands, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered, with the like intent, as against the persons so hindered, delayed or defrauded, shall be void.

HISTORY: CL 1857, 3198;—CL 1871, 4713;—How. 6203;—CL 1897, 9533;—CL 1915, 11996;—CL 1929, 13434;—CL 1948, 566.221.

BULK SALES ACT: See Compilers' § 440.6102 et seq.

566.222 Grant or assignment of trust to be in writing.

Sec. 2. Every grant or assignment of any existing trust in lands, goods or things in action, unless the same shall be in writing and signed by the party making the same, or by his agent lawfully authorized, shall be void.

HISTORY: CL 1857, 3199;—CL 1871, 4714;—How. 6204;—CL 1897, 9534;—CL 1915, 11999;—CL 1929, 13435;—CL 1948, 566.222.

566.223 Acts void as against heirs or assigns of creditor and purchaser.

Sec. 3. Every conveyance, charge, instrument or proceeding, declared by law to be void as against creditors or purchasers, shall be equally void as against the heirs, successors, personal representatives or assigns of such creditors or purchasers.

HISTORY: CL 1857, 3200;—CL 1871, 4715;—How. 6205;—CL 1897, 9535;—CL 1915, 12000;—CL 1929, 13436;—CL 1948, 566.223.

566.224 Fraudulent intent; question of fact.

Sec. 4. The question of fraudulent intent, in all cases arising under this, or either of the last 2 preceding chapters, shall be deemed a question of fact and not of law.

HISTORY: CL 1857, 3201;—CL 1871, 4716;—How. 6206;—CL 1897, 9536;—CL 1915, 12001;—CL 1929, 13437;—CL 1948, 566.224.

NOTE: The 2 preceding chapters, above referred to, are Ch. 80 of R.S. 1846, being Compilers' § 566.31 et seq.; and Ch. 81 of R.S. 1846, being Compilers' § 566.101 et seq.

566.225 Purchaser without notice; protection.

Sec. 5. None of the provisions of this, or the last 2 preceding chapters, shall be construed, in any manner to affect or impair the title of a purchaser for a valuable consideration unless it shall appear that he had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

HISTORY: CL 1857, 3202;—CL 1871, 4717;—How. 6207;—CL 1897, 9537;—CL 1915, 12002;—CL 1929, 13438;—CL 1948, 566.225.

NOTE: The 2 preceding chapters, above referred to, are Ch. 80 of R.S. 1846, being Compilers' § 566.131 et seq.; and Ch. 81 of R.S. 1846, being Compilers' § 566.101 et seq.

566.226 Conveyance; definition.

Sec. 6. The term "conveyance," as used in this and the preceding eightieth chapter, shall be construed to embrace every instrument in writing, except a last will and testament, whatever may be the form of such instrument, and by whatever name it may be known in law, by which any estate or interest in lands is created, aliened, assigned or surrendered.

HISTORY: CL 1857, 3203;—CL 1871, 4718;—How. 6208;—CL 1897, 9538;—CL 1915, 12003;—CL 1929, 13439;—CL 1948, 566.226.

NOTE: The eightieth chapter, above referred to, is Compilers' § 566.101 et seq.

Act 305, 1937, p. 583; Imd. Eff. Jul. 23.

AN ACT to provide for the recording of certain chattel mortgages, conditional sales contracts and title retaining notes in certain cases, to provide for the method of recording same, and the duties of the secretary of state in connection therewith; and to make said chattel mortgages, conditional sales contracts and title retaining notes null and void and of no force and effect in certain cases. Am. 1941, p. 302, Act 202, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

566.251 Automobile accessories sold upon chattel mortgage or conditional sale; vendor to forward title and copy of mortgage to secretary of state; fee.

Sec. 1. Any person, firm or corporation selling to any owner of a motor vehicle which has heretofore or is hereafter issued a Michigan certificate of title as provided by Act No. 46 of the Public Acts of 1921, as amended, any accessory, equipment, additional part or replacement part for said motor vehicle, and securing the payment of same by the taking of a chattel mortgage, conditional sales contract or title retaining note upon such motor vehicle, shall at the time such sale is consummated furnish the purchaser a statement of said sale giving substantially the following information: date of sale; amount of chattel mortgage, conditional sales contract or title retaining note; accessory, additional part or replacement part sold and date of final payment of said chattel mortgage, conditional sales contract or title retaining note and shall immediately forward to the secretary of state the certificate of title of the purchaser and a true copy of the chattel mortgage, conditional sales contract or title retaining note, together with the sum of 50 cents to be paid by the purchaser of such accessory, additional part or replacement part.

HISTORY: Am. 1941, p. 302, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.251.

NOTE: Act 46, 1921, above referred to, is Compilers' § 256.101 et seq.

566.252 Automobile accessories sold upon chattel mortgage or conditional sale; recording upon title; additional information.

Sec. 2. Upon receipt of such certificate of title and such true copy of the chattel mortgage, conditional sales contract or title retaining note by the secretary of state, accompanied by the fee of 50 cents, the secretary of state shall record upon the certificate of title in a suitable place the information contained in said chattel mortgage, conditional sales contract or title retaining note. The secretary of state may require such additional information as he deems necessary to fairly state the essential provisions of said chattel mortgage, conditional sales contract or title retaining note and after recording said chattel mortgage, conditional sales contract or title retaining note upon the certificate of title, return same to the owner thereof.

HISTORY: Am. 1941, p. 303, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.252.

566.253 Automobile accessories sold upon chattel mortgage or conditional sale; invalid against bona fide purchaser unless recorded.

Sec. 3. No chattel mortgage, conditional sales contract or title retaining note upon any motor vehicle taken to secure the payment of the purchase price of the sale of any accessory, equipment, additional part or replacement part, shall be valid as against any subsequent purchaser of any motor vehicle heretofore or hereafter titled under the Michigan certificate of title law or against any person, firm or corporation loaning money on said motor vehicle subsequent to such sale unless the provisions of this act have been fully complied with by the seller as herein provided and no civil action of any nature shall lie or be maintained in any court of the state against such subsequent purchaser or mortgagee unless such chattel mortgage, conditional sales contract or title retaining note shall have been recorded upon the purchaser's certificate of title at the time and in the manner herein provided.

HISTORY: Am. 1941, p. 303, Act 202, Eff. Jan. 10, 1942;—CL 1948, 566.253.

Act 305, 1939, p. 741; Eff. Sep. 29.

AN ACT to regulate retail installment sales contracts covering motor vehicles; to prescribe penalties for violations of the provisions of this act; and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

566.301 Motor vehicle installment sales contracts; definitions.

Sec. 1. Definition of terms. That in this act unless the context or subject matter otherwise requires:

(a) The term "retail installment sale" means and includes every retail contract to sell a motor vehicle and every retail sale of a motor vehicle to any person (1) in which the cash price of the motor vehicle may be paid in installments over a period of time, and (2) in which the seller has taken or retained a security interest in the motor vehicle thereby contracted to be sold.

(b) The term "motor vehicle" means every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices used exclusively upon stationary rails or tracks and excepting also motorcycles, motor bicycles, farm tractors, road rollers and other machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on the highway.

(c) The term "security interest" means a property interest in a motor vehicle which is the subject matter of a retail installment sale limited in extent to securing performance of some obligation of the retail buyer or of some third person to the retail seller and includes the interest of a mortgagee of a motor vehicle; the interest of the seller who retains title to a motor vehicle, whether or not expressed to be absolute, whenever such title is in substance retained for security only; and the interest of a bailor or lessor of a motor vehicle under any contract of bailment or leasing, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become or has the option of becoming the owner of such motor vehicle upon full compliance with the terms of the contract.

(d) The term "seller" means a person, who sells or agrees to sell a motor vehicle, or any legal successor in interest of such person.

(e) The term "buyer" means a person who buys or agrees to buy a motor vehicle, or any legal successor in interest of such person.

(f) The term "retail" used in connection with the term "sale" or "contract" refers to and includes any transfer, conveyance, assignment or sale of a motor vehicle to any person other than a registered dealer in motor vehicles whose place of business is located in the state of Michigan or any other dealer in motor vehicles whose place of business is located outside of the state of Michigan when such transfer, conveyance, assignment or sale is made in the ordinary course of the seller's business.

(g) The term "retail installment contract" means any written instrument which is executed in connection with any retail installment sale and includes conditional sales contracts, purchase money chattel mortgages and bailment leases retaining a security interest in the seller.

(h) The term "cash price" means the price measured in dollars agreed upon in good faith by the parties as the consideration for the sale of a motor vehicle which is the subject matter of any retail installment sale, exclusive of all financing or other charges incident to such sale.

(i) The term "down payment" means that part of the cash price in any retail installment sale required by the retail seller to be paid at the time of the execution of the retail installment contract or prior to the delivery of possession of the motor vehicle sold.

(j) The term "finance charge" means any consideration which the retail buyer contracts to pay the retail seller for the privilege of paying the principal balance in installments over a period of time.

(k) The term "person" includes an individual, partnership, corporation and any other association.

(l) The term "finance company" as used in this act shall be deemed to include any person, firm, association or corporation engaged in the ordinary course of its business in purchasing or taking an assignment of or holding retail installment contracts.

The singular of any term shall include the plural thereof and the plural of any term shall include the singular. Each gender shall include each of the other genders.

HISTORY: CL 1948, 566.301.

CITED IN OTHER SECTIONS: Sections 566.301 to 566.314 are cited in § 440.9203.

566.302 Contract; contents; delivery of copy and insurance policy to buyer.

Sec. 2. Every retail installment sale of a motor vehicle shall be evidenced by an instrument in writing signed by the retail buyer and a copy thereof shall be delivered to him by the retail seller at the time of its execution. An acknowledgment of the delivery thereof contained in the body of the instrument shall be conclusive proof of delivery in any action to enforce any obligation arising out of the retail installment sale brought by any successor in interest to the rights of the retail seller. The written instrument shall contain all of the agreements of the parties made with reference to the subject matter of the retail installment sale and shall recite the following separate items as such and in the following order: (1) the cash price of the motor vehicle which is the subject matter of the retail installment sale; (2) the amount in cash of the retail buyers' down payments, whether made in money or goods or partly in money and partly in goods; (3) the unpaid balance of the cash price payable by the retail buyer to the retail seller, which is the difference between items 1 and 2; (4) the cost to the retail buyer of any insurance the retail seller has agreed to procure, if the retail seller has agreed to purchase the insurance and extend credit to the retail buyer for the price thereof and if the term of such insurance is less than the contract period, the period of the coverage also shall be recited; (5) the principal balance owed on the retail installment contract, which is the sum total of items 3 and 4; (6) the amount of the finance charge; (7) the time balance owed by the retail buyer to the retail seller and the number of installment payments required and the amount and date of each payment necessary finally to pay the time balance, which is the sum total of items 5 and 6.

Item 4 and item 6 may be added together and stated as 1 sum in the written instrument and, if so stated, item 5 may be omitted, but in such event the retail seller shall within 25 days after the making of the retail installment contract, mail or cause to be mailed to the retail buyer at his address as shown on the retail installment contract a statement reciting the separate amounts of all the items, 1 to 7, inclusive. The reference to insurance in the written instrument shall recite generally the type or types of insurance the retail seller has agreed to procure for the retail buyer, but such reference to insurance shall not be construed to imply the scope of the coverage, the terms, exceptions, limitations, restrictions or conditions of the contract or contracts of insurance to be furnished. Any retail buyer shall have the right to purchase his own insurance from any person other than the retail seller, and in such event item 4 shall be omitted. No retail seller shall coerce, threaten or in any manner influence any retail buyer to purchase insurance from such retail seller, or from any company, agent or broker designated by the retail seller.

Any retail seller, who in any retail installment contract has agreed to purchase insurance for the retail buyer and to extend credit for the price thereof, shall, within 25 days after the making of the retail installment contract, mail or cause to be mailed to the retail buyer at his address as shown on the retail installment contract, a policy or policies of insurance, and in the event such policy or policies shall not be so mailed the seller shall not be entitled to recover, collect or retain that part of the obligation which represents item 4 in such contract and the buyer shall not be liable therefor.

Under a written instrument evidencing a retail installment sale which does not substantially comply with the requirements of this section, the seller shall not be entitled to recover, collect or retain that part of the obligation which represents the finance charge and the buyer shall not be liable therefor.

HISTORY: CL 1948, 566.302.

CITED IN OTHER SECTIONS: The above section is cited in § 492.122a.

566.303-566.314 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections provided for regulation of retail installment sales contracts covering motor vehicles.

566.401-566.412 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections provided procedure for foreclosure of chattel mortgages and limitation of right to deficiency judgment.

566.501 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Section related to mortgage or pledge of securities to secure loans where such securities are not delivered; filing and effect.

Act 331, 1937, p. 666; Imd. Eff. Jul. 24.

AN ACT to provide that the validity of any contract for the furnishing of a course of study or the sale of books executed by the purchaser in this state shall be determined by the laws of this state; and to provide that any defense which the maker would have to any instrument executed either in payment of, or as evidence of, or as security for the consideration to be paid by the purchaser shall be available to such maker in any action brought by any assignee or transferee of such instrument.

The People of the State of Michigan enact:

566.551 Contracts with correspondence schools; construction, negotiability.

Sec. 1. Any contract for the furnishing of a course of study or the sale of books or rendering other service in connection therewith by a correspondence school which is signed by the other party to such contract in this state shall for the purpose of this act be deemed to have been completely executed in this state and the validity of any such contract shall be determined by the laws of this state. Every assignee or other transferee of any such contract or other instrument, whether or not such instrument is ne-

gotiable and regardless of the person to whom such instrument is made payable, which is executed by such other party either in payment of, or as evidence of, or as security for the consideration which under such contract such other party is required to pay, or any part thereof, shall be conclusively presumed to have had knowledge at the time of the transfer of such instrument to him of any defense the maker thereof would have had as against the other party to such contract or instrument, which defense shall be available to him as defense in such action.

HISTORY: CL 1948, 566.551.

566.552 Correspondence school contracts; definitions.

Sec. 2. As used in this act the following terms shall have the meaning respectively ascribed to them in this section except in such case as the context clearly indicates a different meaning:

(a) "Correspondence school." Any school, preparatory school, business school, college, academy, university, other institution or any person that teaches or undertakes or proposes to teach students or renders any educational service or undertakes or proposes to prepare such students to study or furnishes or undertakes to furnish to any person a course of study, through the use of United States mail, express or other common carrier or by any means of communication other than resident instruction, and

(b) "Course of study" shall include education, teaching or instruction in any subject of general, business or professional education.

(c) "Owner." The person, partnership, association or corporation which owns or operates any correspondence school regardless of whether or not such school or the principal place of business thereof is located within or without the state of Michigan, or in case the same is owned by a natural person or partnership as to whether or not the owner or owners reside within the state of Michigan, or in case of an association or corporation, whether or not the same is organized or incorporated under the laws of the state of Michigan or some other state, and whether or not such corporation or association is authorized to do business in the state of Michigan.

(d) "Person" shall include a natural person, partnership, association and corporation.

The singular of any word shall include the plural and the plural of any word shall include the singular. Each gender shall include each of the other 2 genders.

HISTORY: CL 1948, 566.552.

CHAPTER 567. ESCHEATED ESTATES

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567.1 Repealed. 1965, p. 28, Act 17, Imd. Eff. Apr. 22.

Section directed that trustees appointed under P.A. 1842, No. 68, repealed, take charge of lands which escheat to state and dispose of same.

Act 329, 1947, p. 591; Imd. Eff. Jul. 2, 1947.

AN ACT to create a state board of escheats; to prescribe its powers and duties; to provide for the descent and devolution of escheated and abandoned property; to provide for the discovery, marshalling, protection, conservation and disposition of escheatable, abandoned and escheated property; to prescribe the procedure to declare

escheatable and abandoned property escheated; to protect the rights and interests of owners and holders of escheatable, abandoned and escheated property in and to such property; to prescribe the procedure for the administration of this act and to prescribe penalties for violations of certain of its provisions; and to remove the bar of general statutes of limitation as a defense to proceedings instituted under this act in certain cases. Am. 1965, p. 24, Act 17, Imd. Eff. Apr. 22.

The People of the State of Michigan enact:

567.11 Escheated property; duty of attorney general to take charge.

Sec. 1. That the attorney general of this state shall, as hereinafter provided, except as to those powers and duties vested by the constitution or general laws of this state or the provisions of this act in the state board of escheats, take charge of all matters pertaining to lands or other property which is subject to escheat or escheatable, by reason of the owner thereof having died intestate, leaving no known heirs-at-law; or, by reason of the owner thereof having disappeared or being missing from his last known place of residence for a continuous period of 7 years or more, leaving no known heirs-at-law; or by reason of the owner thereof having abandoned such property.

HISTORY: CL 1948, 567.11.

CITED IN OTHER SECTIONS: Sections 567.11 to 567.76 are cited in §§ 16.178 and 431.256.

567.12 State board of escheats; members, powers and duties; investigations.

Sec. 2. (1) The state board of escheats is created, composed of the attorney general, the secretary of state and the state treasurer. The board shall possess the powers and perform the duties imposed by law.

(2) The state board of escheats shall investigate and make inquiry into every county of this state to ascertain whether there is any property therein which, because of (a) the death of the owner thereof, intestate, leaving no known heirs-at-law; (b) by reason of the owner thereof having disappeared or being missing from his last known place of residence for a continuous period of 7 years or more, leaving no known heirs-at-law; or (c) by reason of the same having been abandoned by the owner thereof, as hereinafter defined, has escheated, is subject to escheat or escheatable to the state, in accordance with the constitution, the general laws of this state or the provisions of this act. The board may delegate in writing to any regular employee the authority to conduct the inquiry.

HISTORY: CL 1948, 567.12;—Am. 1965, p. 24, Act 17, Imd. Eff. Apr. 22.

567.13 Escheated property; marshalling and conservation; duties of attorney general.

Sec. 3. Whenever the attorney general has knowledge of any property which has escheated, is subject to escheat or escheatable to the state, it shall be his duty to protect the interests of the state therein and he shall immediately cause to be instituted appropriate proceedings, in accordance with the general laws of this state and as in this act provided, for the purpose of marshalling, protecting and conserving such property, and he shall represent the state and protect its interests, in and to such property, as well as that of the owners and/or their unknown heirs-at-law.

HISTORY: CL 1948, 567.13.

567.14 Property subject to escheat under act.

Sec. 4. All property, as hereinafter defined, the title to which has failed and the power of alienation suspended by reason of, (a) the death of the owner thereof, intestate, leaving no known heirs-at-law; (b) the owner thereof having disappeared or being missing from his last known place of residence for a continuous period of 7 years or

more, leaving no known heirs-at-law; or (c) the same having been abandoned by the owner thereof, as hereinafter defined, shall descend to the state of Michigan as an escheat in accordance with the constitution, the general laws of this state or the provisions of this act.

HISTORY: CL 1948, 567.14.

567.15 Michigan code of escheats; definitions.

Sec. 5. As used in this act:

(a) "Person" includes a natural person, a corporation, a partnership, voluntary association, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity; the United States government, including any official, officer, agency, department, authority, instrumentality, board, bureau or court thereof, and any corporation organized by the United States for public purposes; the state of Michigan, including any official, officer, agency, department, board, commission, constitutional body or court thereof, or any body politic and corporation created by the state for public purposes; and any political subdivision of the state.

(b) "Property" means personal property, of every kind or description, tangible or intangible, in the possession or under the control of a holder, as hereinafter defined, and includes, but not by way of limitation:

- (1) Money.
- (2) Bills of exchange.
- (3) Stocks, bonds and other securities.
- (4) Credits, including wages and other allowances for services earned or accrued on or after January 1, 1958, and funds due and payable on checks certified in this state or on written instruments issued in this state on which a banking or financial institution or any other holder is liable, including but not limited to certificates of deposit, drafts, cashier checks, money orders and travelers checks; also proceeds held for unredeemed gift certificates.
- (5) Deposits, howsoever evidenced, including accrued interest and increments thereon.
- (6) Dividends, cash or stock.
- (7) Certificates of membership in a corporation or association.
- (8) Amounts due and payable pursuant to the terms of any policy of insurance; also moneys held and owing by any life insurance company doing business in this state which shall have remained unclaimed and unpaid for 7 years or more after it is established from the records of such company that such moneys became due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured, and the proceeds thereof shall be deemed to be due and payable within the meaning of this act if such policy is in force when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Moneys otherwise admittedly due and payable shall be deemed to be held and owing within the meaning of this act although the policy or contract shall not have been surrendered as required.
- (9) Security deposits.
- (10) Funds deposited by a holder with fiscal agents or fiduciaries for payment to an owner of dividends, coupon interest and liquidation value of stocks and bonds.
- (11) Funds to redeem stocks and bonds.
- (12) Amounts refundable from excess or increased rates or charges heretofore or hereafter collected by a corporation for utility services lawfully furnished by it, which have been or shall hereafter lawfully be ordered refunded to consumers or other per-

sons entitled thereto and any interest due thereon, and which have remained unclaimed by the persons entitled thereto for 7 years from the date they became payable in accordance with the final determination or order providing for the refunds.

(13) All other liquidated choses-in-action of whatsoever kind or character.

The word "property" does not include credits or deposits evidenced by cash balances on unclaimed or refused personal property, nor any property, except the items specified in clauses (1) to (12) in this subdivision, the right to recover which in a proceeding brought by the owner would be barred by the provisions of any statute of limitations, state or federal. This act shall apply to unclaimed property held by a life insurance company as defined in clause (8) of this subdivision where the last known address, according to the records of the life insurance company, of the person entitled to such property is within this state. If a person other than the insured or annuitant is entitled to such property and no address of such person be known to such company, or if it is not definite and certain from the records of such company what person is entitled to such property, then it shall be presumed for the purposes of this act that the last known address of the person entitled to such property is the same as the last known address of the insured or annuitant according to the records of such company.

(c) "Owner", in addition to its commonly accepted meaning, means and includes any person, as hereinbefore defined, having the legal or equitable title or right to make demand to property coming within the purview of this act.

(d) "Holder" means any person, as hereinbefore defined, having possession, custody or control of the property of another person, and includes but not by way of limitation, a bank, either state or national; a savings and loan association; a credit union; a trust company; a depository; a bailee; a trustee; a receiver or other liquidating officer; a fiduciary; a federal or state governmental department, official, officer, board, public corporation, commission, constitutional body, court, institution or agency, or political subdivision of the state; a municipal corporation and the fiscal officers thereof; a custodian or officer appointed by a court to receive, keep, handle or disburse money or other property; a public utility, insurance or service corporation; and every other legal entity doing business in this state. This definition shall be construed as distinguishing the term "holder" of property from the term "owner" of property.

(e) "Abandoned property" means property against which a full period of dormancy has run.

(f) "Period of dormancy" means the full and continuous period of 7 years, during which an owner has ceased, failed or neglected to exercise dominion or control over his property or to assert a right of ownership or possession; or to make presentment and demand for payment and satisfaction; or to do any other act in relation to or concerning such property. This definition shall be construed as excluding any act or doing of a holder of abandoned property not done at the express request or authorization of the owner. In the case of a life insurance policy not matured by actual proof of the prior death of the insured, the period of dormancy shall commence to run from the time that the insured shall have attained the limiting age under the mortality table on which the reserve is based, provided the policy is in force at that time.

(g) "Escheat" means the descent or devolution of property to the state under and by virtue of the constitution of the state, the provisions of the general laws of this state, or the provisions of this act.

(h) "Escheatable property" means property which is subject to escheat to the state under and by virtue of the provisions of the constitution of the state, the general laws of this state, or the provisions of this act.

(i) "Escheated property" means property which has descended to the state as an escheat.

(j) "Appropriation" means the act of the state, through its duly constituted officers or agencies, in taking or accepting possession or custody of abandoned, unprotected, unclaimed or lost property as conservator thereof for later disposition by descent to the state as an escheat or redemption by the owner as provided in this act.

(k) "Redemption" means the reclamation of escheated property, or the proceeds of the sale thereof, made by the owner or other person entitled thereto, pursuant to the provisions of this act.

(l) "Unprotected property" means and refers to property which the owner has mislaid or left unprotected against loss, damage, waste or deterioration under circumstances indicating the disappearance of the owner or an abandonment of the property.

HISTORY: CL 1948, 567.15;—Am. 1951, p. 197, Act 161, Eff. Sep. 28;—Am. 1955, p. 217, Act 150, Eff. Oct. 14;—Am. 1965, p. 24, Act 17, Imd. Eff. Apr. 22;—Am. 1969, p. 342, Act 171, Imd. Eff. Aug. 5.

CITED IN OTHER SECTIONS: The above section is cited in § 434.152.

567.16 Abandoned property; annual report required of property holder; exceptions.

Sec. 6. (1) Every holder of abandoned property on or before June 30 of each year shall make and file with the state board of escheats a report, in duplicate, as of the last preceding January 1, containing a full, true and itemized statement of all abandoned property in his possession or under his control. This requirement does not apply to fiduciaries of decedent estates, nor to municipal corporations and the fiscal officers thereof, other than counties and the fiscal officers thereof, except when such municipal corporation is a holder of such property in a capacity other than a governmental capacity or as bailee, or by virtue of other special contract, express or implied. Such annual report is not required as to any account or item of property, evidenced by a written investment contract, time certificate of deposit or other written contract maturing on a specified date, or upon notice in writing to the holder by the owner, or at the end of a fixed or adjusted term, except that such report shall be made and filed by the holder as to any such account or item of property when the owner or beneficiary fails to reduce to cash any of the benefits or interest payment thereon for a full and continuous period of 7 years, or when such owner or beneficiary shall fail or neglect for a period of 7 years after the initial maturity date of the contract to claim and demand his property. No holder shall be required to report abandoned property when according to the books and records of the holder the owner of such abandoned property is a nonresident of this state, provided that such holder makes a report of such abandoned property to any other state under the provisions of the escheats laws of that state. If the holder does not make such a report to another state, he shall make a report of the abandoned property to this state.

Foreign corporations.

(2) A corporation or any other legal entity organized under the laws of any other state licensed to transact business in this state shall be required to report only abandoned property belonging to an owner who, according to the last known address of such owner, was a resident of this state, except that such shares of stock, or membership, or other evidences of interest, and the interest, profits, dividends or other increment thereon, as well as cash, as set forth in section 12, the physical situs of which property is within the state of Michigan, shall be deemed to be abandoned property and shall be reported to the state board of escheats by the holder without regard to the last known address of the owners.

Address unknown, presumption.

(3) If no address of the owner entitled to the funds is known to the holder, it is presumed that the last known address of the owner is the same as the address of the place

where the certificate of deposit, draft, cashier check, money order, travelers check or other like instrument was issued or where the transaction was initiated.

HISTORY: CL 1948, 567.16;—Am. 1955, p. 128, Act 81, Imd. Eff. May 26;—Am. 1969, p. 344, Act 171, Imd. Eff. Aug. 5.

567.17 Annual report of abandoned property holder; contents, form.

Sec. 7. The report required by section 6 hereof shall set forth the name and last known post office address of the owner(s) of the property reported, or the owner(s) to whom the holder is accountable; a description of the property and the date it came into the possession or under the control of the holder, the date of the last transaction or other act by the owner(s) in relation to each item of property so reported; the amount or estimated value of each item of such property; the amount of accrued interest or increment thereon; the account number, if any, was carried on the books or records of the holder, together with such other data or information as shall be required by the state board of escheats and indicated upon a blank form of report, such blank form of report to be furnished by the board upon request of the holder.

HISTORY: CL 1948, 567.17.

567.18 Annual report of abandoned property holder; failure to report; demand for report by attorney general or board of escheats; filing.

Sec. 8. Every holder of abandoned property who has not made and filed the current annual report required by section 6 hereof, or who has failed to make any report as in this act required, shall, within 60 days after the service upon it of a written demand of the attorney general, or the state board of escheats, make and file with said board of escheats the report of abandoned property or such other report as in this act required. Such demand report shall be made as of the date of the demand therefor.

HISTORY: CL 1948, 567.18.

567.19 Reports of municipal corporations or counties; abandoned property holders.

Sec. 9. Municipal corporations and their fiscal officers or governmental agencies, other than counties and their fiscal officers or governmental agencies, shall not be required to make the annual report required by section 6 hereof, but shall upon demand therefor make and file the report required by section 8: Provided, That whenever such municipal corporation shall be the holder of abandoned property as bailee, or by virtue of other special contract or as a holder in a proprietary capacity, it shall, through its fiscal officers or agencies, make the annual report required by section 6 of this act. Every county, through its fiscal officers or agencies, shall be subject to the provisions of sections 6 and 8 hereof.

HISTORY: CL 1948, 567.19.

567.20 Safety and collateral deposit companies; reports; inventory of property removed from safe deposit box, attachment.

Sec. 10. Every corporation in this state conducting a safe deposit and collateral deposit business hereinafter referred to in this section as "company", shall attach to each report made and filed by it under the requirements of this act a copy of any inventory of property in its possession, not previously reported, which shall have been removed from any safe deposit box or compartment, more than 7 years prior to the date as of which such report is made by reason of the termination of the lease thereof for failure to pay the rental charges thereon. Such report shall include a statement of the name and last known address of each lessee whose lease has been so terminated for failure to pay such rental charges, the number or identifying description of the safe deposit box or compartment from which the contents have been removed and the date of the

opening of such safe deposit box or compartment. Such report shall contain such further identifying data and information as shall be required by the state board of escheats.

From and after the effective date of this act, such company, its officers, employees or agents, at the time of the opening of any safe deposit box or compartment and removal of the contents thereof, because of the termination of the lease for failure to pay rental charges thereon, shall cause an inventory to be made of the contents thereof, a true copy of which shall be attached to its report to the state board of escheats as above provided.

HISTORY: CL 1948, 567.20.

567.21 Unclaimed money or property held by court or county officer; report, adjudication of abandonment, escheat, distribution to owner.

Sec. 11. Whenever any officer of a court in this state, including federal courts, or any county officer is in possession of any money or other property collected or received pursuant to an order of court, and such officer is unable to distribute or pay out such money or property to the person or persons entitled thereto as prescribed by such order or decree of court, due to the failure of the distributee or distributees to claim the same, or for the reason that the whereabouts of such distributee or distributees cannot be ascertained and such inability shall continue for a period of 7 years from and after the receipt of such money or property by such officer, then it shall be the duty of such officer to report the same to the state board of escheats as abandoned property in conformity with the provisions of section 6 or 8 hereof.

Upon the receipt of the report required by this section, the board of escheats shall immediately deliver a copy thereof to the attorney general whose duty it shall be to institute or cause to be instituted a proper suit or proceeding for an adjudication of abandonment and the descent of such property to the state as an escheat as provided in this act: Provided, That nothing contained in this section shall be construed as divesting the court, under whose order or decree the money was received by said officer, of jurisdiction over said money or property and the power to control the distribution thereof to the rightful owner or owners, except as such court shall waive jurisdiction, or the owner or owners of such property shall fail to appear and cause their appearance to be entered in the suit or proceeding instituted by the attorney general, or at his instance, as provided in this act.

HISTORY: CL 1948, 567.21.

567.22 Unclaimed personal property held by corporation or association being organized or dissolved deemed abandoned; report, delivery to board, escheat.

Sec. 12. Whenever any corporation or unincorporated association which shall have been doing business in this state shall be in process of voluntary reorganization or dissolution by virtue of a statute of this state, or otherwise, wherein certificates of shares of stock, or membership, or other evidences of interest therein remain unclaimed by the owner thereof, or wherein the owner has failed or neglected to claim interest, profit, dividends or other increment thereon duly declared in such reorganization or dissolution proceedings, or has failed, neglected, or refused to accept a reissue of said certificates or other evidences of interest, or exchange therefor, and such failure, neglect or refusal has continued for the full period of dormancy, as defined in this act, then such certificates, reissued or exchanged certificates and the interest, profits, dividends or other increment thereon, as well as an exchange for cash provided for in such proceedings, shall be deemed to be abandoned property and shall be reported to the state board of escheats by the holder thereof, or any committee or other fiscal agent in charge of such reorganization or dissolution, as required by section 6 or 8 of this act:

Provided, That said holder, committee, or fiscal agent may deliver such property, together with the increment thereon, to the state board of escheats, notwithstanding that the said full period of dormancy has not elapsed, in which case the further procedure in relation to such property, and the protection of the interests of the owners thereof, shall be in conformity with the provisions of section 19 of this act: Provided further, That if the full period of dormancy has elapsed the attorney general or the state public administrator shall cause proper proceedings to be instituted for a determination of abandonment and the descent of such property to the state of Michigan as an escheat as provided in this act.

HISTORY: CL 1948, 567.22.

567.23 Unpaid or uncalled for or abandoned property in possession of holder subject to escheat; report.

Sec. 13. Except as otherwise expressly provided in this act, all property, as that term is defined herein, in the possession or under the control of a holder and for which the holder is accountable to the owner thereof, which is unpaid to, uncashed by, unclaimed, uncalled for or abandoned by such owner and against which the full period of dormancy has run, shall be subject to descent and devolution to the state under the provisions of this act and the same shall be duly reported by the holder thereof at the time and in the manner prescribed herein.

HISTORY: CL 1948, 567.23.

567.24 Reports of holder required; defense of payment or accord and satisfaction; report as admission of liability or estoppel of defense.

Sec. 14. No holder of property, as that term is defined herein, shall be relieved from the obligation of making the reports required by this act by reason of a claim of exemption from the provisions thereof, a change of corporate name, insolvency, receivership or any other change in the status of the holder, or any special or adversary defense other than payment or accord and satisfaction: Provided, That the making and filing of any such report shall not be deemed to be an admission of liability by the holder nor shall it estop him from interposing any valid defense in a suit or proceeding instituted under the provisions of this act in which such holder is a party or otherwise interested.

HISTORY: CL 1948, 567.24.

567.25 Reports of holder required; period of dormancy, statement of beginning.

Sec. 15. In any report, demand for report, notice or other procedure provided for by this act, the beginning of the period of dormancy of a given account may be stated and referred to in general terms as the date of last activity thereof.

HISTORY: CL 1948, 567.25.

567.26 Reports of holder required; filing; period of dormancy not tolled or suspended.

Sec. 16. The period of dormancy as defined in this act shall not be tolled or in any manner suspended, nor shall any holder be relieved of the duty of making any report as in this act required, by any act of the holder in charging an account, or other item of property, with a carrying or service charge, counterclaim, or debit of any kind, or in entering a credit thereto after the last action or transaction by the owner in relation to said account or other item of property. Nothing in this section contained shall affect a contractual right of the holder to charge such carrying or service charge, counterclaim or debit of any kind or to enter a credit thereto or any lien of such holder upon such account or other item of property or its right to enforce said lien by sale or otherwise. In the event of the charging of such account or other item of property with such a contractual carrying or service charge, counterclaim or debit of any kind, or in the event

of the enforcement of such lien by sale or otherwise, the reports required by this act shall be made and filed by the holder with respect only to the remainder, if any, of such account or other item of property, or to the proceeds arising from the enforcement of said lien after payment therefrom of all charges secured by said lien and the expenses of the enforcement thereof.

HISTORY: CL 1948, 567.26.

567.27 Failure to file reports; penalties; procedures to recover.

Sec. 17. The state board of escheats shall see that all reports by this act required are properly made at the time and in the manner and form herein provided and shall take any necessary action to secure compliance with the provisions of this act. Any holder who shall fail, neglect or refuse to make and file any report, required by this act, shall be liable to the state in the penal sum of \$300.00 for each and every such failure, neglect or refusal, and an additional penal sum of \$10.00 for each and every day of the period of default. Such penalty may be recovered by the state in an action of assumpsit, or other appropriate legal proceeding instituted by the state upon the relation of the attorney general. The net proceeds of collection of any judgment recovered in such an action shall be paid into the state treasury to the credit of the general fund of the state. The recovery of such penalty shall not relieve the defendant holder from the duty of making and filing said reports. The state, at the instance or relation of the attorney general, shall have the benefit of the remedy of mandamus to compel compliance with the requirements of this act relative to the making and filing of said reports or the attorney general may compel compliance by suit or bill for discovery commenced in a court of competent jurisdiction.

HISTORY: CL 1948, 567.27;—Am. 1965, p. 26, Act 17, Imd. Eff. Apr. 22.

567.28 Abandoned property; delivery by holder to board; payment of claims of owner, receipts; release of holder.

Sec. 18. Any holder who has made and filed the report of abandoned property pursuant to the provisions of this act may deliver such property to the state board of escheats, or may satisfy any claim or demand for which he is accountable to an owner named in said report by paying such claim or demand to the state board of escheats, taking proper receipt therefor. Thereupon such holder shall be released and discharged from all liability or accountability to the owner on account of such property, except such as shall have accrued prior to the date of such voluntary delivery.

HISTORY: CL 1948, 567.28.

567.29 Abandoned property; separate accounts; report to public administrator; instigation of proceedings to determine abandonment, time; sale restrictions.

Sec. 19. It shall be the duty of the state board of escheats, upon receiving such property, or the payment of money, to keep and hold the same in an account separate from accounts of other escheated property and immediately report the account to the state public administrator. It shall be the duty of the attorney general, or the state public administrator, to commence or cause to be commenced appropriate judicial proceedings for a determination of the issue of actual abandonment of such property by the owner or owners thereof, as described in such report, and for the purpose of procuring an order or decree assigning the money or other property to the state of Michigan as an escheat. Such proceedings shall be instituted as soon as may be after the period of dormancy has run against such property, except as otherwise provided in section 11 hereof, and the attorney general, or the state public administrator, may employ any of the permissible alternative methods of procedure provided by this act: Provided, That no property so received by the board of escheats shall be sold until after the termination of such judicial proceedings, and the entry of an order or decree therein, except

that said board, in its discretion, and upon good cause shown, may earlier dispose of any such property which, because of its nature, location or condition, would suffer loss, depreciation or damage by reason of necessary delay attendant to obtaining of said order or decree.

HISTORY: CL 1948, 567.29.

567.30 Abandoned property; delivery or payment to board or public administration by holder, effect as bar or defense.

Sec. 20. The delivery of property, or the payment of money to the state board of escheats by any holder, or the payment of money or delivery of property to a public administrator in his capacity as fiduciary of the estate of an owner upon demand therefor, whether made voluntarily or pursuant to an order or decree of a court, shall release and discharge such holder from any and all liability to the owner or owners thereof, their heirs or assigns, by reason of such delivery, and such payment and delivery may be pleaded as a bar to recovery and be a conclusive defense in any suit or action brought by such owner or owners, his or their heirs or assigns, against said holder by reason of such delivery: Provided, That nothing contained in this section shall be deemed, or construed, as, an assumption by the state or said state board of escheats of any liability of the holder to the owner upon a cause of action arising prior to said delivery, nor as depriving such owner, heir, heirs or assigns, of the right of redemption provided for in this act.

HISTORY: CL 1948, 567.30.

567.31 State agencies as property holders; property deemed unprotected or abandoned subject to appropriation and escheat.

Sec. 21. Notwithstanding any provision of law to the contrary, all departments, commissions, boards, officials, institutions, or other governmental agencies of the state or subdivisions thereof, which shall be possessed of or accountable for any property of a deceased owner who died intestate and without known legal heirs, or who has disappeared leaving his whereabouts unknown and not ascertainable, and who has no known wife, husband, heir or other kindred entitled to inherit his property, shall be deemed to be a holder of such property as defined in this act, and subject to its provisions, and said property shall be deemed unprotected or abandoned property subject to appropriation by the state and to descent as an escheat as provided in this act.

HISTORY: CL 1948, 567.31.

567.32 State agencies as property holders; reports, demand; delivery of property to board, receipt; release from liability.

Sec. 22. The holder described in section 21 hereof, upon the happening of the event whereby property therein described shall become unprotected or abandoned property, shall make and file with the state board of escheats a report of such property in substantial conformity with the provisions of section 6 of this act and shall also, upon demand therefor by the attorney general, state public administrator or by the state board of escheats, or may voluntarily, deliver or pay over such property to the state board of escheats and take proper receipt therefor. Said board, upon the receipt of such property, shall hold and dispose of the same pursuant to the applicable provisions of this act. The delivery of such property by the holder shall relieve it of all further liability to such owner, on account of such delivery, except such as may have accrued prior thereto. Such report shall be signed by the superintendent, manager, executive, or other official head of the holder and may be made without oath.

HISTORY: CL 1948, 567.32.

567.33 Probate of estate of abandoned property owner; petition, venue, jurisdiction.

Sec. 23. The attorney general, or the state public administrator, may cause appropriate proceedings to be instituted in the probate court of the proper county of this state for the administration of the estate of any person who is the owner of abandoned property discovered as provided for in this act or of which he otherwise has knowledge. Such proceeding, except as herein otherwise provided, shall be commenced upon petition of the state public administrator in the probate court of the county in which the owner at the time of abandonment was a resident or inhabitant, or in the probate court of the county in which the holder of said property resided or had its principal office for the transaction of business in this state, or in the county in which the abandoned property was discovered, and shall be entitled in manner and form as follows: "In the matter of the estate(s) of, Owner(s) of Abandoned Property". For the purposes of such proceeding, and of this act, it shall be presumed that the owner was a legal resident of the state of Michigan. The probate court of the county in which the petition of the state public administrator is first filed, praying for the appointment of himself or of a county public administrator as administrator of such estate, shall have full and complete jurisdiction over all of the assets of such owner, wheresoever situated, except that such jurisdiction shall not be exclusive of the jurisdiction of the probate court of another county acquired by reason of the filing of a petition for the administration of assets of the same owner discovered in such other county. Except as in this act otherwise provided, the procedure in such proceedings shall be in conformity with the general laws of the state providing for the administration of the estates of deceased persons.

HISTORY: CL 1948, 567.33;—Am. 1965, p. 26, Act 17, Imd. Eff. Apr. 22.

567.34 Probate of estate of abandoned property owner; consolidation of estates; procedure; limitations.

Sec. 24. Whenever it shall appear that 2 or more estates having total combined assets of \$2,000.00 or less are to be administered in the same court, the proceedings provided for in section 23 may be consolidated into a single proceeding and upon a single petition for the appointment of a public administrator, in which case all subsequent proceedings predicated upon such petition, so far as may be, shall be conducted as in a single proceeding. Whenever it shall be deemed desirable to do so, or whenever it may avoid a multiplicity of proceedings, the probate court may by an order therefor indorsed upon said petition, or otherwise made and entered, authorize the inclusion of a further estate or estates having total combined assets not exceeding in value the sum of \$500.00. Whenever it shall appear from the petition filed that all of the assets of such consolidated estates consist of abandoned property for which a single holder is accountable, or of which a single holder is in possession or control, then all of such estates may be consolidated in a single proceeding regardless of the total value of the combined assets thereof.

HISTORY: CL 1948, 567.34;—Am. 1965, p. 27, Act 17, Imd. Eff. Apr. 22.

567.35 Probate of estate of abandoned property owner; public administrator; appointment; bond, duties, powers.

Sec. 25. The public administrator appointed under the provisions of section 23 of this act shall immediately qualify by executing and filing in the probate court an administrator's bond in such amount as shall be fixed and determined by the court. Such bond shall be substantially in the form, and be conditioned in the same manner, as administrator's bonds provided for by the general laws of the state. Upon the approval of such bond by the probate court, letters of administration shall issue to such public administrator who shall immediately proceed to marshal and collect the assets of the es-

tate or estates of which he is administrator. For this purpose he shall have all the rights and remedies vested in a fiduciary of a decedent estate by the general laws of the state.

HISTORY: CL 1948, 567.35.

567.36 Probate of estate of abandoned property owner; notice of appointment, hearing on claims; service of notice, proof; notice of hearing on final account, publication; consolidated proceedings.

Sec. 26. Immediately upon the issuance to him of letters of administration in proceedings provided for in section 23 hereof, the public administrator so appointed shall cause notice of his appointment and time and place of hearing claims against such estate or estates, to be served upon the owner or owners named in said petition and all other persons interested. Such service shall be made by said public administrator by posting the same, together with a true copy of said petition to be thereto attached, on the bulletin board of the court house of the county, or in the absence of such a bulletin board, then upon a front door of said court house. Proof of such posting, and of the time and place thereof, shall be made by the public administrator by proper affidavit duly filed. Such service shall not be construed as substituted service. Notice of hearing of the final account of such public administrator shall be published in a newspaper printed, published and circulating in said county once each week for 3 consecutive weeks prior to the date of such hearing: Provided, That in consolidated proceedings where the hearings are set for the same day, and notices are to be published in the same issue of a newspaper, a single notice of the hearing of such final account, listing the names of all owners in the consolidated estates under a proper title and file number of the proceedings, shall be sufficient publication. No other or further notice or service or publication of notice, shall be required in said proceedings.

HISTORY: CL 1948, 567.36.

567.37 Probate of estate of abandoned property owner; final accounting; order declaring property abandoned, assignment to board of escheats, filing, receipt, discharge of administrator, bond.

Sec. 27. Upon full administration of the estate or estates involved in the proceedings instituted under the provisions of sections 23 and 24 of this act, and the approval of the final account of the public administrator, if it appears that there has been an actual abandonment of such property by the owner, and that no heir of such owner or other person entitled to inherit or receive the same, has filed a claim therefor with the administrator, the court shall make and enter an order declaring such property to be abandoned and assigning all property remaining as residue in such estate to the state board of escheats, and directing the public administrator to make delivery thereof, and upon the filing of the official receipt of the state board of escheats for said residue with the said court, the administrator shall be discharged and his bond cancelled.

HISTORY: CL 1948, 567.37.

567.38 Chancery suit to determine abandonment and for escheat; venue, parties, service of process, posting summons, return.

Sec. 28. Whenever it shall appear to the attorney general that there is property which has been unclaimed, uncalled for or abandoned by persons legally entitled thereto for a period of 7 years or more, the attorney general may institute an action in the circuit court in the name of the people of the state of Michigan, for the purpose of determining the issue of actual abandonment of such property, and to procure a judgment for the descent and devolution thereof, including the increment thereon, to the state of Michigan as an escheat. Such action may be commenced in the circuit court of the county in which the owners, named as defendants, have their last known address in the state of Michigan, or in which the holder of the property resides or has its prin-

cipal office or place of business. The holders of such property may be named as a party defendant with the owners thereof, and any number of owners or holders may be joined as parties defendant. Process in such action shall be served upon all named holders defendant in the same manner as is provided by law, or rules of court, for service of process in other actions. Process in such action shall be served upon all owners named as parties defendant by delivering an original and true copy of summons issued out of the court, together with a true copy of the plaintiff's complaint, to the sheriff of the county. The sheriff, within 15 days after the delivery to him of such process, shall post the true copy of the summons and the true copy of the complaint on the bulletin board or other panel provided for the public posting of legal process or notices in or on the courthouse of his county, or in the absence of such a bulletin board or other panel, then upon a front door of the courthouse and make due return thereof. Such service shall not be construed to be substituted service.

HISTORY: CL 1948, 567.38;—Am. 1969, p. 345, Act 171, Imd. Eff. Aug. 5.

567.39 Chancery suit to determine abandonment and for escheat; owners resident of different counties.

Sec. 29. Whenever it shall appear from a report of a holder of abandoned property made and filed as hereinbefore provided, or other information received by the attorney general, that the owners of the abandoned property, were at the time of such abandonment residents or inhabitants respectively of diverse counties of the state, the attorney general may institute the action provided for in section 28 in the circuit court for the county of Wayne or in the county of Ingham. Either court shall have full jurisdiction in the premises to the exclusion of the jurisdiction of the circuit court of any other county of the state. Process in such action shall be served upon any named defendant holders in the manner prescribed in section 28. Process shall be served on all named defendant owners by delivering an original summons and a true copy thereof, together with a true copy of the complaint, to the Michigan state police or the respective sheriff of the county of Wayne or county of Ingham or to the sheriff of the county in which each respective named defendant owner, at the time of the abandonment of his property, resided or was an inhabitant, or had his last known place of residence. When residence of such owner defendant is not known, his residence shall be presumed to be in the county wherein the holder is located or has its principal place of business in this state. Each of the sheriffs or the Michigan state police shall make service thereof by posting in the manner provided in section 28, and shall make due return of such service to the circuit court having jurisdiction of the action. Such service shall not be construed to be substituted service.

HISTORY: CL 1948, 567.39;—Am. 1969, p. 345, Act 171, Imd. Eff. Aug. 5.

567.40 Chancery suit to determine abandonment and for escheat; finding of abandonment; decree of escheat to state and assignment or delivery of escheated property to board.

Sec. 30. In proceedings instituted under the provisions of sections 28 or 29, the court, upon due and satisfactory proof of the matters alleged in the plaintiff's complaint, and upon a finding of actual abandonment by the owner or owners of the property described in the complaint, and after a consideration and allowance of proper claims filed, and upon a further finding that no legal heir, or other person entitled thereto has appeared and made claim to such property or any part thereof, shall make and enter a judgment providing for the descent and devolution of all remaining property and accumulated interest or increment thereon, to the state of Michigan as an escheat, and decreeing that the same be assigned, transferred and delivered to the state; and, that the state may take such action as may be required to marshal and take custody and control of the property and the increment thereon, the same to be held and

disposed of by the state in the manner provided by this act. Except as the court may otherwise direct, the appointment of a receiver, or other officer of the court, shall not be necessary for the purpose of effecting a manual delivery of said property, but the court may order and direct that such delivery be made by the holder, or other person in possession thereof.

HISTORY: CL 1948, 567.40;—Am. 1969, p. 345, Act 171, Imd. Eff. Aug. 5.

567.41 Corporation, copartnership or voluntary association as owner of abandoned property; presumption of dissolution or charter forfeiture; naming owners in suits.

Sec. 31. Whenever it shall appear from a report of abandoned property filed pursuant to the provisions of this act, or it is otherwise discovered, that the owner of any abandoned property so reported or discovered was a corporation, copartnership, or voluntary association, it shall be presumed for the purposes of this act that the corporation has been dissolved and its charter forfeited and that the copartnership is no longer in existence, and that the voluntary association is dissolved and no longer exists, whereby the ownership of said property shall be presumed to be in the shareholders, copartners or members of such association as the case may be. In any suit or proceeding instituted under the provisions of this act such shareholders, copartners or members shall be named and designated as owner or owners in their individual names, if known, and if not known, they may be named and designated as the unknown shareholders, copartners or members of the corporation, copartnership or association, and the presumption of abandonment declared in section 32 of this act shall be operative.

HISTORY: CL 1948, 567.41.

567.42 Abandoned property; presumption of abandonment.

Sec. 32. Whenever it shall appear in any suit or proceeding instituted under the provisions of this act that property which is the subject matter of such suit or proceeding has been abandoned by the owner thereof for the full period of dormancy, as defined in this act, or that the owner has failed to claim his property in the manner specified in section 38 hereof, then such property shall be presumed to be abandoned property within the meaning and intent of this act.

HISTORY: CL 1948, 567.42.

567.43 Abandoned property; reclaiming during proceedings; filing claim, allowance; return to owner; expenses, suit costs.

Sec. 33. Abandoned property may be reclaimed during the pendency of a suit or proceeding instituted under this act by filing a verified claim therefor and therein, signed by the applicant. Such claim shall be subject to allowance or disallowance by the court in the same manner as other claims. If the claim is filed by the owner named in the proceedings and is allowed by the court after due consideration of proofs presented, the court shall make and enter an order directing and ordering a return of the property or a payment over of money as the case may be without deduction of administration expenses or costs of suit. If the claimant is a person other than said owner, redemption shall be made after a deduction of administration expenses or costs of suit.

HISTORY: CL 1948, 567.43.

567.44 Property owner missing for seven years; administration of estate in probate court, petition, venue, jurisdiction; public administrator, bond, duties; delivery of escheated property to board.

Sec. 34. Whenever it shall appear from reports filed as in this act provided, or when in any other manner it shall come to the knowledge of the attorney general that there is property in the possession or under the control of a holder, as hereinbefore defined, and for which such holder is accountable to a natural person, as owner, as hereinbefore defined, and that such owner has, for the full period of dormancy or more,

ceased to exercise dominion or control, or has failed or neglected to assert a right of ownership or possession in and to such property, and that there is good reason to believe such owner may be dead, leaving no known heirs-at-law, and that his estate should escheat to the state of Michigan, then in such case, the attorney general or the state public administrator may cause appropriate proceedings to be instituted in the probate court of the proper county for the administration of the estate of such owner as a disappeared or missing person. Such proceeding, except as herein otherwise provided, shall be commenced upon petition of the state public administrator in the probate court of the county in which the owner at the time of his disappearance was a resident or inhabitant, or in the probate court of the county in which the holder of said property resides or had its principal office for the transaction of business in this state, or in the county in which the property was discovered, and shall be entitled in manner and form as follows: "In the matter of the estate(s) of Disappeared or Missing Person(s)." For the purposes of such proceeding, and of this act, it shall be presumed that the owner was a legal resident of the state of Michigan. The probate court of the county in which the petition of the state public administrator, praying for the appointment of himself or of a county public administrator as administrator of such estate is first filed, shall have full and complete jurisdiction over all of the assets of such owner wheresoever situated. After the appointment of such administrator and upon his giving due and sufficient bond to be required by the court, he shall have the right and it shall be his duty to demand and receive from any holder having property in his possession or under his control, for which he is accountable to the aforesaid owner, and the administrator shall have all the rights of action to reduce such property to his personal possession and control, as any other administrator would have if administering upon the estate of a deceased person. If there are no known heirs-at-law, legatees, devisees or assigns of such disappeared or missing owner, upon the allowance of his final report and accounting by the probate court such administrator shall be ordered by said probate court to transfer and deliver all property remaining in such estate to the state board of escheats as escheated property. Except as in this act otherwise provided, the procedure in such proceedings shall be in conformity with the general laws of the state providing for the administration of the estates of deceased persons.

HISTORY: CL 1948, 567.44.

567.45 Property owner missing 7 years; adequate proof of escheat; publication of notices.

Sec. 35. It shall be sufficient proof for the purposes of escheat under the provisions of this act, when it shall appear from the reports as in this act required or from reliable sources and/or from the books and records of any holder, that there is in the possession or under the control of any such holder, property to which the owner thereof is legally or equitably entitled to possession thereof, and concerning which property the aforesaid owner has for the full period of dormancy or more, failed or neglected to exercise dominion or control, or has failed or neglected to assert a right of ownership or possession in and to such property, and that there are no known heirs-at-law, legatees, devisees or assigns of such owner: Provided, however, That within 30 days after the granting of administration upon the petition for the state public administrator, notice of granting of such administration shall be published in the form of similar notices as in the administration of estates of deceased persons: Provided further, That notice of the hearing on the final account of public administrator shall be published once each

week for 3 weeks consecutively prior to the date of such hearing: Provided further, That no other or additional notices or proof of publication shall be required for the purposes of escheat in the probate court under the provisions of this act, except as herein otherwise provided.

HISTORY: CL 1948, 567.45.

567.46 Property owner missing 7 years; combining estates; publication required; listing names of combined estates in notices; bonds.

Sec. 36. For the purposes of escheat in the probate court under sections 34 and 35, it shall be lawful for the state public administrator to apply for administration of more than 1 estate in one and the same proceeding, in accordance with the provisions of section 24: Provided, That the publication requisite in the course of administration of said estates shall also apply hereunder with the exception, however, that estates combined in accordance with the provisions of this section and section 24 shall all be listed in the same issues of publication and no separate publication shall be required for the individual estates hereunder combined: Provided further, That notices of granting of administration of 2 or more combined estates published in the same issue of the paper, where the appointment of the administration of such 2 or more combined estates was made on the same day, may list the names of each combined estate under a proper title and proceeding number, with only 1 notice of appointment immediately following the listing of all the names in the combined estates: Provided further, That notices of hearing on the final accounts of 2 or more combined estates published in the same issue of the paper, where the hearings are set for the same day, may list the names in each combined estate under a proper title and proceeding number, with only 1 notice of hearing immediately following the listing of all the names in the combined estates: Provided further, That a single surety bond sufficient to cover the aggregate value of the combined estates in each proceeding shall be filed by the administrator: Provided further, That in all other respects, and whenever advisable and possible, estates hereunder combined shall be treated in a similar manner as that of individual estates under the general laws of this state.

HISTORY: CL 1948, 567.46.

567.47 Property owner missing 7 years; presumption of death.

Sec. 37. If any owner, as hereinbefore defined, being a natural person, shall have disappeared or shall have been absent from his last known place of abode for the continuous period of 7 years with his whereabouts for such period unknown to those persons most likely to know thereof, and such owner has for the like period not been heard from by those persons most likely to hear from such owner, he shall be presumed to be dead, and if no person or persons can be found who would be his heir or heirs-at-law, if he were dead, then in such case administration shall be taken upon his estate in accordance with the provisions of the general laws of the state and as in this act provided.

HISTORY: CL 1948, 567.47.

567.48 Unclaimed property held by liquidating officer; presumption of abandonment; escheat; liquidation action; intervention by attorney general; notice of final hearing; definitions.

Sec. 38. When the business of a holder is being liquidated, or is in process of dissolution, pursuant to any law of this state or of the United States, wherein a receiver or other liquidating officer or agency shall have in possession or custody any property for which he or it, as such liquidating officer or agency is accountable to the owner or owners thereof or to which an owner is entitled by reason of a claim having theretofore been filed and allowed but for which no demand has been made or filed with such liquidating officer or agency by such owner or owners within the time during which

such demand is by law required to be made or filed within the time prescribed in a legal notice duly published by such liquidating officer, or within a time prescribed by an order or decree of a court having jurisdiction over such liquidation or dissolution proceedings, or over the final approval and closing thereof, then such property shall be presumed to have been abandoned by the owner or owners thereof, and shall be deemed to be abandoned property, as defined in this act, notwithstanding that the full period of dormancy may or may not have run against the whole, or any part of said property, and the same shall be subject to descent and devolution to the state of Michigan as an escheat the same as other abandoned property. The attorney general, in the name of the state of Michigan, may intervene in any such suit or proceeding for the purpose of procuring a determination of actual abandonment and an adjudication of the right of the state to an assignment, transfer, payment and delivery of said property as an escheat in accordance with the provisions of this act. No such liquidation or dissolution proceeding shall go to final decree in any court, either federal or state, until after the service on the attorney general by such liquidating officer of a written notice of the filing of a petition for the entry of such final decree and the date of the final hearing thereon. Service of such notice shall be made at least 20 days before the date set for such final hearing. The terms "liquidation" and "dissolution" as used in this and succeeding sections of this act shall be deemed to mean and include every form of proceeding for winding up the business or affairs of a holder by whomsoever instituted, or conducted, and the term "liquidating officer" shall be deemed to mean and include any person instituting or having charge of such proceedings, as well as the holder itself.

HISTORY: CL 1948, 567.48.

567.49 Abandoned property held by receiver or liquidating officer; delivery or payment to board; release from liability.

Sec. 39. The receiver or other liquidating officer or agency described in section 38 hereof may pay over or deliver to the state board of escheats any such abandoned property in its hands, taking proper receipt therefor. Such payment or delivery shall release and discharge the said receiver or other liquidating officer or agency in charge of such liquidation or dissolution proceedings from any and all liability to the owner or owners of such abandoned property, except such as may have accrued prior to the date of such payment or delivery otherwise than by reason of such payment or delivery. Upon receiving such money or other property the state board of escheats shall keep and dispose of the same in the manner provided for in this act.

HISTORY: CL 1948, 567.49.

567.50 State board of escheats; chairman, term; quorum; meetings; assistants; acceptance of escheated property; records; sales by public administrator, approval.

Sec. 40. The state board of escheats shall organize by electing a chairman who shall hold office for a term of 2 years, or until his successor has been duly elected and qualified. Two members of the board shall constitute a quorum for the transaction of business. It shall hold a regular meeting once each month, at a time and place to be fixed by the rules and regulations of the board, and such other or special meetings as shall be called by the chairman or any 2 members. It is empowered to employ such clerical and other assistance as it deems necessary. Any member who has a duly constituted deputy may be represented by such deputy at any board meeting; a member not having such deputy may be represented at such meeting by a duly appointed official of his office.

The board shall accept delivery of all property descending to the state of Michigan as an escheat and duly assigned to it under the provisions of this act. It shall install and maintain a full and complete system of records and accounts covering all transactions and proceedings had or conducted by it under the provisions of this act. Such records shall contain an account of all property of whatsoever kind coming into its possession or under its control, the nature and description thereof and the date when received; the time and manner of its disposal; the amount of interest, or other increment thereon, received by it and from what sources; an account of all monies deposited by it in the state treasury and the date of such deposit; an account of all sales of such property and the terms and conditions thereof; an account of the names of all original owners of abandoned or unprotected property so received; an account of all redemptions made by it; and the names and addresses of the persons to whom redemption was made.

Notwithstanding any provision of law to the contrary, the state public administrator, upon recommendation and approval of the said board of escheats, in writing, shall have power to authorize a county public administrator to petition for the sale of personal assets of an estate of which he is administrator and convert the same into cash whenever it shall be deemed by the board to be to the best interests of the estate, and of the state of Michigan, to do so. Like authority may be given to such state public administrator to authorize a county public administrator to sell real property whenever the appraised value thereof shall not exceed the sum of \$500.00: Provided, That nothing herein contained shall be construed as depriving any such county public administrator of the power, under license of the probate court, to sell personal property when necessary to pay debts and administration expenses, or to sell real property for such purposes whenever the personal assets of the estate are insufficient therefor, or to sell personal and real property in accordance with the general laws of this state in order to prevent loss, depreciation or damage of or to such property.

HISTORY: CL 1948, 567.50.

567.51 State board of escheats; hearing; witnesses; subpoena, oath.

Sec. 41. The board of escheats shall have power to cause the issuance of subpoenas for the attendance of witnesses at any hearing held or conducted by it under the authority of this act. Any member of the board shall have power to administer oaths to witnesses. The board shall have such other and further power as shall be necessary to enable it to arrive at a just and equitable determination of the issues presented at such hearing.

HISTORY: CL 1948, 567.51.

567.52 State board of escheats; preservation of escheated property; expenditures.

Sec. 42. Whenever property, either real or personal, shall have been duly assigned to the state of Michigan and delivered to the state board of escheats pursuant to the general laws of this state or the provisions of this act, the board shall have power to take such measures for the care, preservation or protection thereof as it shall deem to be to the best interests of the owner thereof, or of the state, or of the person entitled to redeem the same. Any expenditures for such purpose shall be carried as a charge against the specific property and may be defrayed in the same manner as are other administrative expenses of the board.

HISTORY: CL 1948, 567.52.

567.53 State board of escheats; recording copies of court orders or decrees assigning realty to state.

Sec. 43. It shall be the duty of the board of escheats to cause to be promptly recorded in the office of the register of deeds of the proper county all duly certified copies of decrees or orders of any court assigning real property to the state of Michigan.

HISTORY: CL 1948, 567.53.

567.54 State board of escheats; sale of property assigned to state and delivered to board under court order or decree, restriction.

Sec. 44. No property, real or personal, assigned to the state of Michigan and delivered to the state board of escheats pursuant to an order or decree of a court shall be sold or otherwise disposed of by said board until the time for appeal from or rehearing on such order or decree shall have expired.

HISTORY: CL 1948, 567.54.

567.55 State board of escheats; appearances or defenses in actions against state, board or owner; intervention by attorney general.

Sec. 45. Whenever any suit, action or other legal proceeding is brought against the state, or the board of escheats or the owner, or other person entitled to redeem, in which the ownership or right of possession of property which has been assigned to the state of Michigan and delivered to the state board of escheats is in issue or in anywise affected, the board of escheats may cause its appearance to be entered in such suit, action or proceeding and interpose any defense thereto available to the state or the state board of escheats, or which would have been available to said owner or other person entitled to redeem either before or after said assignment and delivery, or the attorney general may intervene in behalf of the state and said board in any such suit, action or proceeding.

HISTORY: CL 1948, 567.55.

567.56 Sale of personalty by board; restrictions; bids, rejection; assignment or transfer of title to purchaser.

Sec. 46. Personal property delivered to the board of escheats may be sold by said board either at public or private sale, as it shall deem to be to the best interests of the state or of the person or persons entitled to redemption as herein provided; except that at least 2 public sales of personal property, other than intangibles, shall be held and conducted in each calendar year at such time and place as the board shall determine, and upon such notice as the board, in its rules and regulations shall prescribe. All public sales of personal property shall be made to the highest responsible bidder for cash and the board shall have the right to reject any or all bids upon each item of property offered for sale.

The state board of escheats shall make, execute and deliver to the purchaser or purchasers at such sale a good and sufficient bill of sale, assignment or transfer of title of the property sold, signed and executed by the chairman of the board, accompanied by a delivery of the property. If a certificate of shares of stock or of membership in a corporation or association is so sold and assigned, the assignment thereof shall have the same force and effect as though made by the original owner thereof, and shall entitle the purchaser to all rights of ownership in and to such certificate and to a transfer of ownership of such certificates on the books of the corporation or association, any law of this state, or by-laws of the issuing corporation or association, to the contrary notwithstanding. It is the intent hereof to confer upon said board of escheats full power to make such assignment and transfer in its own name and official title as the duly constituted agent and trustee of such original owner.

HISTORY: CL 1948, 567.56.

567.57 Sale of realty by board; time, notice, contents, publication; conducting sale; rejection of bids.

Sec. 47. All real property acquired by the board of escheats under the general laws of this state shall be sold within 2 years after it was acquired unless it shall be deemed by said board to be to the best interest of the person entitled to redeem, or more advantageous to the state to extend such time, in which case the time of extension shall be duly entered upon the records of its proceedings. All sales may be made at either public or private sale as the board shall deem to be most advantageous to the state and of the person entitled to redemption. No sale, either public or private, shall be made until after the publication by the board of a notice of the time and place of such sale containing a description of the property to be sold, and the terms and conditions thereof, shall have been made in a newspaper printed, published and circulating in the county in which the real estate is situated, once each week for at least 3 consecutive weeks immediately preceding the date of such sale. If there be no newspaper printed and published in such county, then such notice shall be published in a newspaper printed and published in an adjoining county at a place nearest to the location of the property to be sold. All such sales shall be held between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon of the day of sale, and may be made in parcels, or otherwise, as the board shall deem best calculated to obtain the best price. The board shall have the right to reject any or all bids made at such sale, and it shall have the right to adjourn such sale upon such further notice thereof as is provided by law for sales of land upon mortgage sale by advertisement.

HISTORY: CL 1948, 567.57.

567.58 Sale of realty by board; terms and conditions.

Sec. 48. The sale of real property, whether made at public or private sale, after publication of the notice hereinbefore provided may be made upon such terms and conditions as the board, by rule and regulation, shall prescribe.

HISTORY: CL 1948, 567.58.

567.59 Sale of realty by board; deed, execution, acknowledgment, delivery; subject to mortgage, lien or unpaid tax.

Sec. 49. Every deed of conveyance of real property shall be made and executed in behalf of the state of Michigan as grantor under the signature and by the acknowledgment of the chairman of said board of escheats, except when some other member of the board is by a majority vote thereof authorized so to do. Delivery of such deed may be made by the secretary or assistant secretary of said board of escheats. If the sale is made subject to a mortgage or other lien, or unpaid taxes thereon, the deed of conveyance shall expressly so provide.

HISTORY: CL 1948, 567.59.

567.60 Sale of realty by board; notice to assessing officer; contents.

Sec. 50. Immediately upon the delivery of a deed of conveyance of real property, or of a contract for the sale thereof as provided in this act, the state board of escheats shall cause notice of such sale to be served upon the assessing officer of every municipality in which the property is situated by registered mail addressed to such assessing officer at his office or place of residence in the assessing district. Such notice shall contain a description of the property, the date of the sale and the name and address of the purchaser thereof.

HISTORY: CL 1948, 567.60.

567.61 Purchase or bid by state employee at sale prohibited.

Sec. 51. No state officer, employee or agency shall, directly or indirectly, become the purchaser of either real or personal property sold by the board of escheats under

the provisions of this act, nor shall such state officer or employee bid at any such sale, or be personally interested therein in any manner whatsoever.

HISTORY: CL 1948, 567.61.

567.62 Escheated property; delivery to board as trustee or conservator; proceeds of sale, disposition; administration or investment of funds.

Sec. 52. All property descending to the state of Michigan as an escheat, pursuant to the provisions of this act, the constitution or general laws of this state, and which has been duly assigned and transferred to the state of Michigan by an order or decree made and entered in any proceeding or suit instituted under the general laws of this state or the provisions of this act, shall be delivered to the board of escheats of the state of Michigan to be received and held by such board as trustee and conservator thereof for the use and benefit of the state of Michigan and any person or persons who may be entitled to redemption as provided in this act. Said board shall within a reasonable time thereafter cover the same, or the proceeds of the sale thereof, into the state treasury to the credit of the primary school fund to be expended for the advancement of primary training and instruction in the public schools under the direction and supervision of the state superintendent of public instruction: Provided, That all escheated real property, or the proceeds of the sale thereof, shall be held, disposed of, invested or reinvested and used in conformity with the provisions of section 12 of Article XI of the constitution of this state, and said board of escheats shall be vested with full power and authority to administer the funds so created and accruing, except that the investment or reinvestment of such funds shall be subject to the supervision and direction of the state administrative board.

HISTORY: CL 1948, 567.62.

567.63 Redemption of escheated property; application, filing, contents, proof, hearing, denial; allowance; procedure.

Sec. 53. (1) All property, or the net proceeds of the sale thereof, which has descended to the state as an escheat, or which has been paid or delivered to the state board of escheats pursuant to the general laws of this state or the provisions of this act shall be subject to redemption by the owner thereof, his legal heirs, devisees, legatees or assignees, or the holders in due course of negotiable instruments, in the manner provided in this section. To obtain such redemption the person legally entitled thereto shall make and file with the state board of escheats a written petition for redemption of escheated property, subscribed by him under oath, setting forth his identity, place of residence and the complete facts establishing his preferential right to make claim for and receive the property. The petition shall be supported and accompanied by satisfactory proofs, consisting of certified documents and proof which would be legally admissible in a court of law as evidence.

Hearing; reimbursement.

(2) All petitions for redemption, if in proper form and supported by proofs as required, shall be heard, examined and considered by the board of escheats and shall be allowed or disallowed by the board after due consideration of the proofs. Where it shall appear that the person entitled to a refund, his legal heirs, devisees, legatees or assignees, or the holders in due course of negotiable instruments, would not have the benefit or use or control of the money or of the property due him, or where special circumstances make it appear desirable that payment should be withheld, or where it appears that the person entitled to the money or property is a resident and national of a foreign country, and the federal statutes or federal regulations preclude the sending of moneys from the federal treasury to such persons, the board of escheats may deny such application and hold the money or other property for the benefit of such owner, his legal heirs, devisees, legatees or assignees or such person who may thereafter ap-

pear entitled thereto. Such money or other property so held shall be paid out only by further order of the board of escheats. If the petition is allowed by the board, redemption shall be made in the manner following:

Identical property.

(a) If redemption is to be made to an applicant who was the initial owner of the property at the time of escheat, and such property, real or personal, other than money, is still in possession of the board of escheats or the state, the identical property shall be delivered to such owner, together with all earned increment thereon realized and collected by the board after the descent and assignment thereof to the state. Such delivery shall be contingent upon the reimbursement of the state by the owner for all expenditures made by the board for the preservation and protection of the property, including payment of taxes, during the time it was in its possession.

Proceeds of sale.

(b) If the specific property has been sold by the board of escheats and converted into cash as provided in this act, the proceeds of such sale shall be paid over to such applicant owner as a redemption, together with any and all earned increment thereon realized and collected by the board, less the amount expended by the board prior to sale for the protection and preservation of the property, including the payment of taxes.

Money.

(c) If the property to be redeemed by such owner consists wholly of money assigned to the state and delivered to the board of escheats, pursuant to an order or decree of court entered in proceedings instituted under the provisions of this act, redemption shall be made by payment to the applicant owner of the full amount of money so assigned and received. In addition there shall be paid to such owner a sum equal to the amount deducted from the assets of the owner's estate on account of administration expenses, or costs of suit instituted in the circuit court.

Applicant other than owner.

(d) If redemption is to be made to an applicant entitled to redeem other than the initial owner at the time of escheat, such redemption shall be made in the same manner as provided in paragraphs (a), (b) and (c) of this section; except that such applicant shall not be entitled to the additional payment for administration expenses and costs of suit deducted from the assets of the state or earned increment realized and collected by the board after the descent and assignment of the property of the state as described in paragraphs (a), (b) and (c).

Checks and certificates of deposit.

(e) Notwithstanding any other provision of this section, the rights of an owner of a certified check, certificate of deposit, bank draft, cashier check, or travelers' check to payment from any holder upon presentment of the original instrument shall not in any way be affected nor impaired by reason of the payment to the board of escheats of abandoned property hereunder, and any holder which has paid to the board of escheats as abandoned property funds due and payable on such original instrument shall, upon making payment to the person presenting such original instrument appearing to holder's satisfaction to be entitled to payment, and upon submitting to the board of escheats proof of such payment and a photocopy of the said original instrument so paid, be entitled to claim reimbursement from the board of escheats of the amount so paid, and the board of escheats shall reimburse said holder without the deduction of any service, administration or other charge. All other claims for redemption shall be made as provided in previous paragraphs.

HISTORY: CL 1948, 567.63;—Am. 1954, p. 69, Act 58, Imd. Eff. Apr. 5;—Am. 1965, p. 27, Act 17, Imd. Eff. Apr. 22;—Am. 1969, p. 346, Act 171, Imd. Eff. Aug. 5.

567.64 Redemption of escheated property; disallowance of application to redeem; filing finding of facts and law, decision; notice.

Sec. 54. When an application for redemption shall be disallowed the board of escheats shall make and file in the office of the secretary of the board a finding of facts and law setting forth the reasons for such disallowance, and its decision thereon. The secretary of the board shall forthwith notify the applicant of the disallowance of his claim.

HISTORY: CL 1948, 567.64.

567.65 Redemption of escheated property; review of decision denying application to redeem; leave to appeal to supreme court, time, costs.

Sec. 55. The decision of the board of escheats denying an application for redemption shall be subject to review by the supreme court upon appeal after leave granted in conformity with the applicable rule of court providing for the review of the action of any other administrative board, officer or tribunal of the state and presently established by section 6 of Michigan court rule No. 60. Application for such leave shall be filed within 60 days from and after the filing of the decision of the state board of escheats: Provided, That no costs shall be awarded either party on such review.

HISTORY: CL 1948, 567.65.

567.66 State board of escheats; rules and regulations, requisites.

Sec. 56. The board of escheats shall adopt and promulgate reasonable rules and regulations to govern its procedure in the administration of the powers and duties imposed and conferred upon it by this act. Such rules and regulations shall prescribe: (a) the form of reports of abandoned or unprotected property required by this act; (b) the procedure in conducting sales of property coming into its possession, and the time and place thereof, except that at least 2 public sales of personal property shall be held in each calendar year at a time and place to be fixed by the board; (c) the form of applications for redemption of property, and the time and place of hearing thereof, except that all applications shall be heard within 30 days from and after the due filing thereof, unless such hearing shall, upon cause shown, be adjourned to a later fixed date; (d) a uniform practice and policy relative to the making of investments or reinvestments of the proceeds of the sale of real property assigned and delivered to it under the provisions of this act, subject, however, to the approval of the state administrative board; (e) the form of all legal notices required to be issued, served or published by it under the provisions of this act; (f) the form of the deeds of conveyance and contracts of purchase and sale of land described in this act, or any amendments thereto; (g) the form of all other notices, documents, or other writings to be given, made or executed by it in administering the functions imposed upon it by this act.

HISTORY: CL 1948, 567.66.

567.67 State public administrator; records, files, accounts, examination; control of probate proceedings of county public administrator, reports required.

Sec. 57. It shall be the duty of the public administrator of the state of Michigan to install and maintain in his office a proper and suitable system of records, files and accounts containing a digest record of all probate proceedings which he, or the attorney general, has caused to be instituted, or which have been commenced by a public administrator of a county under the provisions of this act. Such records, files and accounts shall be accessible to the attorney general and the state board of escheats during all established office hours for the purpose of examination relative to claims for redemption, for computation of administration expenses, or costs of suit, and for all necessary checking and comparison of records and accounts of the state board of escheats. He shall have supervision over the conduct of all proceedings commenced in

probate court by a county public administrator under the provisions of this act or in which such public administrator has been duly appointed. He shall require of such public administrator such reports and copies of papers, documents, and orders in such proceedings as shall be necessary for keeping the records, files and accounts of his own office, as required by this act.

HISTORY: CL 1948, 567.67.

567.68 County public administrator; duties; administrative powers; fees; property refunds, leases; special assistants.

Sec. 58. (1) In addition to the duties otherwise prescribed by law, every county public administrator shall promptly transmit for filing in the office of the state public administrator copies of all orders, documents or other papers in probate proceedings commenced and conducted by him pursuant to the provisions of this act, and as required of him by the state public administrator. In the administration of any estate in which he shall have received letters of administration, he shall have all of the powers conferred by law upon a fiduciary of a decedent estate appointed in accordance with the general laws of the state providing for the descent and distribution of property, except as otherwise provided in this act. Unless it shall be necessary in order to pay debts and administration expenses or to prevent loss, damage or depreciation thereto he shall make no sale of real or personal property without authorization of the state public administrator.

(2) In any estate in which any county public administrator is appointed fiduciary pursuant to the provisions of sections 23 and 34, any county public administrator shall be entitled to, and shall receive, the statutory fee fixed by the general law of the state, together with such compensation for extraordinary services performed by him as shall be allowed by the probate court. The total of statutory fees and extra compensation, including personal office administrative expense, shall not exceed 15% of the cash value of all assets or property handled by him as such public administrator.

(3) Such county public administrator shall have authority, during the pendency of proceedings for the administration of the estates of owners of property, upon order of the probate court, to make a return or refund of such property to any owner thereof or person legally entitled thereto who shall file a claim therefor which is duly approved by the probate court upon satisfactory proof of such person's right to such refund or return.

(4) No public administrator shall petition the probate court for authority to lease any real or personal property for a longer term than 1 year from and after the time of his appointment without first obtaining the written authorization of the state public administrator and the state board of escheats.

(5) In court actions, including appeals therefrom, brought under sections 28 and 29, the attorney general may appoint special assistant attorneys general. Upon written approval of the attorney general, such special assistant attorneys general shall be entitled to receive as compensation for services performed, including personal expenses and office costs, a sum not to exceed 10% of the cash value of all assets or property recovered.

HISTORY: CL 1948, 567.68;—Am. 1989, p. 347, Act 171, Imd. Eff. Aug. 5.

567.69 Proceedings to escheat or appropriate abandoned property; statute of limitations as defense.

Sec. 59. In any proceeding brought by this state under the constitution, general laws or provisions of this act to recover property which has escheated, is escheatable or subject to escheat, except as otherwise provided in section 5(b) of this act, no statute of limitations of this state prescribing a limitation of time during which an action or proceeding may be commenced shall be a defense to such proceeding to escheat or ap-

appropriate abandoned property nor prevent such money or property from being deemed abandoned property within the meaning of this act.

HISTORY: CL 1948, 567.69.

567.70 Willful concealment, destruction or disposition of escheatable property; penalty.

Sec. 60. Any individual or any officer, member, employee or agent of a corporation, association or copartnership who shall willfully conceal, destroy, damage or make other unlawful disposition of any property, or of the books, records, or accounts pertaining to such property, which is subject to descent to the state of Michigan as an escheat under the provisions of this act or who shall willfully violate any provision of this act, shall be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 567.70.

567.71 Escheated property; exemption from taxation.

Sec. 61. No lands the title to which has become vested in the state by descent as an escheat as provided by the constitution or general laws of this state, shall be subject to assessment or levy for taxes or special assessments by any taxing unit of this state, after final adjudication of escheat by a court of competent jurisdiction and while the title thereto remains in the state. Nor shall any personal property duly escheated to the state pursuant to the provisions of this act or general laws of this state be thereafter subject to any form of taxation, general or special, while the title continues in the state.

HISTORY: CL 1948, 567.71.

567.72 Indemnification of holder by state against loss; procedure.

Sec. 62. (a) Upon the payment of unclaimed funds or delivery of unclaimed or abandoned property by the holder to a public administrator or to the state board of escheats pursuant to the provisions of this act, the holder is no longer responsible for such property nor required to account for the same as provided by sections 18 and 20 of this act. Thereafter the initial owner or other claimants, shall seek recovery of their claimed interests in such property from the state board of escheats as provided in section 53 of this act.

(b) (1) If legal proceedings are instituted against a holder by any person claiming an interest to such unclaimed funds or abandoned property, the holder shall notify the state board of escheats and the attorney general of the state of Michigan, by certified or registered mail, of the pendency of such proceedings within 10 days after service of process upon such holder. Failure to give such notice shall absolve the state from any and all liability which it may have with regard to such proceedings, property or holder.

(2) The attorney general, or special assistant attorney general appointed by him, shall defend the holder in any litigation commenced in this state relating to the provisions of this act, and all costs and charges incurred by the attorney general in defense of litigation shall be paid out of money in the state treasury which has been derived from escheated estates or abandoned property.

(3) If litigation is commenced outside of the state of Michigan against a holder, the attorney general may intervene and defend, or may notify the holder in writing that no defense be made in respect to such litigation, or may request the holder to actively defend in such proceedings. If the attorney general has requested the holder to actively defend the litigation, the holder will be entitled to be reimbursed for reasonable legal fees, costs and expenses incurred in said legal proceedings, which shall be paid by the state treasurer from funds derived from escheated estates or abandoned property.

(c) The state treasurer shall indemnify the holder for any liability pursuant to the

provisions of this act from funds in the state treasury which have been derived from escheated estates or abandoned property.

HISTORY: CL 1948, 567.72.—Am. 1969, p. 348, Act 171, Imd. Eff. Aug. 5.

567.73 Retroactive effect of act.

Sec. 63. This act, in all of its provisions, is intended to be retroactive, and it shall be construed as applying retrospectively to all persons and property coming within its purview.

HISTORY: CL 1948, 567.73.

567.74 Intent of act; liberal construction.

Sec. 64. This act, in all of its provisions, is intended to be a trustee and conservator measure for the initial purpose of marshalling, protecting and preserving the property rights and interests of the absent, incapacitated or missing owners of property, or those persons claiming by, through or under them, who by reason of chance, accident or circumstances beyond their control, or other untoward event, have become in the eyes of the law incapable persons and whose rights and interests in such property it is the duty of government and law to protect, and further, in the interest of society and in conformity with public policy, the ultimate purpose of vesting the title and right of possession of such property in a fiduciary capable of administering, protecting, conserving and alienating it. To those ends the act shall be liberally construed.

HISTORY: CL 1948, 567.74.

567.75 Repealed. 1965, p. 28, Act 17, Imd. Eff. Apr. 22.

Section provided for repeal of P.A. 1897, No. 238; escheated estates.

567.76 Michigan code of escheats; short title.

Sec. 66. This act shall be known and may be referred to and cited as "The Michigan code of escheats."

HISTORY: CL 1948, 567.76.

Act 186, 1943, p. 273; Imd. Eff. Apr. 17.

AN ACT to provide for the disposal of certain assets of the state for a nominal consideration, and to create a board of trustees for the purpose of carrying this act into effect.

The People of the State of Michigan enact:

567.101 Board of trustees for disposal of certain state asset lands; creation, ex-officio membership.

Sec. 1. That the auditor general, director of the department of conservation and secretary of state, for the time being, be and the same hereby are constituted trustees, in behalf of the state, to dispose of asset lands conveyed to the state by the Michigan state bank, E. H. Hazelton and company, George M. Dewey and Ellen, his wife, James L. Dewey, Ebenezer B. Dewey and Sallie M., his wife, Edmund H. Hazelton and Clarinda B., his wife, Thomas B. Clarke and Deborah B., his wife, Buckminster Wight and Sarah M., his wife, and Joseph Coffin, or any 1 or more of the aforesaid, and of such other asset lands as heretofore may have been conveyed to the state in payment of debts, and which were subject to disposition by the state under the provisions of sections 38 and 39 of chapter 60 of the Revised Statutes of 1846, and Act No. 68, Laws of 1842, prior to the repeal thereof, and which are carried upon the records of the secretary of state or the department of conservation as asset lands.

HISTORY: CL 1948, 567.101.

567.102 Board of trustees for disposal of certain state asset lands; conveyance by quitclaim deed; conveyance, application, recording.

Sec. 2. Said trustees shall have the power and it shall be their duty to convey by quitclaim deed, in behalf of the state, any of the aforesaid asset lands, or part thereof, or interest therein, which does not appear from the records of the department of conservation or secretary of state already to have been conveyed by the state, for the nominal consideration of \$1.00 for each description so conveyed, which conveyance shall not operate to extinguish any claims of the state, its several inferior taxing units or an individual derived through the levy of taxes or special assessments: Provided, That such land, or part thereof, or interest therein, shall be conveyed only to an applicant whose title is clouded by the conveyance of such land to the state, and by the failure of records in the office of the register of deeds for the proper county, the records of the department of conservation and the records of the secretary of state to contain copies of patents or deeds showing that such land has been conveyed by the state into the chain of title under which such applicant claims, or, in the case of undivided interests, such interest in said land, or part thereof, as appears from the aforesaid records to be owned by the state shall be conveyed only to an applicant owning the remaining undivided interest in said land or part thereof: Provided further, That any person, copartnership, corporation or body politic making application for a conveyance of land under this act shall present to said trustees a certificate signed by the register of deeds for the county wherein such land lies stating that he has searched the records of said county for every year since such land, describing it, was conveyed to the state, and that no deed or patent of such land issued by the board of trustees created by Act No. 68, Laws of 1842, or by the governor, appears of record in his office, and such application shall also be accompanied by a certificate of the attorney general to the effect that he has examined a complete abstract of title to the premises furnished by the applicant and certified from the general government to within 30 days of the date of his certificate, and that in his opinion the applicant is entitled to a conveyance hereunder. Conveyances issued under the provisions of this act shall be recorded in the office of the secretary of state prior to delivery.

HISTORY: CL 1948, 567.102.

567.103 Disposal of certain state asset lands; definitions.

Sec. 3. As used in this act the word "applicant" shall be deemed to include any person, copartnership, corporation or body politic, and the word "state" shall be deemed to include the state of Michigan, the people of the state of Michigan, the auditor general, the secretary of state, and the state treasurer.

HISTORY: CL 1948, 567.103.

567.104 Receipts; disposition.

Sec. 4. Amounts received by said trustees under the provisions of this act shall be paid into the general fund of the state treasury.

HISTORY: CL 1948, 567.104.

Act 63, 1949, p. 59; Imd. Eff. May 3.

AN ACT to enable holders of unclaimed personal property to divest themselves of responsibility and accountability for the same, and to authorize the state board of escheats to receive and receipt for the same as custodian, sequester, preserve and hold the same, and expedite its ultimate disposition in accordance with the laws of the state of Michigan.

The People of the State of Michigan enact:

567.201 Unclaimed personal property; definitions.

Sec. 1. For the purpose of this act the following definitions shall be applied, except when a different definition or meaning is clearly indicated by the text:

(a) The word "person" includes a natural person, a corporation doing business, or which has been engaged in business in this state, a copartnership, a voluntary association, and every or any other association or organization of individuals.

(b) The word "property" means intangible personal property, and/or legal right thereto of every kind or description, and also means tangible personal property consisting of money, stocks, bonds, and all choses in action, in the possession, custody or under the control of a holder, as hereinafter defined.

(c) The term "holder" means any person, as hereinbefore defined, having possession, custody or control of the property of another person, and includes a bank, either state or national; savings and loan association; credit union; a post office; a trust company; a depository; a bailee; a trustee; a receiver or other liquidating officer; a fiduciary; a governmental department, institution or agency; a municipal corporation and the fiscal officers thereof; a custodian or officer appointed by a court to receive, keep, handle or disburse money or other funds or property; a public utility, insurance or service company; and every other legal entity doing business in this state. This definition shall be construed as distinguishing the term "holder" of property from the term "owner" of property as hereinafter defined, and as excluding from the term "holder" any person holding or possessing property by virtue of title or ownership.

(d) The term "owner" in addition to its commonly accepted meaning, shall be construed to particularly mean and include any person, as hereinbefore defined, having the legal or equitable title to property coming within the purview of this act.

HISTORY: New 1949, p. 59, Act 63, Imd. Eff. May 3.

CITED IN OTHER SECTIONS: Sections 567.201 to 567.206 are cited in §§ 431.256 and 490.5a.

567.202 Unclaimed personal property; delivery to state board of escheats; report, contents.

Sec. 2. Whenever any holder shall have the possession, custody or control of any property belonging to any owner, and concerning which property, the owner entitled thereto has ceased, failed or neglected to exercise dominion or control, or to assert a right of ownership or possession, or to make presentment and demand for payment and satisfaction, or to do any other act in relation to or concerning such property for a period of 2 years or more, the said holder may deliver such property, together with the increment thereon, to the state board of escheats of the state of Michigan, together with a report, in duplicate, enumerating the name and last known address, if known, of the owner, a description of the property and the date it came into the possession or under the control of the holder, or when the right of the owner to possession or custody of the property was created. The official receipt of the state board of escheats acknowledging receipt thereof, shall be deemed to be the official receipt of the owner of said property.

HISTORY: New 1949, p. 60, Act 63, Imd. Eff. May 3.

567.203 Unclaimed personal property; court may order property transferred to state board of escheats; receipt.

Sec. 3. Whenever any court of competent jurisdiction shall, by final order or decree, direct that property under its jurisdiction and control be distributed to the person or persons adjudged and decreed to be the lawful owner and owners thereof, and it appears that such property cannot be distributed to the person or persons adjudged and decreed to be the lawful owner, by reason of his having failed or refused to make claim for such property, or whose whereabouts is unknown and cannot be ascertained,

or by reason of his identity being unknown, the court may order and direct that such property be assigned, transferred and delivered to the state board of escheats of the state of Michigan to be held in trust for the person adjudged to be the lawful owner thereof. The official receipt of the state board of escheats acknowledging receipt thereof, shall be deemed to be the official receipt of the owner of the property.

HISTORY: New 1949, p. 60, Act 63, Imd. Eff. May 3.

567.204 Unclaimed personal property; authority of board to receive; separate account; report to state public administrator; redemption.

Sec. 4. The state board of escheats of the state of Michigan is hereby authorized to receive and hold all property delivered to it in accordance with the provisions of this act, subject to the same terms and conditions as it is now or may hereafter be authorized to hold escheatable, escheated or abandoned property under the constitution and laws of this state: Provided, It shall be the duty of the state board of escheats, upon receiving such property, to keep and hold the same in an account separate from accounts of other escheatable or escheated property, and upon the maturing of a 7-year period of dormancy, which is to be calculated upon the basis of time running from the time when the property first became available to the person entitled thereto, shall report such property and/or the cash avails thereof to the state public administrator, with the request that appropriate judicial proceedings be instituted for the determination of actual abandonment of such property and/or the cash avails thereof, for the purpose of procuring an order or decree assigning the property and/or the cash avails thereof to the state of Michigan as an escheat: Provided further, That any property and/or the cash avails thereof, transferred to the state board of escheats in accordance with the provisions of this act, shall be subject to redemption by the owners thereof, his legal heirs, devisees, legatees, representatives or assigns, in the same manner provided in the Michigan code of escheats.

HISTORY: New 1949, p. 60, Act 63, Imd. Eff. May 3.

567.205 Unclaimed personal property; public sale; bill of sale; cash avails credited to original owners.

Sec. 5. All property delivered to the state board of escheats, other than cash, may be sold by said board either at public or private sale, as it shall deem to be to the best interests of the state or of the person or persons entitled to redemption as herein provided; except that at least 2 public sales of personal property, other than intangibles, shall be held and conducted in each calendar year at such time and place as the board shall determine, and upon such notice as the board, in its rules and regulations shall prescribe. All public sales of personal property shall be made to the highest responsible bidder for cash and the board shall have the right to reject any or all bids upon each item of property offered for sale.

The board is hereby authorized to make, execute and deliver to the purchaser or purchasers at such sale a good and sufficient bill of sale, assignment or transfer of title of the property sold. The bill of sale or assignment and/or transfer of title, signed and executed by the chairman of the board shall have the same force and effect as though made by the original owner thereof, and shall entitle the purchaser to all rights of ownership in and to such property. It is the intent hereof to confer upon said board of escheats full power to make such sale, assignment and/or transfer in its own name and official title as the duly constituted agent and trustee of such original owner. The cash avails received from the sale of such property, less the expense of sale thereof, shall be credited to the account of the original owner.

HISTORY: New 1949, p. 60, Act 63, Imd. Eff. May 3.

567.206 Unclaimed personal property; holder released from liability.

Sec. 6. Any holder who shall deliver any property to the state board of escheats, pursuant to the provisions of this act, whether by voluntary report and delivery or in accordance with an order or decree of a court of competent jurisdiction, taking proper receipt therefor, shall be released and discharged from all liability or accountability to the owner on account of such property, as well as the requirements of preparing and filing of any report concerning such property to any state, county or municipal board, commission or agency, except such as shall have been required or accrued prior to the date of such voluntary or required delivery of such property to the state board of escheats.

HISTORY: New 1949, p. 61, Act 63, Imd. Eff. May 3.

CHAPTER 570. LIENS

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LIENS ON INVENTORY

Act 180 of 1947

570.501-570.512 Repealed.

Act 179, 1891, p. 228; Eff. Oct. 2.

AN ACT to establish, protect, and enforce by lien the rights of mechanics and other persons furnishing labor or materials for the building, altering, improving, repairing, erecting or ornamenting of buildings, machinery, wharves, swimming pools, and all other structures, and the building and repairing of sidewalks, and wells, or furnishing stock or renting or leasing contractor's equipment, and to repeal all acts contravening the provisions of this act. Am. 1903, p. 21, Act 17, Imd. Eff. Mar. 26;—Am. 1919, p. 256, Act 140, Eff. Aug. 14;—Am. 1941, p. 464, Act 266, Eff. Jan. 10, 1942;—Am. 1963, p. 127, Act 104, Eff. Sep. 6;—Am. 1965, p. 732, Act 372, Eff. Mar. 31, 1966.

The People of the State of Michigan enact:

570.1 Mechanic's lien for labor and material; extent; notice to owner, form.

Sec. 1. Every person who shall, in pursuance of any contract, express or implied, written or unwritten, existing between himself as contractor, and the owner, part owner or lessee of any interest in real estate, build, alter, improve, repair, erect, ornament or put in, survey or plat any lot or parcel of land, or portion thereof, or engineer or design any sewers, water lines, roads, streets, highways, sidewalks, or prepare and furnish pursuant to such contract to such owner, part owner or lessee of any interest in real estate any survey, plat, plat of survey or design or engineering plan, or plans, for the improvement of any lot or parcel of land not exceeding one-quarter section of land, or who shall furnish any labor or materials in or for building, altering, improving, repairing, erecting, ornamenting or putting in any house, swimming pool, building, machinery, wharf or structure, or who shall excavate, or build in whole, or in part, any foundation, cellar or basement for any such house, swimming pool, building, structure or wharf, or shall build or repair any sidewalks, sewers, sewage disposal equipment, water lines and pumping equipment or wells or shall furnish any materials therefor, or shall furnish any nursery stock, or labor in connection therewith for any property, or shall rent or lease equipment in connection therewith for any property, and every person who shall be subcontractor, laborer, or material man, perform any labor or furnish materials or shall rent or lease equipment to such original or principal contractor, or

any subcontractor, in carrying forward or completing any such contract, shall have a lien therefor upon such house, swimming pool, building, machinery, wharf, walk or walks, wells, sewers, sewage disposal equipment, water lines and pumping equipment, foundation, cellar or basement, and other structures, and its appurtenances, or upon such nursery stock, and also upon the entire interest of such owner, part owner or lessee in and to the lot or piece of land, not exceeding one-quarter section of land, or if in any incorporated city or village, not exceeding the lot or lots upon or around or in front of which such improvement is made, to the extent of the right, title and interest of such owner, part owner or lessee at the time work was commenced, equipment leased or materials were begun to be furnished by the contractor under the original contract, or by the subcontractor who furnishes or is furnished with any labor or material or leased equipment in the performance or execution of such subcontract and also the extent of any subsequent acquired interest of any such owner, part owner or lessee, and in case of the construction of a number of buildings, swimming pools, foundations, cellars, basements, wells, sewers, sewage disposal equipment, water lines and pumping equipment or walks or the furnishing of such nursery stock or labor or leased equipment in connection therewith under 1 contract upon, around or in front of the same lot or contiguous lots for the same owner, part owner or lessee, of any interest in the real estate upon which said buildings are situated or upon, around, or in front of which said well, walk or walks are built or repaired, or nursery stock planted, such lien for such material or labor or leased equipment so furnished, shall attach to all of said buildings, swimming pools, foundations, cellars, basements, wells, sewers, sewage disposal equipment, water lines and pumping equipment, walk or walks, or nursery stock, together with the land upon, around or in front of which the same are being constructed, the same as hereinbefore provided in case of a single building, swimming pool, foundation, cellar, basement, well, sewer, sewage disposal equipment, water line and pumping equipment, walk or improvement or the furnishing or planting of nursery stock: Provided, That any person, firm or corporation furnishing materials or performing labor of any kind entering into the construction of any such building, swimming pool, structure, foundation, cellar, basement, well, sewer, sewage disposal equipment, water line and pumping equipment or walk, or furnishing or planting of nursery stock or who shall survey or plat any lot or parcel of land, or portion thereof, or engineer or design any sewers, water lines, roads, streets, highways, sidewalks, or prepare and furnish pursuant to such contract to such owner, part owner or lessee of any interest in real estate any survey, plat, plat of survey or design or engineering plan, or plans, for the improvement of any lot or parcel of land not exceeding one-quarter section of land, or who shall rent, lease or supply contractor's equipment shall within 90 days after furnishing the first of such material or performing the first of such labor or engineering or surveying services, or renting or leasing equipment for any contractor or subcontractor, serve on the owner, part owner or lessee of the premises, or his agent, if such owner, part owner or lessee has a known agent in charge of such structure, swimming pool, improvement, foundations, cellars, basements, wells, sewers, sewage disposal equipment, water lines and pumping equipment, walk or walks, personally or by mailing by certified mail, return receipt demanded, to the last known address of such owner, part owner or lessee, or his agent in charge of said premises, as aforesaid, a written notice, which notice shall be such as will inform the owner, part owner or lessee of the premises, or his agent, of the nature of the materials being furnished, or labor being performed, or to be performed, and a description of the premises where furnished, which notice shall notify such owner, part owner or lessee of said premises that such person, firm or corporation furnishing materials or performing labor will claim a lien upon such premises for any amounts unpaid for such materials so furnished or labor performed, or equipment leased, also such part or portion of section

4 of this act as will clearly notify such owner, part owner, or lessee of said premises, that he has a right to demand a statement under oath from such contractor or subcontractor prior to payment of any money on such contract. If neither of such persons can be found for service within the county where the premises are situated, or written notice has not been received, then the notice shall be served by posting in some conspicuous place on the premises within 5 days after the same might have been personally served, if the agent or principal had been found. Such notice shall be in substantially the following form:

To, Take notice that the undersigned is furnishing to certain labor or materials for building, excavating, or altering, improving, repairing, erecting or ornamenting, surveying, or designing engineering plans or surveys for the installation of swimming pools, sewers, water lines, roads, streets, highways or sidewalks, or is renting or leasing equipment as the case may be, a certain, situated on or around or in front (or the improving by furnishing nursery stock or labor in connection therewith) of the following described property: You are further notified that the undersigned will claim a lien upon the foregoing described premises, and any and all additions, alterations and improvements thereto for any amounts now and hereafter owing and unpaid to the undersigned for the performance of such labor, or for the furnishing of such materials, or both. You are further notified that you may at any time retain from any moneys due or to become due to the original contractor, an amount sufficient to pay all demands owing or unpaid to any subcontractor, material man or laborer, who files this notice with you. The original contractor shall, whenever any payment of money shall become due from you, or whenever he desires to draw any money from you on such contract make out and give to you or your agent a statement under oath of the number and names of every subcontractor or laborer in his employ, and of every person furnishing materials, giving the amount, if anything, which is due or to become due to them, or any of them, for work done or materials furnished, and you may retain out of any money then due, or to become due to the contractor, an amount sufficient to pay all demands that are due or to become due to such subcontractors, laborers and material men, as shown by the contractor's statement, and pay the same to them according to their respective rights, and all payments so made shall, as between you and such contractor be considered the same as if paid to such original contractor.

Notice as to labor; owner's payment to contractor, effect.

Such notice, solely as to labor, however, shall be sufficient if served at any time subsequent to said 90 days, but before the original contractor shall make out and give to the owner, part owner or lessee or his agent, a statement under oath of the number and names of every subcontractor or laborer in his employ, and of every person, firm or corporation furnishing materials, giving the amount, if anything, which is due or to become due on them or any of them, for work done or materials furnished as required by section 4 of this act. The owner, part owner or lessee shall not be liable to the subcontractor, material men or laborers, for any greater amount than he contracted to pay the original contractor, and shall be entitled to recoup any damages which he may sustain by reason of any failure or omission in the performance of such contract, but the risk of all payments made to the original contractor after he shall have received the notice above mentioned shall be upon the owner, part owner or lessee until the expiration of 90 days, within which claims for lien may be recorded as hereinafter provided, and no payment made to any contractor before the expiration of said 90 days shall defeat any lien of any subcontractor, material man or laborer, unless such payment has been distributed among the subcontractors, material men or laborers, or if distributed in part only, then to the extent of such distribution. No person shall have a right to claim a lien as in this act provided, unless and until he shall have served a no-

tice as in this section provided, and proof of the service of such notice shall be attached to the verified statement or account when recorded with the register of deeds as provided in section 5 of this act.

Definitions.

The term "nursery stock" as used in this act shall include trees, shrubs, vines, plants, ornamental shrubbery or other nursery stock, goods and supplies. The term "equipment" shall include pumps, heaters, concrete mixers, compressors, graders, cranes, scaffolding and all other types of contractor's equipment, tools and machinery. The term "improvement" or the plural thereof as used in this act, shall include the improvement, beautification or embellishment of property by the furnishing of nursery stock or the performance of labor in connection therewith or the planting thereof, or the furnishing by any registered land surveyor of any survey, plat, plat of survey of any lot or parcel of land, or the furnishing by any registered professional engineer of any engineering design or plans for the installation of any swimming pools, sewers, water lines, roads, streets, highways, sidewalks, or prepare and furnish pursuant to such contract to such owner, part owner or lessee of any interest in real estate and other designs or engineering plans for the improvement of any lot or parcel of land not exceeding one-quarter section of land, or the renting or leasing of any contractor's equipment for excavating, ditching, earth removal, landscaping, leveling, grading or changing the contour of any land, or the repairing, maintaining, restoring, constructing or demolition of any structure or the laying of any drains, sewers or pipelines.

HISTORY: Am. 1893, p. 319, Act 199, Imd. Eff. June 1;—Am. 1897, p. 171, Act 143, Eff. Aug. 30;—CL 1897, 10710;—Am. 1903, p. 21, Act 17, Imd. Eff. March 26;—Am. 1909, p. 276, Act 121, Eff. Sep. 1;—CL 1915, 14796;—Am. 1919, p. 256, Act 140, Eff. Aug. 14;—Am. 1929, p. 635, Act 264, Eff. Aug. 28;—CL 1929, 13101;—Am. 1941, p. 464, Act 266, Eff. Jan. 10, 1942;—CL 1948, 570.1;—Am. 1954, p. 56, Act 50, Eff. Aug. 13;—Am. 1954, p. 286, Act 213, Eff. Sep. 13;—Am. 1960, p. 64, Act 75, Eff. Aug. 17;—Am. 1963, p. 127, Act 104, Eff. Sep. 6;—Am. 1965, p. 732, Act 372, Eff. Mar. 31, 1966.

570.2 Mechanic's lien for labor and material on property of husband and wife on homestead.

Sec. 2. In case the title to such lands upon which improvements are made is held by husband and wife jointly, or in case the lands upon which such improvements are made are held and occupied as a homestead, the lien given by this act shall attach to such lands and improvements if the improvements be made in pursuance of a contract in writing signed by both the husband and wife.

HISTORY: Am. 1897, p. 173, Act 143, Eff. Aug. 30;—CL 1897, 10711;—CL 1915, 14797;—CL 1929, 13102;—CL 1948, 570.2.

570.3 Mechanic's lien for labor and material; case of contracting party, no legal title; lienor's right to perform contract for purchase of property.

Sec. 3. Any person furnishing services or materials or renting or leasing contractor's equipment for the erection of a new building, swimming pool, or structure upon land to which the person contracting for such erection has no legal title, or furnishing nursery stock for planting upon such land or labor in connection therewith, shall have a lien therefor upon such buildings (building), swimming pool, or structure; and the forfeiture or surrender of any title or claim of title held by such contracting person to such land shall not defeat the lien upon such building, swimming pool, or structure of such person furnishing services or materials as aforesaid. In case the property covered by the lien is held by the vendee in a land contract, and he surrenders or forfeits his rights thereunder, the person or persons holding such liens may be subrogated to the rights of such vendee, as his rights existed immediately before such surrender or forfeiture, by performing the covenants contained in such contract within 30 days after such forfeiture or surrender is made.

HISTORY: CL 1897, 10712;—CL 1915, 14798;—CL 1929, 13103;—Am. 1941, p. 466, Act 266, Eff. Jan. 10, 1942;—CL 1948, 570.3;—Am. 1963, p. 129, Act 104, Eff. Sep. 6;—Am. 1965, p. 735, Act 372, Eff. Mar. 31, 1966.

570.4 Owner or lessee may retain money to pay demands; statement of contractor; protection of owner.

Sec. 4. The owner, part owner, or lessee may at any time retain from any moneys due or to become due to the original contractor, an amount sufficient to pay all demands owing or unpaid to any subcontractor, material-man or laborer, who has recorded and served the notice in manner and form as provided in section 1 of this act. The original contractor shall, whenever any payment of money shall become due from the owner, part owner, or lessee, or whenever he desires to draw any money from the owner, part owner or lessee on such contract, make out and give to the owner, part owner, or lessee, or his agent, a statement under oath of the number and names of every subcontractor or laborer in his employ, and of every person furnishing materials, giving the amount, if anything, which is due or to become due to them, or any of them, for work done or materials furnished, and the owner, part owner, or lessee, or his agent, may retain out of any money then due or to become due to the contractor, an amount sufficient to pay all demands that are due or to become due to such subcontractors, laborers, and material men, as shown by the contractor's statement, and pay the same to them according to their respective rights, and all payments so made shall, as between such owner, part owner, or lessee, and such contractor, be considered the same as if paid to such original contractor. Until the statement provided for in this section is made, in manner and form as herein provided, the contractor shall have no right of action or lien against the owner, part owner, or lessee on account of such contract, and any payments made by the owner, part owner, or lessee, before such statement is made, or without retaining sufficient money, if that amount be due or is to become due, to pay the subcontractors, laborers or material men, as shown by the statement, shall be considered illegal and made in violation of the rights of the persons intended to be benefited by this act, and the rights of such subcontractors, laborers and material men to a lien shall not be affected thereby. If neither such owner, part owner, lessee, nor his agent can be found within the county, then it shall not be necessary for the contractor to make and deliver such statement as a prerequisite to the institution of proceedings under this act, or other suit or proceeding. In order that the owner, part owner, or lessee may be protected, he may at any time during the progress of the work demand in writing of the contractor, the statement herein provided for, which shall be made by the contractor and given to the owner, part owner, or lessee, or his agent, and if such contractor fail to furnish such statement within 5 days after demand made, he shall be liable to such owner, part owner, or lessee, each time he so refuses or neglects to comply with such demand, in the sum of \$100.00, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case or in any other appropriate proceeding.

HISTORY: CL 1897, 10713;—CL 1915, 14799;—CL 1929, 13104;—CL 1948, 570.4;—Am. 1958, p. 288, Act 213, Eff. Sep. 13.

570.4a False statement by contractor to obtain money; penalty.

Sec. 4a. Any original contractor or subcontractor who, with intent to defraud, gives or causes to be given to any owner, part owner or lessee, when he desires to draw money, a statement as required by section 4 of this act, which is in fact false, is guilty of a misdemeanor if the statement involved is for \$100.00 or less and a felony if it is for more than \$100.00.

HISTORY: Add. 1984, p. 90, Act 100, Eff. Aug. 28.

570.5 Statement of lien; form, verification.

Sec. 5. Every person, or his agent or attorney, whether contractor, subcontractor, material man or laborer, who wishes to avail himself of the provisions of this statute, shall make and record in the office of the register of deeds, in the county or counties in which said real estate, house, swimming pool, building, structure or improvement to

be charged with the lien is situated, a just and true statement or account of the demand due him, over and above all legal setoffs, setting forth the time when such materials were furnished or labor performed, and for whom, and containing a correct description of the property to be charged with the lien, and the name of the owner, part owner or lessee, if known, which statement shall be verified by affidavit. Such verified statement or account shall be recorded within 90 days from the date on which the last of the materials shall have been furnished or the last of the labor or the last of the designing, engineering or surveying services shall have been performed or the last day of use of any rented or leased equipment by the person claiming the lien, which statement may be in the following form:

State of Michigan }
County of } ss.

A B, of, being duly sworn, says, that he furnished certain labor (or materials or engineering or surveying services) or leased equipment in and for building (or altering, improving, repairing, erecting or ornamenting, as the case may be) a certain situated on the land hereinafter described, in pursuance of a certain contract of which C D, is the owner (or part owner or lessee, contractor, subcontractor or other person, as the case may be). The performance of such labor (or the furnishing of such materials, or engineering or surveying services) or the use of leased equipment was begun on the day of 19...., and the last of such labor was performed (or such materials furnished, or engineering or surveying services) or the use of leased equipment on the day of 19....; and there is justly and truly due deponent therefor from the said C D, over and above all legal setoffs, the sum of dollars, for which amount deponent claims a lien on said land (or building or swimming pool) of which is the owner (or part owner, or lessee) which premises are described as follows:
.....
.....
.....
.....

A. B.
Owner's name
Residence No. (Street or avenue)
City, township or village
Subscribed and sworn to before me this day of 19.....

Recording, effect, fee.

The register of deeds shall indorse upon every statement or account, the date of its recording, and shall record the same in full in the records of his office and properly index the same, and such recording shall have the same effect as to notice as against subsequent purchasers or incumbrancers as the recording of a mortgage. The register of deeds shall receive for recording such lien and all subsequent papers affecting such lien the same fee as is provided by law for the recording of real estate mortgages.

HISTORY: CL 1897, 10714;—CL 1915, 14800;—Am. 1925, p. 449, Act 304, Eff. Aug. 27;—CL 1929, 13105;—CL 1948, 570.5;—Am. 1958, p. 288, Act 213, Eff. Sep. 13;—Am. 1960, p. 67, Act 75, Eff. Aug. 17;—Am. 1963, p. 130, Act 104, Eff. Sep. 6;—Am. 1965, p. 735, Act 372, Eff. Mar. 31, 1966.

570.6 Statement of lien; service of copy on owner or lessee, proof.

Sec. 6. Every person recording such statement or account as provided in the preceding section, except those persons contracting or dealing directly with the owner, part

owner or lessee of such premises, shall within 10 days after the recording thereof, serve on the owner, part owner or lessee of such premises, if he can be found within the county or in case of his absence from the county, on his agent having charge of such premises, within the county wherein the property is situated, a copy of such statement or claim; but if neither of such persons can be found within the county where such premises are situated, then such copy shall be served by posting in some conspicuous place on said premises within 5 days after the same might have been served personally, could the principal or agent, as aforesaid, have been found. Proof of such service and the date and manner thereof shall be made by the affidavit of such person serving or posting the same, which proof of such service shall be recorded in the office of the register of deeds for such county before any subsequent proceedings shall be taken for the enforcement of such lien.

HISTORY: Am. 1863, p. 321, Act 199, Imd. Eff. June 1;—CL 1897, 10715;—CL 1915, 14801;—CL 1929, 13106;—CL 1948, 570.6;—Am. 1956, p. 299, Act 213, Eff. Sep. 13.

570.7 Discharge of lien by filing of bond; notice to lien holders; objection to sureties.

Sec. 7. The lien of any contractor, sub-contractor, material man or laborer may, at any time, be vacated and discharged, if the owner, part owner or lessee or contractor, shall give to each of such persons whose liens are to be discharged, and file with the clerk of the circuit court for the county in which such property is situated, a good and sufficient bond in the penal sum of twice the amount for which the lien is claimed, with 2 or more sureties to be approved by the said clerk, conditioned for the payment of any sum for which the obligee in such bond may obtain judgment or decree upon the demand for which such statement of account was filed, which sureties shall justify their responsibility before such clerk or a circuit court commissioner, under oath, and shall severally testify that they are each worth in real estate in the county in which such property is situated, over and above all exemptions, incumbrances, debts and other liabilities, the penal sum of said bond, each of which justifications shall be endorsed in full on said bond; the said clerk on receiving such bond shall within 10 days thereafter serve a notice upon all persons claiming a lien upon said premises of the fact of the filing of such bond, stating the amount thereof and the names of the sureties thereon. The said lien-holders or claimants shall have 10 days after the service upon them of the said notice within which to file objections to the sureties on said bond, and in case any such objections to the sufficiency of such sureties is filed with the said clerk within the 10 days as aforesaid, the said clerk shall not approve the said bond until after the said sureties shall have appeared before him and answered under oath such questions as may be put to them by or on behalf of lien-holder or claimant touching their financial responsibility. If no objections to the sufficiency of the sureties upon such bond shall have been filed within the said 10 days, or if, after the examination of the sureties under oath as herein provided, the said county clerk shall approve said bonds, the said clerk shall at once give to the obligee named therein a certificate that a good and sufficient bond has been filed with him as required by law and shall state the names of the obligor and obligee, the amount of the bond and description of the property covered by the lien thereby discharged. Upon the recording of said certificate in the office of said register of deeds, the lien of the obligee therein named, if of record, shall thereby be discharged.

HISTORY: Am. 1897, p. 173, Act 143, Eff. Aug. 30;—CL 1897, 10716;—CL 1915, 14802;—CL 1929, 13107;—CL 1948, 570.7;—Am. 1956, p. 290, Act 213, Eff. Sep. 13.

570.8 Claimant to furnish statement of work and materials; owner to exhibit contract; failure, effect.

Sec. 8. Each person claiming a lien as aforesaid, shall, from time to time, whenever required by such owner, part owner, or lessee, or his agent, and within 5 days from de-

mand thereof, furnish such person demanding the same, a written statement of the amount of work and materials furnished to date of statement, and then unpaid, as nearly as can then be ascertained, under penalty of a forfeiture of his lien. Such owner, part owner, or lessee, shall within 5 days after demand of any person claiming lien as aforesaid, produce the contract existing between himself and the contractors, if in writing, and freely permit such lien claimant to make a copy thereof, and shall also, within 5 days after demand thereof, furnish such lien claimant a written statement of the amount due and unpaid on such contract. If such owner, part owner, or lessee shall neglect or refuse to allow any lien claimant to make a copy of said contract, or shall neglect or refuse to make such written statement of the amount due and unpaid thereon as aforesaid, he shall be liable to such lien claimant, his representatives or assigns, each time he so refuses or neglects to comply with such demand, in the sum of 100 dollars, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case, or to be awarded by a court of equity upon a bill filed to compel the production of such contract, or a disclosure of the amount due and unpaid thereon.

HISTORY: CL 1897, 10717;—CL 1915, 14803;—CL 1929, 13108;—CL 1948, 570.8.

570.9 Lien; duration; priority over other interests.

Sec. 9. The several liens herein provided for shall continue for 1 year after such statement or account is recorded in the office of the register of deeds, and no longer unless proceedings are begun to enforce the same as hereinafter provided, and such liens shall take priority as follows:

First, As between persons claiming liens under this statute, the several liens upon the same property attaching by reason of work, labor or materials furnished in carrying forward or completing the same building or buildings, machinery, structure or improvement, shall be deemed simultaneous mortgages.

Second, They shall take priority to all garnishments for the contract debt made prior or subsequent to the commencement of the furnishing of the materials or performance of the labor without regard to the date of recording the claims for lien.

Third, They shall be preferred to all other titles, liens or incumbrances which may attach to or upon such building, machinery, structure or improvement, or to or upon the land upon which they are situated, which shall either be given or recorded subsequent to the commencement of said building or buildings, erection, structure or improvement.

Fourth, The liens for such labor or materials furnished, including those for additions, repairs and betterments, shall attach to the buildings, machinery, erection, structure, or improvement for which they are furnished or done, subject to any prior recorded title, claim, lien, incumbrance, or mortgage to or upon the land upon which such building or buildings, machinery, erection, structure or improvement belongs or is put. Any person holding a lien for such labor or materials furnished upon any premises subject to any prior recorded lien, incumbrance or mortgage may pay off any such prior lien, incumbrance or mortgage, and shall thereupon be subrogated to all the rights of the prior holder of such lien, incumbrance or mortgage.

HISTORY: Am. 1893, p. 321, Act 199, Imd. Eff. June 1;—Am. 1897, p. 174, Act 143, Eff. Aug. 30;—CL 1897, 10718;—CL 1915, 14804;—CL 1929, 13109;—CL 1948, 570.9;—Am. 1958, p. 290, Act 213, Eff. Sep. 13.

570.10 Proceedings to enforce lien; lis pendens, parties, cross bills, amendments, further notice.

Sec. 10. Proceedings to enforce such lien shall be by bill in chancery, under oath, and notice of lis pendens recorded in the office of the register of deeds, shall have the effect to continue such lien pending such proceedings. And in such proceedings, the complainant shall make all persons having rights in said property affected or to be af-

affected by such liens so recorded in the office of the register of deeds, and all persons holding like liens so recorded, and those having recorded notice of intention to claim a lien, parties to such action. And all persons holding like liens or having recorded notice of intention to claim a lien, or any other persons having rights in said property, may make themselves parties thereto on motion to the court and notice to complainant, and may file their intervening or cross bills or answers claiming the benefit of cross bills and notices of *lis pendens* therein. And whenever the principal contractor or any subcontractor shall have given to the owner, or other person or persons having rights in said property, any bond or surety or guaranty of any kind to protect such owner or other person or persons having rights in said property, against the liens provided for by this act, then the complainant or the owner or other person or persons having rights in said property, may make the surety or sureties in such bond or guaranty, parties to such action by such original bill or by cross bills or answers claiming the benefit of a cross bill, and the court shall thereupon settle and determine the rights and liabilities of all the parties in the matter, and make such decree as may be required to determine and enforce the rights and liabilities of the various parties including such surety or sureties. Intervening or cross bills shall be on oath, and all bills sworn to shall be evidence of the matters therein charged, unless denied by answer under oath. Amendments may be made to any bill or cross bill at any time before final order, and if it shall appear that any party has had insufficient notice of any such proceedings, such further notice shall be given as the court shall think just.

HISTORY: CL 1897, 10719;—Am. 1913, p. 752, Act 364, Eff. Aug. 14;—CL 1915, 14805;—CL 1929, 13110;—CL 1948, 570.10;—Am. 1955, p. 291, Act 213, Eff. Sep. 13.

570.11 Proceedings to enforce lien; submission of question to jury; issues.

Sec. 11. Every material question of fact may be submitted to a jury in the discretion of the court, as in ordinary chancery cases; and such trial shall be had upon a question stated, or upon an issue formed under the direction of the court, or otherwise, as the court shall order.

HISTORY: CL 1897, 10720;—CL 1915, 14806;—CL 1929, 13111;—CL 1948, 570.11.

570.12 Proceedings to enforce lien; court to determine amounts due; attorney's fee.

Sec. 12. The court shall examine all claims that shall be presented, and shall ascertain and determine the amount due to each creditor who has a lien of the kind before mentioned upon the estate in question, and every such claim that is due absolutely and without any conditions, although not then payable, shall be allowed, with a rebate of interest to the time when it would become payable. The court may, in its discretion, allow a reasonable attorney's fee when judgment shall be rendered in such proceeding, in favor of the parties succeeding therein.

HISTORY: Am. 1897, p. 174, Act 143, Eff. Aug. 30;—CL 1897, 10721;—CL 1915, 14807;—CL 1929, 13112;—CL 1948, 570.12.

570.13 Part performance of contract; compensation.

Sec. 13. When the owner, part owner, or lessee shall have failed to perform his part of the contract, and by reason thereof, the other party shall, without his default, have been prevented from completely performing his part, he shall be entitled to a reasonable compensation for as much thereof as he has performed, in proportion to the price stipulated for the whole, and the court shall adjust his claim accordingly.

HISTORY: CL 1897, 10722;—CL 1915, 14808;—CL 1929, 13113;—CL 1948, 570.13.

570.14 Sale of property under court order; receiver; personal decree.

Sec. 14. Upon final decree the court may order a sale of the buildings or machinery separate, or the lands, buildings, machinery, structure, or improvements, together, by a circuit court commissioner or receiver, or may order the property into the hands of a receiver, to be leased or rented from time to time, under the direction of the court, un-

til the liens shall be discharged, or make such other order or disposition of the premises as justice may require. If upon the coming in and confirmation of the final report, any portion of the liens shall still be unpaid, the court may enter personal decree for the same against the party who may be personally liable therefor, and execution shall issue for the same as upon other personal decrees rendered by the court.

HISTORY: CL 1897, 10723;—CL 1915, 14809;—CL 1929, 13114;—CL 1948, 570.14.

570.15 Sale of property under court order; part of premises.

Sec. 15. If any part of the premises can be separated from the residue and sold without damage to the whole, and if the value thereof shall be sufficient to satisfy all the claims proved in the case, the court may order a sale of that part, if it shall appear to be most for the interest of all the parties concerned.

HISTORY: CL 1897, 10724;—CL 1915, 14810;—CL 1929, 13115;—CL 1948, 570.15.

570.16 Sale of property under court order; disposition of proceeds, in case claims, ascertaining.

Sec. 16. If the claims against the estate are all ascertained at the time of ordering the sale, the court may at the same time order the officer to pay over and distribute the proceeds of the sale, after deducting all lawful charges and expenses, to and among the several creditors to the amount of their respective claims, if there is sufficient therefor; and if there is not sufficient, then to divide and distribute the same among the creditors in proportion to the amount due to each of them: Provided however, That such original contractor shall be subrogated to the rights of his subcontractors, material-men, and laborers who shall first be paid in full; and that the subcontractor shall be subrogated to the rights of their material-men and laborers, who shall first be paid in full.

HISTORY: CL 1897, 10725;—CL 1915, 14811;—CL 1929, 13116;—CL 1948, 570.16.

570.17 Sale of property under court order; disposition of proceeds, in case claims, nonascertaining.

Sec. 17. If the claims shall not have been ascertained when the sale is ordered, or if for any other reason it shall be deemed proper to postpone the order of distribution, the court may direct the officer to bring the proceeds of sale into court to be disposed of according to the order of such court; and if in consequence of the claims of attaching creditors, or for other cause, the whole cannot be properly distributed at once, the court may make 2 or more successive orders of distribution as the circumstances may require.

HISTORY: CL 1897, 10726;—CL 1915, 14812;—CL 1929, 13117;—CL 1948, 570.17.

570.18 Sale of property under court order; disposition of surplus.

Sec. 18. If there be any surplus of the proceeds of the sale, after making all the payments before mentioned, it shall forthwith be paid over to the owner, part owner, lessee, or other person entitled thereto; but such surplus shall be liable to be attached or taken in execution in like manner as if it proceeded from a sale made under execution.

HISTORY: CL 1897, 10727;—CL 1915, 14813;—CL 1929, 13118;—CL 1948, 570.18.

570.19 Sale of property under court order; manner, redemption.

Sec. 19. Sales under such decrees shall be made in the same manner as in ordinary cases of mortgage foreclosure, unless otherwise directed by the court; and all lands sold under such order or decree of the court may be redeemed at any time within 15 months from the time of filing such bill for such foreclosure.

HISTORY: CL 1897, 10728;—CL 1915, 14814;—CL 1929, 13119;—CL 1948, 570.19.

570.20 Several claimants; equal shares.

Sec. 20. When there are several attaching creditors, they shall, as between themselves, be entitled to be paid according to the order of their respective attachments,

but when several creditors, who are entitled to the lien provided for in this act, have equal rights as between themselves, and the fund shall be insufficient to pay the whole, they shall share it equally in proportion to their respective claims.

HISTORY: CL 1897, 10729;—CL 1915, 14815;—CL 1929, 13120;—CL 1948, 570.20.

570.21 Costs.

Sec. 21. The costs in all cases shall be subject to the discretion of the court, and shall be paid out of the proceeds of the sale, or by any parties to the suit, as justice and equity may require.

HISTORY: CL 1897, 10730;—CL 1915, 14816;—CL 1929, 13121;—CL 1948, 570.21.

570.22 Lien not barring action on contract.

Sec. 22. Except as herein otherwise expressly provided, nothing in this act contained shall be construed to prevent any creditor in any such contract from maintaining an action thereon at common law in like manner as if he had no lien for the security of his debt.

HISTORY: CL 1897, 10731;—CL 1915, 14817;—CL 1929, 13122;—CL 1948, 570.22.

570.23 Lienholder to execute discharge upon payment of debt.

Sec. 23. When the debt secured by such lien is fully paid, the lien holder shall execute to such owner, part owner, or lessee, or other person having an interest or title in the lands, buildings [building], machinery, structure, or improvements affected by such lien, a discharge as in case of a discharge of a mortgage, or shall indorse such discharge on such claim of lien filed, and upon refusal to do so on demand, shall be subject to like penalties as are provided by law for refusal to discharge mortgages which have been fully paid.

HISTORY: CL 1897, 10732;—CL 1915, 14818;—CL 1929, 13123;—CL 1948, 570.23.

DISCHARGE FROM RECORD: See Compilers' §§ 565.481 and 565.482.

REFUSAL TO DISCHARGE: For liability, see Compilers' § 565.44.

570.24 Death of lien claimant.

Sec. 24. If any lien claimant shall die before the commencement of a suit thereon, or the taking of proceedings to enforce the same, the suit or proceeding may be commenced and prosecuted by his executors or administrators, or if commenced in his lifetime, may be prosecuted by them, as it might have been by the deceased himself if living.

HISTORY: CL 1897, 10733;—CL 1915, 14819;—CL 1929, 13124;—CL 1948, 570.24.

SURVIVAL OF ACTIONS: See Compilers' § 600.2921 et seq.

570.25 Liens and claims; assignment or waiver.

Sec. 25. All liens or claims for liens which may arise or accrue under the terms of this act shall be assignable, and proceedings to enforce such liens may be maintained by and in the name of the assignees, who shall have as full and ample power to enforce the same as if such proceedings were taken under the provisions of this act by and in the name of the lien claimant [claimants] themselves. No lien provided for in this act shall be defeated or waived by the taking by the lien claimant, from any person, of any security for such debt, other than upon the real estate itself, in the absence of express agreement that the taking of such security shall be a waiver of the lien.

HISTORY: CL 1897, 10734;—CL 1915, 14820;—CL 1929, 13125;—CL 1948, 570.25.

570.26 Enforcement of claims not due.

Sec. 26. Parties entitled to liens under this act whose claims are not due and payable, may give notice of their intent to claim a lien, and may become parties to any

suit to enforce a lien, or institute such suit or proceedings themselves, and their claims shall be allowed, subject to a reduction of interest, if such claims are not due at the time of the rendition of decree, but no process shall issue or proceedings be had to enforce a decree for such claims until the same mature.

HISTORY: CL 1897, 10735;—CL 1915, 14821;—CL 1929, 13126;—CL 1948, 570.26.

570.27 Construction of act; amendments to process or pleadings; practice; appeal.

Sec. 27. This act is hereby declared to be a remedial statute and to be construed liberally to secure the beneficial results, intents and purposes thereof; and a substantial compliance with its several provisions shall be sufficient for the validity of the lien or liens hereinbefore provided for, and to give jurisdiction to the courts to enforce the same. Amendments to any process, pleadings or proceedings in such actions to enforce the liens given by this act, either in form or substance, shall be allowed at any time before final decree is rendered, on application of either party upon such terms and conditions as justice may require; and the security for costs may be required as in other chancery cases. The practice in all suits brought to enforce liens under the provisions of this act shall be the same as in ordinary chancery cases and the court shall have the same power and jurisdiction over the subject matter and parties to the suit as in other chancery cases, except as herein otherwise expressly provided. And in any case where a decree or final order shall be made by any circuit court in chancery, or the judge thereof, under the provisions of this act, either party who may consider himself aggrieved by such order or decree may appeal therefrom to the supreme court, in the same manner as is provided by law for appeal in ordinary chancery cases; and the powers, duties and jurisdiction of the supreme court in relation to such appeal shall be the same as are provided by law in relation to appeals in ordinary chancery cases.

HISTORY: Am. 1897, p. 174, Act 143, Eff. Aug. 30;—CL 1897, 10736;—CL 1915, 14822;—CL 1929, 13127;—CL 1948, 570.27.

SECURITY FOR COSTS: See GCR 109.

APPEALS: In chancery cases, see Compilers' § 600.232 and GCR 806.

570.28 Notice of proceedings; publication.

Sec. 28. When any defendant resides out of the state, or is absent from the state, or concealed therein, or cannot be found by reason of his continued absence from his place of residence, the complainant may cause notice to be given by publication in like manner, and upon the same conditions as in ordinary suits in chancery.

HISTORY: CL 1897, 10737;—CL 1915, 14823;—CL 1929, 13128;—CL 1948, 570.28.

570.29 Mechanics' liens; definitions.

Sec. 29. For the purpose of this act the words "owner, part owner or lessee" shall be construed to include all the interest, either legal or equitable, which such person may have in the real estate upon which the improvements contemplated by this act are made, including the interest held by any person under contracts of purchase, whether in writing or otherwise. The word "material-man" as used in this act, shall be construed to include all persons by whom any materials are furnished in or for building, altering, improving, repairing, erecting or ornamenting, or putting in any house, swimming pool, building, machinery, wharf or other structure or walk or walks or by whom nursery stock is furnished for the improvement of any property or by whom equipment is rented or leased for the improvement of any property. The word "laborer" shall be construed to include any mechanic, workman, artisan or laborer, employed in or about any such work as hereinbefore specified. The word "improvements" shall be construed to include sidewalks as hereinbefore specified.

HISTORY: CL 1897, 10738;—Am. 1903, p. 23, Act 17, Imd. Eff. March 26;—CL 1915, 14824;—CL 1929, 13129;—Am. 1941, p. 466, Act 266, Eff. Jan. 10, 1942;—CL 1948, 570.29;—Am. 1963, p. 131, Act 104, Eff. Sep. 6;—Am. 1965, p. 736, Act 372, Eff. Mar. 31, 1966.

570.30 Application of act to existing contracts.

Sec. 30. This act shall not be construed to apply to any contract made or entered into at any time before this act shall take effect.

HISTORY: CL 1897, 10739;—CL 1915, 14825;—CL 1929, 13130;—CL 1948, 570.30.

Sec. 31. (This was a repeal section.)

HISTORY: CL 1897, 10739;—CL 1915, 14826;—CL 1929, 13131;—Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

ACTS REPEALED: Act 258, 1879, How. 8377-8396; Act 270, 1887.

Act 187, 1905, p. 276; Eff. Sep. 16.

AN ACT to insure the payment of subcontractors and wages earned and all materials or labor and certain supplies furnished and used in connection with and consumed in constructing, repairing or ornamenting public buildings and public works. Am. 1925, p. 756, Act 384, Eff. Aug. 27;—Am. 1927, p. 266, Act 167, Eff. Sep. 5.

The People of the State of Michigan enact:

570.101 Bond of contractor on public works to secure payment for materials and labor.

Sec. 1. When public buildings or other public works are about to be built, repaired or ornamented under contract at the expense of the state, or of any county, city, village, township or school district thereof, it shall be the duty of the board of officers or agents, contracting on behalf of the state, county, city, village, township or school district, to require sufficient security by bond for the payment by the contractor of all subcontractors and for the payment for all labor performed and materials and certain supplies furnished and used in the erection, repairing or ornamenting of such public buildings or works.

HISTORY: CL 1915, 14827;—Am. 1925, p. 756, Act 384, Eff. Aug. 27;—CL 1929, 13132;—CL 1948, 570.101.

FORMER LAW: This act supersedes Act 94 of 1883, being How. 8411a-c;—Am. 1885, p. 42, Act 45, Eff. Sept. 19;—CL 1897, 10743-10745.

CITED IN OTHER SECTIONS: Sections 570.101 to 570.105 are cited in §§ 123.673 and 129.211.

570.102 Notice by subcontractor, materialman or laborer.

Sec. 2. In the case of a subcontractor, he shall within 60 days after furnishing the last material or supplies or performing the last work covered by his subcontract, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township or school district as aforesaid, that he is a subcontractor for the doing of some part of such work, which he shall specify in his notice and that he relies upon the security of the bond by this act required to be given by the principal contractor, and the said board of officers or agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligation of said sureties, and whenever this shall have been done, the said subcontractor shall be entitled, subject to the rights of the persons with whom he has contracted for labor, materials or supplies to the benefit of the security given by the principal contractor, and to be subrogated to the liens of the persons who have performed labor or furnished materials or supplies for such building, repairs or ornamentation, whom he shall have actually paid, but the subcontractor and the persons who shall have performed labor or furnished materials or supplies to him shall not in the aggregate be entitled to receive larger sums that may be required from the principal contractor under his contract with the subcontractor, nor shall this act be construed to change in any way the contract which may have been made between the principal contractor and the subcontractor, except when such contract shall attempt to relieve the principal

contractor as against the demands of those performing labor or furnishing materials or supplies to the subcontractor. All others, excepting those furnishing labor, relying upon the security given by the principal contractor, shall within 60 days after furnishing the last material or supplies, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township, or school district as aforesaid, that such contractor or subcontractor is indebted to them in a specified amount or for the furnishing of certain specified materials or supplies on account of such contract, and the said board of officers or agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligations of said sureties.

HISTORY: CL 1915, 14828;—Am. 1925, p. 756, Act 384, Eff. Aug. 27;—Am. 1927, p. 266, Act 167, Eff. Sept. 5;—CL 1929, 13133;—CL 1948, 570.102.

570.103 Bond of contractor on public works; execution, sureties, conditions.

Sec. 3. Such bond shall be executed by such contractor to the people of the state of Michigan in such amount and with such sureties as shall be approved by the board of officers or agents acting on behalf of the state, county, city, village, township, or school district as aforesaid, and shall be conditioned for the payment by such contractor to any subcontractor or by any such contractor or subcontractor as the same may become due and payable of all indebtedness which may arise from said contractor to a subcontractor or party performing labor or furnishing materials or supplies or any subcontractor to any person, firm or corporation on account of any labor performed or materials or supplies furnished in the erection, repairing or ornamentation of such building, improvement or works: Provided, however, That the principal contractor shall not be required to make payment to a subcontractor of sums due from the subcontractor to parties performing labor or furnishing materials or supplies, except upon the receipt or the written orders of such parties to pay the sums due them to subcontractors. Such bond shall be deposited with and held by such board of officers or agents for the use of any party interested therein.

HISTORY: CL 1915, 14829;—Am. 1925, p. 757, Act 384, Eff. Aug. 27;—CL 1929, 13134;—CL 1948, 570.103.

570.104 Bond of contractor on public works; prosecution, recovery.

Sec. 4. Such bond may be prosecuted and a recovery had at any time within 1 year after the completion and acceptance of the project, by any person, firm or corporation to whom any money shall be due and payable on account of having performed any labor or furnished any materials or supplies in the erection, repairing or ornamentation of any such building or works, in the name of the people of this state for the use and benefit of such person, firm or corporation: Provided, however, That in the case of a suit for the benefit of the subcontractor, he shall be required to allege and prove that he has paid to all parties entitled thereto the full sums due to them for labor, materials or supplies contracted for by him: And provided further, That in no case brought under the provisions of this act shall the people of this state be liable for costs.

HISTORY: CL 1915, 14830;—Am. 1925, p. 758, Act 384, Eff. Aug. 27;—CL 1929, 13135;—CL 1948, 570.104.

570.105 Bond of contractor on public works; definitions.

Sec. 5. The words "materials" and "supplies" as used herein shall include coal, wood, form lumber, gasoline, kerosene and lubricating and fuel oils necessarily used in connection with or consumed in constructing, repairing and ornamenting public buildings and public works, and the term "labor" as used herein shall include the hauling other than by steam or electric railway to or away from the public buildings or other public works being built, repaired or ornamented, any refuse, materials or dirt accu-

mulated or used in connection with or consumed in the construction, repairing or ornamentation of such public buildings or other public works.

HISTORY: Add. 1925, p. 758, Act 384, Eff. Aug. 27;—CL 1929, 13136;—CL 1948, 570.105.

Act 259, 1931, p. 445; Eff. Sep. 18.

AN ACT to protect the people of the state from imposition and fraud in the building construction industry and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

570.151 Building contract fund; status as a trust fund.

Sec. 1. In the building construction industry, the building contract fund paid by any person to a contractor, or by such person or contractor to a subcontractor, shall be considered by this act to be a trust fund, for the benefit of the person making the payment, contractors, laborers, subcontractors or materialmen, and the contractor or subcontractor shall be considered the trustee of all funds so paid to him for building construction purposes.

HISTORY: CL 1948, 570.151;—Am. 1966, p. 125, Act 104, Eff. Oct. 1.

570.152 Building contract fund; fraudulent detention or use by contractor or subcontractor, penalty.

Sec. 2. Any contractor or subcontractor engaged in the building construction business, who, with intent to defraud, shall retain or use the proceeds or any part thereof, of any payment made to him, for any other purpose than to first pay laborers, subcontractors and materialmen, engaged by him to perform labor or furnish material for the specific improvement, shall be guilty of a felony in appropriating such funds to his own use while any amount for which he may be liable or become liable under the terms of his contract for such labor or material remains unpaid, and may be prosecuted upon the complaint of any persons so defrauded, and, upon conviction, shall be punished by a fine of not less than 100 dollars or more than 5,000 dollars and/or not less than 6 months nor more than 3 years imprisonment in a state prison at the discretion of the court.

HISTORY: CL 1948, 570.152.

570.153 Building contract fund; evidence of fraudulent detention or use.

Sec. 3. The appropriation by a contractor, or any subcontractor, of any moneys paid to him for building operations before the payment by him of all moneys due or so to become due laborers, subcontractors, materialmen or others entitled to payment, shall be evidence of intent to defraud.

HISTORY: CL 1948, 570.153.

R.S. 1846, Ch. 126.

**LIEN OF MECHANICS AND OTHERS. CERTAIN LIENS UPON
REAL PROPERTY.**

Secs. 1-34.

HISTORY: CL 1857, 5066-5101;—CL 1871, 6789-6822;—How. 8377-8398;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. See note, *Former Laws, to Compilers' § 570.1.*

These sections provided for a mechanic's lien. For present law see *Compilers' § 570.1 et seq.*

Section 1 amended by Act 127 of 1869 and Act 258 of 1879.

Section 2 amended by Act 151 of 1877 and Act 258 of 1879.

Sections 3, 4 and 5 amended by Act 127 of 1869 and Act 258 of 1879.

Section 6 amended by Act 127 of 1869, Act 184 of 1873 and Act 258 of 1879.

Sections 7, 8 and 9 repealed by Act 258 of 1879.

Sections 10, 11 and 12 amended by Act 258 of 1879.

Section 13 amended by Act 127 of 1869 and Act 258 of 1879.

Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 amended by Act 258 of 1879.

Sections 25-34 repealed by Act 258 of 1879.

CERTAIN LIENS UPON PERSONAL PROPERTY.

570.185 Lien of mechanic, artisan or tradesman for manufacturing of goods or keeping of animals.

Sec. 35. Whenever any person shall deliver to any mechanic, artisan, or tradesman, any materials or articles for the purpose of constructing in whole or in part, or completing any furniture, jewelry, implement, utensil, clothing, or other article of value, or shall deliver to any person any horse, mule, neat cattle, sheep, or swine to be kept or cared for, such mechanic, artisan, tradesman, or other person shall have a lien thereon for the just value of the labor and skill applied thereto by him, and for any materials which he may have furnished in the construction or completion thereof, and for the keeping and care of such animals, and may retain possession of the same until such charges are paid.

HISTORY: CL 1857, 5102;—CL 1871, 6823;—Am. 1873, p. 118, Act 83; Eff. July 31;—How. 8399;—CL 1897, 10746;—CL 1915, 14831;—CL 1929, 13186;—CL 1948, 570.185.

570.186 Lien of mechanic for repair or alteration of goods.

Sec. 36. When any person shall deliver to any mechanic, artizan [sic], or tradesman, any watch, clock, article of furniture or jewelry, implement, clothing or other article of value, to be altered, fitted or repaired, such mechanic, artizan [sic] or tradesman shall have a lien thereon for the just value of the labor and skill applied thereto by him, and may retain possession of the same until such charges are paid.

HISTORY: CL 1857, 5103;—CL 1871, 6824;—How. 8400;—CL 1897, 10747;—CL 1915, 14832;—CL 1929, 13187;—CL 1948, 570.186.

570.187 Lien of mechanic; enforcement; sale; form of notice, proceeds.

Sec. 37. In either of the cases mentioned in the 2 preceding sections, if the owner of the property, materials, or stock so delivered, or the person entitled thereto shall not, when such article shall have been constructed, completed, altered, fitted, or repaired, or the time having expired for the keeping such stock, and the same being ready to be delivered to such owner or other persons, and the charges thereon shall be due and payable, pay to such mechanic, artisan, tradesman, or other person the amount of such charges, the person having such lien may enforce the same as hereinafter provided: Provided, however, Any mechanic, artisan or tradesman who shall make, clean, alter or repair any article of personal property at the request of the owner or legal possessor *of personal property at the request of the owner or legal possessor* of property shall have a lien on such property so made, cleaned, altered or repaired for his just and reasonable charges for work done, and material furnished, and may hold and retain possession of the same until such just and reasonable charges shall be paid, and in default of payment may foreclose said lien, as hereinafter provided. When any property upon which a mechanic, artisan, tradesman, or other person shall have a lien for unpaid charges under this act shall remain in possession of a mechanic, artisan, tradesman or other person without payment and without proceeding at law in reference thereto, for a period of 9 months, such mechanic, artisan, tradesman, or other person may sell such property at public sale upon like notice and proceeding as in the case of a constable sale on execution. Thirty days before the date of said sale, such mechanic, artisan, tradesman or other person shall give notice of the time and place of said sale and the amount claimed, by depositing the same in the postoffice with postage prepaid and registered and addressed to the last known address of the said owner or person who delivered said property to such mechanic, artisan, tradesman, or other person and which notice may be in substance as follows:

....., Michigan.
 19

John Smith,

.....Michigan.

You are hereby notified that I hold the property hereinafter described and claim a lien upon the same for work (and materials) and expenses in connection therewith, amounting to dollars, and that I shall offer said property for sale at my place of business (in the township of), at number street, in the city of, county of, State of Michigan, on the day of, at o'clock in the noon, to satisfy the amount of my said claim and expenses.

Said property is described substantially as follows:

Signed,

.....

If such owner or other person in his behalf shall not pay the amount of such claim and charges before the advertised day of sale, said property shall thereupon be sold pursuant to said notice of sale, to the highest bidder, and said mechanic, artisan, tradesman or other person may become the purchaser. The proceeds of such sale shall be applied to the payment of said lien, costs and expenses, and the balance, if any, shall be paid to the city or township clerk of the city or township where such sale takes place, for the benefit of such owner, and notice of such deposit shall be sent to him by registered mail.

HISTORY: CL 1857, 5104;—CL 1871, 6825;—Am. 1873, p. 118, Act 83, Eff. July 31;—How. 8401;—CL 1897, 10748;—CL 1915, 14833;—Am. 1917, p. 811, Act 331, Eff. Aug. 10;—CL 1929, 13188;—CL 1948, 570.187.

*COMPILERS' NOTE: That portion of this section between the asterisks would seem to be needless repetition.

570.188 Suit for recovery of charges; commencement.

Sec. 38. The person having such lien may commence a suit for the recovery of such charges, by summons in the usual form, before any justice of the peace of the city or township in which he resides, or in any court, as the case may require, against the person liable for the payment thereof.

HISTORY: CL 1857, 5105;—CL 1871, 6826;—How. 8402;—CL 1897, 10749;—CL 1915, 14834;—CL 1929, 13189;—CL 1948, 570.188.

570.189 Suit for recovery of charges; proceedings in case summons is personally served.

Sec. 39. If such summons be returned personally served upon the defendant, the same proceedings shall thereupon be had, in all respects, as in other suits commenced by summons, in which there is a personal service of process, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1857, 5106;—CL 1871, 6827;—How. 8403;—CL 1897, 10750;—CL 1915, 14835;—CL 1929, 13190;—CL 1948, 570.189.

570.190 Suit for recovery of charges; proceedings in case defendant cannot be found.

Sec. 40. If the officer return upon such summons, that the defendant cannot be found, within his county, the same proceedings shall be thereupon had, in all respects, as near as may be, as in suits commenced by attachment, in which there is not a personal service of a copy of the attachment upon the defendant, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1857, 5107;—CL 1871, 6828;—How. 8404;—CL 1897, 10751;—CL 1915, 14836;—CL 1929, 13191;—CL 1948, 570.190.

570.191 Suit for recovery of charges; judgment and execution.

Sec. 41. If the plaintiff recover judgment in such suit, execution shall issue thereon in the same manner and with the like effect, as upon judgments rendered in suits commenced by attachment, and the property upon which the plaintiff holds such lien, or

so much thereof as shall be sufficient to satisfy such execution, may be sold thereon in the same manner as if it had been seized and held upon an attachment in such suit.

HISTORY: CL 1857, 5108;—CL 1871, 6829;—How. 8406;—CL 1897, 10752;—CL 1915, 14837;—CL 1929, 13192;—CL 1948, 570.191.

570.192 Application of chapter.

Sec. 42. The provisions of this chapter concerning liens upon personal property, and enforcing the same, shall apply to all cases of personal property on which the bailee or keeper thereof has by law a lien for any keeping, feed, care or labor by him bestowed upon such property.

HISTORY: CL 1857, 5108;—CL 1871, 6830;—How. 8406;—CL 1897, 10753;—CL 1915, 14838;—CL 1929, 13193;—CL 1948, 570.192.

570.193 Additional lien for expense of keeping animals.

Sec. 45. If the property upon which any such lien shall be enforced as provided in this chapter, consists of horses, cattle, sheep, swine, or other beasts, and any expenses shall have been incurred by the person having such lien after the same accrued, in keeping and taking care of such property, the amount of such expenses, shall be an additional lien upon the property, and shall be computed and ascertained upon the trial, or assessment of damages, and included in the judgment.

HISTORY: CL 1857, 5110;—CL 1871, 6831;—How. 8407;—CL 1897, 10754;—CL 1915, 14839;—CL 1929, 13194;—CL 1948, 570.193.

570.194 Labor lien on property of iron or copper mining corporation; precedence, enforcement.

Sec. 44. Every person who shall furnish or perform any labor for any corporation, organized for the purpose of mining, smelting or manufacturing iron, copper, silver, or other ores or minerals, in the upper peninsula of this state, and every bona fide holder of any draft or order for the payment of money due for any such labor, issued or drawn by any officer, clerk or agent of any such corporation, shall have a lien for the amount due thereon or therefor, upon all the real and personal property of such corporation, lying and being in the said upper peninsula, which said lien shall take precedence of all other debts, judgments or decrees, liens or mortgages, against such corporation, except liens accruing to this state for taxes, fines or penalties: and every such lien may be proceeded on, enforced and collected out of such real and personal property, or either of the same, in the same manner and under the same regulations, limitations and conditions, as near as may be, as are herein provided for the enforcement and collection of other liens on real or personal property, as the case may be: Provided, That in the enforcement of any lien provided for in this section, it shall not be necessary to file, prove or produce any written contract relative to the labor on which such lien is based.

HISTORY: Add. 1867, p. 279, Act 201, Eff. June 27;—CL 1871, 6832;—How. 8408;—CL 1897, 10755;—CL 1915, 14840;—CL 1929, 13195;—CL 1948, 570.194.

Act 254, 1909, p. 438; Eff. Sep. 1.

AN ACT establishing a lien for labor and services upon the property of any corporation organized for the purpose of mining coal, shale or clay.

The People of the State of Michigan enact:

570.201 Labor lien on property of coal, shale or clay mining corporation; precedence, enforcement.

Sec. 1. Every person who shall furnish or perform any labor for any corporation, organized for the purpose of mining coal, shale or clay, and every bona fide holder of any draft or order for the payment of money due for any such labor issued or drawn by an officer, clerk or agent of any such corporation, shall have a lien for the amount due thereon or therefor upon all the real and personal property of such corporation. Said

lien shall take precedence of all other debts, judgments or decrees, liens or mortgages against such corporation, except liens accruing to this state for taxes, fines or penalties, and every such lien may be proceeded on, enforced and collected out of such real and personal property, or either of the same, in the same manner and under the same regulations, limitations and conditions as near as may be as are provided for by the law for the enforcement and collection of other liens on real or personal property as the case may be: Provided, That in the enforcement of any lien provided for in this act, it shall not be necessary to file, prove, or produce any written contract relative to the labor on which such lien is based.

HISTORY: CL 1915, 14841;—CL 1929, 13196;—CL 1948, 570.201.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 14842;—CL 1929, 13197;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 43, 1943, p. 39; Eff. Jul. 30.

AN ACT to establish, protect and enforce by lien the rights of tradesmen and other persons furnishing labor or materials for the cleaning, glazing, laundering, pressing, repairing, altering, storing or delivering of clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture and furnishings, and storage thereof, and to repeal all acts contravening the provisions of this act.

The People of the State of Michigan enact:

570.211 Goods delivered to tradesmen for cleaning; sale, notice.

Sec. 1. Whenever any person shall deliver to any tradesman as hereinafter defined, any clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings to be dry-cleaned, dyed, pressed, laundered, altered or repaired, such article or articles may, after a period of 90 days or more, be sold to pay the reasonable or agreed charges and the costs of notifying said owner and the costs of sale: Provided, however, That the tradesman to whom such charges are payable and owing shall first notify the owner or owners of the time and place of such sale in the manner hereinafter set forth.

HISTORY: CL 1948, 570.211.

570.212 Goods delivered to tradesmen for cleaning; sale, notice; storage; exceptions.

Sec. 2. Whenever any person shall deliver to any tradesman as hereinafter defined, any clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings for storage or on which any of the services or labors mentioned in the preceding section of this act have been performed and then placed in storage by agreement and the said article or articles shall remain in the possession of the tradesman without the reasonable and agreed charges having been paid for a period of 9 months, such clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings may be sold to pay said charges: Provided, however, That the tradesman to whom such charges are payable and owing shall first notify the owner or owners of the time and place of such sale in the manner hereinafter set forth: Provided, however, That persons, firms, partnerships or corporations operating as warehouses or warehousemen shall not be affected by this section.

HISTORY: CL 1948, 570.212.

570.213 Goods delivered to tradesmen for cleaning; lien, enforcement of payment; notice of intent to sell.

Sec. 3. In either of the cases mentioned in the 2 preceding sections, if the owner of the clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings shall not pay the tradesman and accept delivery thereof, and the services rendered by the tradesman shall have been completed and the time having expired for the keeping or storage of such article or articles, and the same shall be ready for delivery to such owner or other persons, and the charges thereon shall be due and payable, the tradesman to whom the amount of such charges are payable may have a lien thereon for such charges and may enforce the payment thereof by selling said clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings at public or private sale in the following manner:

Thirty days before the date of such sale, such tradesman shall give notice of the time and place of said sale and the amount claimed, by depositing the same in the post office with postage prepaid and registered and addressed to the last known address of the said owner or person who delivered said property to such tradesman, which notice may be in substance as follows:

NOTICE OF INTENT TO SELL

To194

..... name address

..... city state

Pursuant to the provisions of Act No. of the Public Acts of Michigan (effective 1943) you are hereby notified that the property hereinafter described belonging to you, and upon which the undersigned claims a lien for services and labor rendered thereon and/or for storage thereof, will be sold to satisfy the amount of said claim and expenses, on the

..... day of A.D., 194, at A.M.

at P.M.

..... address city

..... state

Signed trade name or corporate name

By officer, owner or partner

..... description of property

N.B. The above-described property may be obtained upon payment of charges by you before the hour of sale.

Any registered letter returned by the post office due to inability to deliver the same, and all receipts showing delivery of registered letters, shall be kept by such tradesman for 2 years.

HISTORY: CL 1948, 570.213.

570.214 Goods delivered to tradesmen for cleaning; payment of overplus to owner.

Sec. 4. The tradesman to whom the charges mentioned in the preceding sections are payable shall, from the proceeds of sale, deduct the charges due plus the costs of notifying the owner and the costs of sale and shall hold the overplus, if any, subject to the order of the owner and shall, within 10 days following the date of such sale, mail to the owner thereof at his last known address, a notice of the sale, the amount of overplus, if any due him, and at any time within 12 months thereafter, upon demand by the owner, pay to the owner said sums or overplus in his hands.

HISTORY: CL 1948, 570.214.

570.215 Notices; display in plant or store.

Sec. 5. All tradesmen taking advantage of this act shall at all times display in a prominent place in their plant and retail stores 2 printed notices which shall read as follows:

"All clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings cleaned, pressed, glazed, laundered, washed, altered or repaired and not called for within 90 days, will be sold to pay charges, pursuant to the provisions of Act No. of the Public Acts of Michigan (effective, 1943)." "All clothing, garments, wearing apparel, fur coats, curtains, draperies, laundry, rugs, carpets, household furniture or furnishings stored by agreement and charges not having been paid for 9 months, will be sold to pay charges pursuant to the provisions of Act No. of the Public Acts of Michigan (effective, 1943)."

HISTORY: CL 1948, 570.215.

570.216 Tradesman or tradesmen; definition.

Sec. 6. (Definitions). For the purpose of this act the word "tradesman or tradesmen" shall be construed to include any individual, firm, copartnership or corporation engaged in the business of dry-cleaning, dyeing, laundering, tailoring, or any retail cleaning store owner or operator, furrier or any carpet cleaner, rug cleaner, furniture or household furnishings cleaner.

HISTORY: CL 1948, 570.216.

570.217 Tradesmen; release from liability.

Sec. 7. Any tradesman who shall have fully complied with the provisions of this act shall thereafter be released from any and all liability to any person or persons whose property may have been sold in accordance with the provisions of this act.

HISTORY: CL 1948, 570.217.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 287, Imd. Eff. May 25.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 287, Imd. Eff. May 25.

Act 146, 1937, p. 225; Imd. Eff. Jul. 2.

AN ACT to establish, protect and enforce by lien the rights of laborers, contractors,

sub-contractors and material men and other persons furnishing labor, tools, or materials, or other things of value, for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or the constructing or repairing of any oil or gas pipe line, oil or gas derrick, or oil tank.

The People of the State of Michigan enact:

570.251 Lien for labor or material for oil or gas well or pipe line; extent; waiver by agreement; delivery of materials; additional liens, recording.

Sec. 1. Any person, firm or corporation, who shall by any contract or contracts, express or implied or partly expressed and partly implied with the owner, part owner or lessee of any leasehold, for oil and gas purposes or of any gas pipe line or oil pipe line, or with one whom such owner, part owner or lessee has authorized or knowingly permitted to contract in his or their behalf for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well or for the constructing or repairing of any oil or gas derrick, oil tank, gas pipe line or oil pipe line, perform any labor or furnish any materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies or other things of value used in the drilling, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or other things of value or perform any labor in constructing or putting together any of the apparatus, fixtures or machinery used in the drilling, boring, torpedoing, acidizing, operating, completing or repairing of any oil or gas well, or who shall furnish any material, equipment, machinery, supplies or other things of value or perform any labor for constructing, operating or repairing any oil pipe line or gas pipe line, oil or gas derrick or oil tank, shall have a lien upon such leasehold, oil and gas produced from said leasehold, oil well, gas well, lease for oil and gas purposes, oil or gas derrick, oil tank, oil pipe line, gas pipe line, buildings, fixtures, appurtenances, and upon the material, tools, machinery and supplies or other things of value so furnished, and upon the oil and gas fixtures, machinery and appliances used in operations for oil and gas purposes upon the leasehold or premises for which said material and supplies were furnished or labor performed, for the amount due to him, it or them for such materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies, services or labor or other things of value and shall be entitled to interest at the legal rate from the date the same is due. These liens shall extend to a life estate, an estate for years, or any other estate or any right of redemption or other interest which such owner, part owner, or lessee may have in such leasehold at the time of making such contract or may subsequently acquire therein, and to an estate in fee when the owner or part owner thereof drills or develops said land for oil or gas purposes. Such liens shall follow the property and each and every part thereof and be enforceable against the said property wherever the same may be found and shall attach as of the date on which the first of such materials are furnished or labor performed under the contract. The taking of any note or additional security by any party entitled to such lien for the amount so due or any part thereof shall not be a waiver of any right of lien which such party may have by virtue of this act unless made a waiver by express agreement of the parties. Materials or other items for which such lien is given which are furnished by the same contractor to the same owner or to the successors or assigns of such owner for operations on same premises or leasehold, which are delivered on separate orders given at various times shall, for the purpose of this act be considered as having been furnished under a single contract: Provided, That not more than 3 months shall have elapsed between the date of delivery of any such item and the date of the last preced-

ing delivery of materials therefor. There may be additional and successive contracts upon which additional liens may be recorded as herein provided. In no event shall it be necessary to fix or stipulate in any contract a time for the completion or a time for payment in order to obtain a lien under this act.

HISTORY: CL 1948, 570.251;—Am. 1958, p. 72, Act 67, Eff. Sep. 13.

CITED IN OTHER SECTIONS: Sections 570.251 to 570.286 are cited in § 319.369.

570.252 Lien for labor or material for oil or gas well or pipe line; contractors or sub-contractors.

Sec. 2. Any person, firm or corporation who shall furnish any such material, machinery or supplies, as described in section 1 of this act, to a contractor or a sub-contractor, or any person who shall perform such labor for a contractor or a sub-contractor, or who as an artisan or day laborer in the employ of such contractor or sub-contractor, shall perform any such labor, shall have a lien the same as provided in section 1 of this act, from the same time and in the same manner and to the same extent as the original contractor for the amount due for such material, machinery, tools, supplies or labor, as provided in section 1 of this act, and such lien shall be enforced in the same manner and within the same time as provided for the enforcement of the lien of such original contractor.

HISTORY: CL 1948, 570.252.

570.253 Owner or lessee may retain money to pay demands; statement of contractor; protection of owners.

Sec. 3. The owner, part owner, or lessee may at any time retain from any monies due to the original contractor, an amount sufficient to pay all demands owing or unpaid to any sub-contractor, material man, or laborer who has filed and certified the notice in the manner and form as provided in section 2 of this act. The original contractor shall, whenever any payment of money shall come due from the owner, part owner, or lessee or whenever he desires to draw any money from the owner, part owner, or lessee on such contract, make out and give to the owner, part owner, or lessee, or his agent, a statement under oath, of the number and name of every sub-contractor or laborer in his employ, and of every person furnishing the materials, giving the amount if anything, which is due or to become due to them or any of them for work done or materials furnished, and the owner, part owner or lessee or his agent may retain out of any money then due or to become due to the contractor, an amount sufficient to pay all demands that are due or to become due to such sub-contractors, laborers, and material men, as shown by the contractor's statement, and pay the same to them according to their respective rights, and all payments so made shall, as between such owner, part owner, or lessee, and such contractor, be considered the same as if paid to such original contractor. Until the statement provided for in this section is made, in manner and form as herein provided, the contractor shall have no right of action or lien against the owner, part owner, or lessee on account of such contract, and any payments made by the owner, part owner, or lessee, before such statement is made, or without retaining sufficient money, if that amount be due or is to become due, to pay the sub-contractors, laborers, or material men, as shown by the statement, shall be considered illegal and made in violation of the rights of the persons intended to be benefited by this act, and the rights of such sub-contractors, laborers and material men to a lien shall not be affected thereby. If neither such owner, part owner, lessee, or his agent can be found within the county, then it shall not be necessary for the contractor to make and deliver such statement as a prerequisite to the institution of proceedings under this act, or other suit or proceeding. In order that the owner, part owner, or lessee may be protected, he may at any time during the progress of the work demand in writing of the contractor, the statement herein provided for, which shall be made by the contractor and given to the owner, part owner, or lessee, or his agent, and

if such contractor fail to furnish such statement within 5 days after demand made, he shall be liable to such owner, part owner, or lessee, each time he so refuses or neglects to comply with such demand, in the sum of 100 dollars, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case or in any other appropriate proceeding.

HISTORY: CL 1948, 570.253.

570.254 Statement of lien; contents, verification; recording with register of deeds, fee.

Sec. 4. Every person, or his agent or attorney, whether contractor, sub-contractor, material man or laborer, who wishes to avail himself of the provisions of this statute, shall make and record in the office of the register of deeds, in the county or counties in which said leasehold, oil or gas well, pipe line, oil or gas derrick, oil tanks, materials, machinery or other property to be charged with the lien is situated, a just and true statement or account of the demand due him, over and above all legal setoffs, setting forth the time when such materials were furnished or labor performed, and for whom, and containing a sufficiently correct description of the premises, leasehold or property to be charged with the lien to identify the same, and the name of the owner, part owner or lessee thereof, if known. Such verified statement shall be recorded at any time after the contract is made and within 6 months from the date on which the last of the materials shall have been furnished or the last of the labor shall have been performed by the person claiming the lien and may be amended at any time before the final judgment or decree. Such verified statement of lien shall be recorded and indexed by the register of deeds in the same manner as provided by law for the recording of real estate mortgages, and such recording shall have the same effect as to notice as against subsequent purchasers or encumbrancers as the recording of a mortgage. The register of deeds shall receive as his fees for the recording and indexing of such liens and all subsequent papers affecting such liens, the same fees as are provided by law for recording a real estate mortgage.

HISTORY: CL 1948, 570.254;—Am. 1958, p. 73, Act 67, Eff. Sep. 13.

570.255 Statement of lien; service of copy on owner or lessee, proof, posting.

Sec. 5. Every person recording such statement or account as provided in the preceding section, except those persons contracting or dealing directly with the owner, part owner or lessee of such premises, shall serve a copy of such statement within 30 days after the recording thereof, upon the owner, part owner, lessee, contractor or sub-contractor or his authorized agent, and upon any persons acquiring any interest in the property after the date of the furnishing of the first materials or the date when the first labor was performed, which said interest shall appear of record in the register of deeds' office for the county in which the lien claim is recorded, or sent to such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property, by registered mail addressed to him at his last known address, within 30 days next after the date of recording such statement, a copy of such statement, and the affidavit of the person so serving or mailing such copy as to the time and manner of service, shall be sufficient proof of the service thereof: Provided, That if the name or address of such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property be unknown, in lieu of such service it shall be sufficient if a copy of such statement be posted in a conspicuous place on the premises charged with such lien within said 30 day period.

HISTORY: CL 1948, 570.255;—Am. 1958, p. 73, Act 67, Eff. Sep. 13.

570.256 Liens; duration, priority over other interests, subrogation.

Sec. 6. The several liens herein provided for shall continue for 1 year after such statement or account is recorded in the office of the register of deeds and no longer unless proceedings are begun to enforce same as hereinafter provided, and such liens shall take priority as follows:

First: As between persons claiming liens under this statute, the several liens upon the same property attaching by reason of work, labor or materials furnished in carrying forward or completing the same oil or gas wells, oil or gas derrick, oil tanks, oil or gas pipe line, machinery, fixtures or appurtenances, shall be of equal rank and share pro rata in the proceeds of any sale of such property under any judgment or decree entered in a suit brought to enforce the same.

Second: They shall take priority to all garnishments for the contract debt made prior or subsequent to the commencement of the furnishing of the materials or performance of the labor without regard to the date of filing the claims for lien.

Third: They shall be preferred to all other titles, liens, or encumbrances which may attach to or upon such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures or appurtenances or upon the leasehold upon which they are situated, which shall either be given or recorded subsequent to the commencement of the furnishing of the materials or performance of the labor.

Fourth: The liens for such labor or materials furnished, including those for additions, repairs and betterments, shall attach to the leasehold estates, oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements for which they are furnished or done, subject to any prior recorded title, claim, lien, encumbrance, or mortgage to or upon the leasehold estate upon which such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements belong or are put. Any person holding a lien for such labor or materials furnished upon any leasehold estate subject to any prior recorded lien, encumbrance or mortgage may pay off any such prior lien, encumbrance or mortgage, and shall thereupon be subrogated to all of the rights of the prior holder of such lien, encumbrance or mortgage.

HISTORY: CL 1948, 570.256;—Am. 1958, p. 74, Act 67, Eff. Sep. 13.

570.257 Proceedings to enforce lien; lis pendens, parties, cross bills, practice and procedure, sale, confirmation, costs.

Sec. 7. Proceedings to enforce such lien shall be by bill in chancery, under oath, and notice of lis pendens recorded in the office of the register of deeds, shall have the effect to continue such lien pending such proceedings. And in such proceedings, the complainant shall make all persons having rights in said leasehold estate affected or to be affected by such liens so recorded in the office of the register of deeds, and all persons holding like liens so recorded, parties to such action. And all persons holding like liens or any other persons having rights in said leasehold estate, may make themselves parties thereto on motion to the court and notice to complainant and may file their intervening or cross bills or answers claiming the benefit of cross bills and notices of lis pendens therein. The practice and procedure in such suit shall be the same as in other cases in chancery and the court shall thereupon settle and determine the rights and liabilities of all of the parties in the matter, and make such decree as may be required to determine and enforce the rights and liabilities of the various parties. Upon final decree the court may order a sale of the leasehold estate, oil or gas well, oil or gas derrick, oil tank, oil or gas pipe lines, machinery, fixtures or appurtenances, together or separately, by a circuit court commissioner or receiver, or may order the property into the hands of a receiver to be leased or rented from time to time under the direction of the court until the liens shall be discharged, or make such other order or disposition of

the premises as justice may require. If upon coming in and confirmation of the final report any portion of the liens shall still be unpaid, the court may enter personal decree for the same against the party or parties who may be personally liable therefor, and the execution shall issue for the same as upon other personal decrees rendered. The costs in all cases shall be subject to the discretion of the court and shall be paid out of the proceeds of the sale or by any parties to the suit as justice and equity may require.

HISTORY: CL 1948, 570.257;—Am. 1958, p. 74, Act 67, Eff. Sep. 13.

570.258 Lien not to preclude any other lawful remedy.

Sec. 8. The provisions of this act shall not preclude anyone entitled to a lien hereunder from pursuing any other remedy given by law for the collection of the indebtedness for which a lien is hereby given.

HISTORY: CL 1948, 570.258.

570.259 Lienholder to execute discharge upon payment of debt; recording with register of deeds, fee; discharge by ex parte proceedings.

Sec. 9. Upon the full payment of any indebtedness for which a claim for lien has been recorded under the provisions of this act, the party claiming such lien shall upon request of any person interested in the property affected by such lien, execute, acknowledge and cause to be recorded with the register of deeds of the county wherein such lien claim shall have been recorded, a full release and satisfaction of such lien. Such release or satisfaction shall be recorded and processed by the register of deeds in the same manner as provided by law for discharging a real estate mortgage. The fee of the register of deeds for recording such release shall be the same as is provided by law for recording a discharge of real estate mortgage: Provided also, That if no proceedings to enforce any lien or liens provided for in this act shall be made within the 1 year or said lien or liens have been paid, said lien or liens may be discharged of record by ex parte proceedings in the same manner as provided by law for the discharge of mortgages by ex parte proceedings.

HISTORY: CL 1948, 570.259;—Am. 1958, p. 74, Act 67, Eff. Sep. 13.

570.260 Assignment or waiver of lien.

Sec. 10. All liens or claims for liens which may arise or accrue under the terms of this act shall be assignable, and proceedings to enforce such liens, or claims for liens may be maintained by and in the name of the assignees, who shall have as full and ample power to enforce the same as if such proceedings were taken under the provisions of this act by and in the name of the lien claimants themselves.

HISTORY: CL 1948, 570.260.

570.261 Notice by publication.

Sec. 11. When any defendant resides out of the state, or is absent from the state, or concealed therein, or cannot be found by reason of his continued absence from his place of residence, or when it cannot be ascertained in what state or country the defendant resides, the complainant may cause notice to be given by publication in like manner, and upon same conditions as in ordinary suits in chancery.

HISTORY: CL 1948, 570.261.

570.262 Liberal construction.

Sec. 12. This act is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial results, intents and purposes thereof, and a substantial compliance with its several provisions shall be sufficient for the validity of the lien or liens hereinbefore provided for, and to give jurisdiction to the court to enforce the same.

HISTORY: CL 1948, 570.262.

570.263 Oil or gas wells and pipe lines; definitions.

Sec. 13. For the purpose of this act the terms "owner, part owner or lessee" shall be construed to include all the interests, legal or equitable, which any person, firm, corporation, association, syndicate, trustee, co-partnership or joint adventurer may have in the leasehold, oil or gas runs, oil well, gas well, oil pipe line, gas pipe line, oil or gas derrick, oil tank, machinery, materials, tools, supplies, buildings and appurtenances upon which the improvements contemplated by this act are made.

HISTORY: CL 1948, 570.263.

Sec. 14. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 15. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

570.266 Declaration of emergency.

Sec. 16. An emergency is hereby declared by reason whereof it is necessary for the immediate preservation of the public peace, safety, convenience and welfare that this act take immediate effect.

HISTORY: CL 1948, 570.266.

Act 312, 1915, p. 563; Eff. Aug. 24.

AN ACT to establish, protect and enforce by lien the rights of garage keepers who furnish labor or material for storing, repairing, maintaining, keeping or otherwise supplying automobiles or other vehicles. Am. 1964, p. 217, Act 168, Eff. Aug. 28.

The People of the State of Michigan enact:

570.301 Garage keeper's lien; priority over other liens, limitation.

Sec. 1. Every garage keeper who in pursuance of any contract, expressed or implied, written or unwritten, furnishes any labor, material or supplies shall have a lien upon any vehicle stored, maintained, supplied or repaired by him for the proper charges due for the storage, maintenance, keeping and repair thereof and for gasoline, electric current or other accessories and supplies furnished or expenses bestowed or labor performed thereon at the request or with the consent of the registered owner of the vehicle, whether such owner be a conditional sale vendee or a mortgagor remaining in possession or otherwise, and such garage keeper may detain the vehicle at any time it is in his possession within 90 days after performing the last labor or furnishing the last supplies for which the lien is claimed. The lien insofar as the same is for labor and material furnished in making repairs upon a vehicle shall have priority over all other liens upon the vehicle. The lien shall become of no effect as against the holder of a chattel mortgage, conditional sales agreement or other lien prior to the accrual of the lien upon the payment by the prior lien holder to the garage keeper of the amount of the lien, but not exceeding \$600.00 in the case of a ground vehicle, \$2,000.00 in the case of an aircraft and \$200.00 in the case of watercraft or any accessory used for the operation of watercraft, which payment shall then be added to the amount of the lien of the prior lien holder.

HISTORY: CL 1915, 4833;—CL 1929, 4793;—Am. 1939, p. 503, Act 274, Eff. Sept. 29;—Am. 1941, p. 305, Act 204, Eff. Jan. 10, 1942;—CL 1948, 570.301;—Am. 1949, p. 170, Act 161, Eff. Sep. 23;—Am. 1951, p. 43, Act 41, Eff. Sep. 28;—Am. 1964, p. 218, Act 168, Eff. Aug. 28;—Am. 1965, p. 703, Act 357, Imd. Eff. Jul. 23.

570.302 Garage keeper's lien; foreclosure, notice, sale, certificate of title, surplus.

Sec. 2. If such charges are not paid within 45 days after personal service, or service by registered or certified mail addressed to the last known address of the registered

owner of the vehicle, of a claim of lien together with an itemized statement of the account upon the registered owner of the vehicle, the garage keeper may sell the vehicle at public auction. The sale shall be held not less than 20 days nor more than 60 days after the expiration of the 45-day period. Before any sale is held, the garage keeper shall give to the department of state and to any lien holder, as shown by the records of the department, and to the registered owner of the vehicle, not less than 10 days' written notice of the time and place of the sale. Notice to the department of state and the lien holders shall be given by first class mail, addressed to the department of state, Lansing, Michigan, and to the address of the lien holders, as shown by the records of the department. Notice to the registered owner of such vehicle shall be given personally or by certified mail, directly to the last known address of the registered owner. The garage keeper may bid for and purchase the vehicle at the sale. If the garage keeper directly or indirectly purchases the vehicle at the sale, the proceeds of the sale shall be considered to be either the amount paid by the garage keeper or the fair cash market value of the vehicle at the time of sale, whichever is the greater. Any surplus received at the sale, after all charges of the garage keeper have been paid and satisfied and all costs of sale have been deducted, shall be returned to any lien holder who has given notice to the garage keeper of his claim of lien, before distribution of the proceeds of the sale is complete, and the balance shall be returned to the registered owner of the vehicle.

HISTORY: CL 1915, 4834;—Am. 1927, p. 904, Act 380, Eff. Sept. 5;—CL 1929, 4794;—CL 1948, 570.302;—Am. 1964, p. 218, Act 168, Eff. Aug. 28.

570.302a Garage keeper's lien; bailor an unregistered owner, notice to sheriff.

Sec. 2a. If the garage keeper discovers, subsequent to furnishing any labor, material or supplies for any vehicle stored, maintained, supplied or repaired by him, that the vehicle was not currently registered at the time it was left in the garage for labor, material, supplies, storage or repair, or that the person who left the vehicle in the garage was not the registered owner of it, the garage keeper shall notify the sheriff of the county within 15 days of discovering such facts. The vehicle shall then be turned over to the sheriff of the county to be disposed of according to the terms of section 252 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.252 of the Compiled Laws of 1948.

HISTORY: Add. 1964, p. 218, Act 168, Eff. Aug. 28.

570.303 Garage keeper; definition; municipal ordinances.

Sec. 3. Wherever in the act is used the term "garage keeper", it shall be construed to include all persons who for hire or reward, publicly offer to store, maintain, keep and repair automobiles, aircraft, watercraft or any accessory used in the operation of watercraft and other vehicles and to furnish accessories and supplies for automobiles, aircraft, watercraft or any accessory used in the operation of watercraft or other vehicles for the transportation of persons or merchandise upon and over the public streets and highways or through the air. In municipalities wherein are in force any laws or ordinances relative to the regulation and licensing of garages, no person shall be entitled to avail himself of the provisions of the act, unless he shall, during the period of the whole time covered by his claim for lien, have been duly licensed and shall have fully complied with all laws and ordinances relative to the licensing of garages.

HISTORY: CL 1915, 4835;—CL 1929, 4795;—Am. 1931, p. 165, Act 103, Imd. Eff. May 18;—CL 1948, 570.303;—Am. 1964, p. 218, Act 168, Eff. Aug. 28;—Am. 1965, p. 703, Act 357, Imd. Eff. Jul. 23.

Act 116, 1911, p. 175; Eff. Aug. 1.

AN ACT to establish a lien upon hay, grain, seed and other products for pressing, threshing or hulling the same, to provide the manner of enforcing such lien, and prescribing a penalty for the selling, secreting or otherwise disposing of property subject to such lien. Am. 1913, p. 131, Act 92, Eff. Aug. 14.

The People of the State of Michigan enact:

570.331 Lien for threshing, pressing or hulling.

Sec. 1. Any owner, part owner or lessee of a hay press, threshing machine, huller or other similar machine who shall press, thresh, or hull any hay, grain, corn, beans, peas or other vegetable products for another, shall, upon the filing of the statement herein provided, have a lien for the value of such services, or in case there is an agreed price, then for such agreed price upon the hay, grain or other products so pressed, threshed or hulled; said lien to commence from the time of filing notice and making demand as hereinafter provided. Such lien shall not attach in any case where the hay, grain or other products which may have been pressed, threshed, hulled or husked, shall have passed into the hands of an innocent purchaser or dealer in the usual course of trade.

HISTORY: Am. 1913, p. 131, Act 92, Eff. Aug. 14;—CL 1915, 14872;—CL 1929, 5008;—CL 1948, 570.331.

570.332 Lien for threshing, pressing or hulling; statement of lien, contents, filing; waiver.

Sec. 2. Any person or persons entitled to a lien under this act shall, within 20 days after the pressing, threshing or hulling is completed, file in the office of the register of deeds of the county in which the hay, grain, seed or other products were grown, or pressing, threshing or hulling was done, a statement in writing verified by oath, stating the name of the person claiming the lien, the amount, quantity and kind of hay or grain, seed or other products pressed, threshed or hulled, the amount due claimant for said services as near as may be, over and above all legal set-offs, the name of the person for whom the pressing, threshing or hulling was done, and a description of the land upon which the hay, grain, seed or other products were grown or pressing, threshing, or hulling done; such description shall be deemed sufficient if it properly identifies the premises by the name of the owner or occupant, or other description which accurately and clearly identifies the location of the property upon which such lien is claimed: Provided, That such lien shall be deemed to have been waived by the person entitled thereto, unless such statement shall be filed within the period of 20 days as aforesaid.

HISTORY: Am. 1913, p. 131, Act 92, Eff. Aug. 14;—CL 1915, 14873;—CL 1929, 5009;—Am. 1939, p. 155, Act 93, Eff. Sept. 29;—CL 1948, 570.332.

570.333 Lien for threshing, pressing or hulling; duty of register of deeds, fees.

Sec. 3. The register of deeds, upon presentation of such statement and notice of lien, shall file the same in his office in the same manner as provided by law for the filing of chattel mortgages; and he shall be entitled to charge and receive from the person filing such statement and notice the same fee as provided by law for filing chattel mortgages.

HISTORY: CL 1915, 14874;—CL 1929, 5010;—Am. 1939, p. 156, Act 93, Eff. Sep. 29;—CL 1948, 570.333;—Am. 1958, p. 80, Act 72, Eff. Sep. 13.

570.334 Lien for threshing, pressing or hulling; certified copy as evidence, effect.

Sec. 4. A copy of any such statement and notice of lien as aforesaid, certified by the register of deeds, shall be received in evidence in any proceeding taken to enforce the lien herein provided for, but only of the fact that such statement and notice of lien was

received and filed according to the endorsement of the register of deeds thereon, and of no other fact.

HISTORY: CL 1915, 14875;—CL 1929, 5011;—Am. 1939, p. 156, Act 93, Eff. Sept. 29;—CL 1948, 570.334.

570.335 Suit for recovery of charges; commencement, manner and place.

Sec. 5. The person having such lien may commence a suit for the recovery of such charges, by summons in the usual form, before any justice of the peace of the city or township in which he resides against the person liable for the payment thereof.

HISTORY: CL 1915, 14876;—CL 1929, 5012;—CL 1948, 570.335.

570.336 Suit for recovery of charges; proceedings in case of personal service.

Sec. 6. If such summons be returned personally served upon the defendant, the same proceedings shall be had, in all respects, as in other suits commenced by summons, in which there is a personal service of process, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1915, 14877;—CL 1929, 5013;—CL 1948, 570.336.

570.337 Suit for recovery of charges; proceedings in case of no personal service.

Sec. 7. If the officer return upon such summons, that the defendant cannot be found within his county, the same proceedings shall be thereupon had, in all respects, as near as may be, as in suits commenced by attachment, in which there is not a personal service of a copy of the attachment upon the defendant, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1915, 14878;—CL 1929, 5014;—CL 1948, 570.337.

570.338 Judgment; execution.

Sec. 8. If the plaintiff recover judgment in such suit, execution shall issue thereon in the same manner and with the like effect, as upon judgments rendered in suits commenced by attachment, and the property upon which the plaintiff holds such lien, or so much thereof as shall be sufficient to satisfy such execution, may be sold thereon in the same manner as if it had been seized and held upon an attachment in such suit: Provided, That the provisions of this act shall apply only to the parties to the contract.

HISTORY: CL 1915, 14879;—CL 1929, 5015;—CL 1948, 570.338.

570.339 Violation of act; misdemeanor, penalty.

Sec. 9. Any person who shall thereafter upon demand, refuse to pay the amount due for such threshing or hulling, and who shall sell, secrete, or dispose of the property covered by or subject to such lien, without the written consent of the owner or owners of said lien, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding 100 dollars or imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 14880;—CL 1929, 5016;—CL 1948, 570.339.

Act 160, 1897, p. 205; Eff. Aug. 30.

AN ACT to establish a lien upon horses and other animals for the cost of shoeing the same.

The People of the State of Michigan enact:

570.351 Lien for horseshoeing.

Sec. 1. That every person who shall shoe or cause to be shod by his employes, any horse, mule, ox or other animal shall have a lien upon the animal shod for his reason-

able charges for shoeing the same, and each lien conferred by this act shall take precedence of all other liens or claims thereon not duly recorded prior to recording claim of lien as hereinafter provided. But such lien shall not attach when the property has changed ownership prior to the filing of such lien.

HISTORY: CL 1897, 10771;—CL 1915, 14859;—CL 1929, 8777;—CL 1948, 570.351.

570.352 Statement and notice; filing.

Sec. 2. Any person desiring to secure the benefit of this act shall, within 60 days after the shoeing of such horse, mule, ox or other animal, or in case he shall have shod such animal more than once within that time, then within 60 days after the date of the last shoeing, file with the register of deeds of the county in which such animal is, a statement made under oath by the claimant or someone in his or her behalf and a notice of his intention to claim a lien upon such animal for his charges for shoeing the same.

HISTORY: CL 1897, 10772;—CL 1915, 14860;—CL 1929, 8778;—CL 1948, 570.352;—Am. 1958, p. 82, Act 76, Eff. Sep. 13.

570.353 Statement and notice; contents.

Sec. 3. Such statement and notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the animal sought to be charged with the lien, and a description sufficient for identification of the animal upon which the lien is claimed and the amount due the claimant, as near as may be over and above all legal set-offs.

HISTORY: CL 1897, 10773;—CL 1915, 14861;—CL 1929, 8779;—CL 1948, 570.353.

570.354 Successive liens upon same animal.

Sec. 4. Any person may file successive liens upon the same animal for different charges for shoeing the same, and he may include in any 1 claim of lien his charges for any number of times of shoeing such animal; Provided, however, That no lien shall be had for any shoeing of any animal done more than 6 months prior to and filing of the notice of lien.

HISTORY: CL 1897, 10774;—CL 1915, 14862;—CL 1929, 8780;—CL 1948, 570.354.

570.355 Statement and notice; duty of register of deeds, fees.

Sec. 5. It shall be the duty of the register of deeds of the county, upon the presentation to him of any such statement and notice of lien, to file the same in his office in the same manner as provided by law for the filing of chattel mortgages; and he shall be entitled to charge and receive from the person filing such statement and notice the same fee as is required to be paid under the law of the state for the filing of a chattel mortgage.

HISTORY: CL 1897, 10775;—CL 1915, 14863;—CL 1929, 8781;—CL 1948, 570.355;—Am. 1958, p. 82, Act 76, Eff. Sep. 13.

570.356 Statement and notice; copy as evidence.

Sec. 6. A copy of any such statement and notice of lien filed as aforesaid, certified by the register of deeds, shall be received in evidence in any proceeding taken to enforce the lien herein provided for, but only of the fact that such statement and notice of lien was received and filed according to the endorsements of the register of deeds of the county thereon, and of no other fact.

HISTORY: CL 1897, 10776;—CL 1915, 14864;—CL 1929, 8782;—CL 1948, 570.356;—Am. 1958, p. 82, Act 76, Eff. Sep. 13.

570.357 Suit for recovery of charges; commencement.

Sec. 7. The person having such lien may commence a suit for the recovery of such charges, by summons, in the usual form, before any justice of the peace of the township or city in which he resides, or in any court, as the case may require, against the person liable for the payment thereof.

HISTORY: CL 1897, 10777;—CL 1915, 14865;—CL 1929, 8783;—CL 1948, 570.357.

570.358 Suit for recovery of charges; proceedings in case of personal service.

Sec. 8. If such summons be returned personally served upon the defendant, the same proceedings shall thereupon be had in all respects as in other suits commenced by summons in which there is a personal service of process, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1897, 10778;—CL 1915, 14866;—CL 1929, 8784;—CL 1948, 570.358.

570.359 Suit for recovery of charges; proceedings in case of no personal service.

Sec. 9. If the officer return upon such summons that the defendant cannot be found in his county, the same proceedings shall thereupon be had in all respects, as near as may be, as in suits commenced by attachment in which there is not a personal service of the attachment upon the defendant, and judgment shall be rendered in such suit in like manner.

HISTORY: CL 1897, 10779;—CL 1915, 14867;—CL 1929, 8785;—CL 1948, 570.359.

570.360 Judgment; execution.

Sec. 10. If the plaintiff recover judgment in such suit, execution shall issue thereon in the same manner and with the like effect as upon judgments rendered in suits commenced by attachment, and the horse, mule, ox or other animal upon which the plaintiff holds such lien shall not be exempt from execution but may be sold to satisfy such execution in the same manner as if it had been seized and held upon an attachment in such suit.

HISTORY: CL 1897, 10780;—CL 1915, 14868;—CL 1929, 8786;—CL 1948, 570.360.

570.361 Expenses; additional lien.

Sec. 11. All expenses which shall have been incurred by the person having such lien, after the same accrued, shall be an additional lien upon the property, and shall be computed and ascertained upon the trial or assessment of damages, and included in the judgment.

HISTORY: CL 1897, 10781;—CL 1915, 14869;—CL 1929, 8787;—CL 1948, 570.361.

570.362 Findings of court in case of suits or attachments.

Sec. 12. In all suits or attachments prosecuted under the provisions of this act, the court, jury or justice of the peace who shall try the same or make an assessment of damages therein, shall, in addition to finding the sum due the plaintiff, also find that the same is due for the cost of shoeing the horse, mule, ox or other animal described in plaintiff's declaration and is a lien upon the same: Provided, however, That if the court, jury or justice of the peace shall find that the amount due the plaintiff is not a lien upon the property described in the plaintiff's declaration, the plaintiff shall not be non-suited thereby, but shall be entitled to judgment as in other civil actions; but in such case said plaintiff shall not recover or tax any costs other than those allowed and taxable in such a case; and in those cases where the amount due is found to be a lien upon the property mentioned in plaintiff's declaration, the finding or verdict may be in the following form: (The court, jurors, or justice, as the case may be) say that there is due the plaintiff the sum of dollars from the said defendant, and that the same is due for his reasonable charges for shoeing the animal mentioned in plaintiff's declaration (giving a description sufficient for identification of the animal), and that the plaintiff has a lien upon said animal for said amount.

HISTORY: CL 1897, 10782;—CL 1915, 14870;—CL 1929, 8788;—CL 1948, 570.362.

570.363 Proceedings when lien perfected; sale.

Sec. 13. When the said lien shall be duly perfected, as above provided, the horse, mule, ox or other animal, as above provided, shall be disposed of to satisfy said lien as

follows: The person obtaining said lien shall advertise said horse, mule, ox or other animal for sale, in the city, village or township as the case may be, where the claim of lien is filed, in a newspaper published within the city, village or township, as the case may be, if a newspaper be published within the city, village or township, and if not, in a newspaper published within the county once a week for 3 consecutive weeks, giving in said advertisement a description of said animal and cause of sale of same and at the expiration of said time, said horse, mule, ox or other animal shall be sold to the highest bidder, and the surplus, if any, after the payment of said lien and costs of court, and interest on said claim, to the claimant, shall be returned to the owner of said horse, mule, ox or other animal by the sheriff or constable, as the case may be, conducting said sale.

HISTORY: CL 1897, 10783;—CL 1915, 14871;—CL 1929, 8789;—CL 1948, 570.363.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1897, 10783n;—CL 1915, 14871a;—CL 1929, 8790;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 59, 1864, (Ex. Ses.), p. 107; Eff. May 7.

AN ACT to repeal chapter 122 of the Revised Statutes of 1846, and the amendments thereto, and provide for the collection of demands against water-craft.

The People of the State of Michigan enact:

570.401 Repeal; saving clause.

Sec. 1. That chapter 122 of the Revised Statutes of 1846, and an act entitled "An act to amend an act to regulate proceedings in the collection of demands against ships, boats, and vessels," approved April first, 1850, and an act entitled "An act to amend chapter 122 of the Revised Statutes," approved February 17, 1857, the aforesaid laws, constituting chapter 149 of the Compiled Laws, be and the same are hereby repealed; Provided, That this act shall not affect any case or proceeding under the aforesaid laws, commenced before the passage of this act, but every such case or proceeding may be continued to its final consummation in like manner as if this act had not been passed: And further provided, That this act shall not affect any lien which may have accrued under the aforesaid laws and is existing at the time of the passage hereof; but every such lien shall be enforced according to the provisions of this act.

HISTORY: CL 1871, 8647;—How. 8235;—CL 1897, 10788;—CL 1915, 14891;—CL 1929, 13137;—CL 1948, 570.401.

CANALS, HARBORS AND RIVERS: Companies operating, to have liens on vessels for tolls, which liens are enforceable under the provisions of watercraft lien law; see Compilers' § 485.11.

570.402 Liens upon certain watercraft for certain debts.

Sec. 2. Every watercraft of above 5 tons burthen, used, or intended to be used, in navigating the waters of this state, shall be subject to a lien thereon—

Supplies, provisions, labor.

First. For all debts contracted by the owner or part owner, master, clerk, agent or steward of such craft, on account of supplies and provisions furnished for the use of said watercraft; on account of work done, or services rendered, on board of such craft, by seamen, or any employee, other than the master thereof; on account of work done, or services rendered, by any person, in or about the loading or unloading of said watercraft; on account of work done, or materials furnished by mechanics, tradesmen or others, in or about the building, repairing, fitting, furnishing or equipping such craft: Provided, That when labor shall be performed, or materials furnished as aforesaid, by a sub-contractor, or workman, other than an original contractor, and the same is not paid for, said person or persons may give the owner, or his agent, or the master or clerk of said craft, timely notice of his or their said claim, and from thenceforth said

person or persons shall have a lien upon said craft, pro rata, for his or their said claims, to the amount that may be due, by said owner, to said original contractor, for work or labor then done on said water-craft.

Wharfage, anchorage, dock hire.

Second. For all sums due for wharfage, anchorage, or dock-hire, including the use of dry docks; the lying immediately in front of, or attached to any wharf, dock, or pier, within this state, so as to prevent the use of any portion of such wharf, dock or pier, by other watercraft, with or without the discharge of freight or passengers across such wharf, dock or pier, after a notice to leave, shall be an evidence of an agreement to pay for such use whatever the same may be worth.

Bottomry, salvage, towage, lighterage, insurance, etc.

Third. For sums due for bottomry, salvage, towage, lighterage, insurance, labor at pumping out or raising such watercraft, and for general average, whether in whole or in part, within this state.

Violation of contracts.

Fourth. For all damages arising from the non-performance of any contract of af-freightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of such water-craft, where any such contract is to be, or shall have been performed, in whole or in part, within this state.

Injuries.

Fifth. For all damages arising from injuries done to persons or property, by such water-craft, where the same shall have occurred through the negligence or misconduct, of the owner, part owner, master, agent or other employee of said water-craft, or through the failure, on the part of such water-craft, to observe any law of the United States relative to the equipment or management of such craft, including injuries to any person, not of the ship's company, from accidents on board said water-craft, occurring as aforesaid.

HISTORY: Am. 1865, p. 672, Act 323, Eff. June 22;—Am. 1867, p. 112, Act 82, Eff. June 27;—CL 1871, 6648;—How. 8236;—CL 1897, 10789;—CL 1915, 14892;—CL 1929, 13138;—CL 1948, 570.402.

570.403 Complaint; filing, jurisdiction of courts in certain counties.

Sec. 3. Any person claiming to have any such lien as is specified in the preceding sections may file a complaint, giving security for costs as hereinafter provided with the clerk of the circuit court of any county, setting forth, in separately numbered articles, the facts upon which such claim is based, and the amount due over and above all payments and discounts, as near as may be, which shall be verified by affidavit, in the same manner as bills in chancery: Provided, That in Wayne county such complaint shall be filed with the clerk of the recorder's court of Detroit, or the clerk of the circuit court of said Wayne county, and that said courts, and the circuit courts of the counties of Macomb, St. Clair, Monroe, Sanilac and Huron, shall exercise concurrent jurisdiction over all watercraft within the limits of either of said counties, and that process issued, as provided in the next section, from the courts of either of said counties, may be served in the waters of either of said counties by the sheriff of either; and that the circuit courts of the counties of Saginaw and Bay shall exercise concurrent jurisdiction over all water-craft within the limits of either county, and that process issued from either of said last named courts may be served in the waters of either county, by the sheriff of either. The circuit court of the counties of Kent and Ottawa shall in like manner exercise concurrent jurisdiction over all water-craft within the limits of either county, and the circuit courts of the counties of Muskegon and Nawaygo shall exercise concurrent jurisdiction over all water-craft within the limits of ei-

ther county, and process issued from either of said courts exercising such concurrent jurisdiction may be served in the waters of either county by the sheriff of either.

HISTORY: CL 1871, 6649;—How. 8237;—CL 1897, 10790;—CL 1915, 14893;—CL 1929, 13139;—CL 1948, 570.403.
CIRCUIT COURT CLERK: County clerk to be, see Compilers' § 600.571.

570.404 Warrant, summons; issuance, contents, return date.

Sec. 4. Upon filing such complaint, the clerk shall enter the same in a separate calendar to be kept for that purpose, and shall issue a warrant to the sheriff of the county, under the seal of the court, and returnable in not less than 14 nor more than 30 days from its date, containing a brief statement of the claim filed, commanding him to seize and safely keep such water-craft, her tackle, apparel and furniture, to answer all such liens as shall be established against it according to law, and to make return of his proceedings under such warrant within 10 days after seizure; and the clerk shall also issue a summons to the owner or master of such craft, containing a similar statement, and returnable as aforesaid at the same time as the warrant, which said warrant and summons shall be served at least 14 days before the return day thereof.

HISTORY: CL 1871, 6650;—How. 8238;—CL 1897, 10791;—CL 1915, 14894;—CL 1929, 13140;—CL 1948, 570.404.

570.405 Warrant; execution by sheriff.

Sec. 5. The sheriff to whom such warrant shall be directed and delivered shall forthwith execute the same and shall keep the water-craft, and other property seized by him to be disposed of as hereinafter provided.

HISTORY: CL 1871, 6651;—How. 8239;—CL 1897, 10792;—CL 1915, 14895;—CL 1929, 13141;—CL 1948, 570.405.

570.406 Warrant; return.

Sec. 6. Such sheriff shall also, within 10 days after such seizure, make a return to the court who issued the warrant, stating therein, particularly, his doings in the premises, and shall make out, subscribe and annex thereto a just and true inventory of all the property so seized.

HISTORY: CL 1871, 6652;—How. 8240;—CL 1897, 10793;—CL 1915, 14896;—CL 1929, 13142;—CL 1948, 570.406.

570.407 Warrant; number against same craft, limitation.

Sec. 7. Whenever any such warrant shall be issued, no other warrant shall issue against the said water-craft unless the first warrant be suspended.

HISTORY: CL 1871, 6653;—How. 8241;—CL 1897, 10794;—CL 1915, 14897;—CL 1929, 13143;—CL 1948, 570.407.

570.408 Notice on return of warrant; publication.

Sec. 8. Upon return being made to such warrant, unless the vessel has been bonded as hereinafter provided, the clerk shall immediately cause the notice hereinafter specified, to be published in some daily or weekly newspaper printed in the county in which the warrant shall have been issued, and if there be none printed in such county, then in some other newspaper; said newspaper in which said notice is to be printed, in all cases, to be designated by a general order to be made by the court, specifying the number of insertions, and the time thereof, to be not less than 14 days.

HISTORY: CL 1871, 6654;—How. 8242;—CL 1897, 10795;—CL 1915, 14898;—CL 1929, 13144;—CL 1948, 570.408.

570.409 Warrant; contents.

Sec. 9. Such notice shall contain the names of the complainant, of the water-craft, the port to which she belongs, if known, and a brief statement of the alleged claim, with amounts, and a citation to all persons to intervene for their interest, on a day certain, or that said claim will be heard ex parte.

HISTORY: CL 1871, 6655;—How. 8243;—CL 1897, 10796;—CL 1915, 14899;—CL 1929, 13145;—CL 1948, 570.409.

570.410 Intervening complaints; rights, summons.

Sec. 10. Any person having any interest in, or claim against the watercraft seized may intervene to protect such interest or collect such claim by filing a complaint as hereinbefore provided, entitled an intervening complaint and the complainant or any

other person interested may defend any complaint by filing an answer as hereinafter provided, and giving security to the satisfaction of the court, to pay any costs arising from such defense; and upon filing any such intervening complaint a summons as hereinbefore provided shall issue; and if the same shall be returned not served, notice by publication shall be given as aforesaid; and several intervening complaints may be united with each other or the original in 1 notice, providing that due filing of 1 intervening complaint shall be deemed the commencement of a separate suit, except that but 1 entry fee need be paid.

HISTORY: Am. 1865, p. 673, Act 323, Eff. June 22;—CL 1871, 6656;—How. 8244;—CL 1897, 10797;—CL 1915, 14900;—CL 1929, 13146;—CL 1948, 570.410.

570.411 Intervening complaints; time for filing.

Sec. 11. Intervening complaints may be filed at any time before the sale of the water-craft, as hereinafter provided; and after sale under judgment or decree, any intervening complainant may file his complaint against any surplus proceeds remaining in court after payment of claims filed before sale, and the costs thereon; and the same proceedings shall thereupon be had as in the case of claims filed before sale.

HISTORY: CL 1871, 6657;—How. 8245;—CL 1897, 10798;—CL 1915, 14901;—CL 1929, 13147;—CL 1948, 570.411.

570.412 Liens not filed before sale; cessation.

Sec. 12. All liens upon any water-craft, which shall not be filed hereunder, before sale under decree or judgment, as hereinafter provided, shall cease.

HISTORY: CL 1871, 6658;—How. 8246;—CL 1897, 10799;—CL 1915, 14902;—CL 1929, 13148;—CL 1948, 570.412.

570.413 Writ of restitution; application, issuance.

Sec. 13. The master or any person interested in such water-craft, so seized as aforesaid may at any time before judgment or decree of sale shall be made as hereinafter provided, apply to the clerk issuing the warrant for a writ of restitution. Said writ shall command the sheriff or other person holding the same to restore such water-craft to the person in whose possession the same was found when seized or his authorized agent and may be served by any person.

HISTORY: Am. 1865, p. 674, Act 323, Eff. June 22;—CL 1871, 6659;—How. 8247;—CL 1897, 10800;—CL 1915, 14903;—CL 1929, 13149;—CL 1948, 570.413.

570.414 Bond on restitution; conditions, sureties.

Sec. 14. Such person shall execute and file with the clerk a bond to the parties having previously filed complaints, in a penalty at least double the aggregate of the sums alleged to be due in all such complaints previously filed: Provided, That upon good cause shown by affidavit, the court, or the judge thereof, may, by special order, upon application and like notice as below specified, fix the amount of the penalty at a less sum, and in no case less than 100 dollars, with such surety or sureties as shall be approved by the clerk, as hereinafter provided, conditioned, after a recital of the names of the complainants, and the amount of their claims, that the obligors will pay all moneys adjudged or decreed to be due upon such claims, by the court entertaining the same, or the appellate court, with all costs, and that the judgment or decree of either court may be entered against them for the payment of such moneys, with interest and costs, and that execution may issue against them therefor, in the forms now in use in the circuit courts of this state in personal actions.

HISTORY: CL 1871, 6660;—How. 8248;—CL 1897, 10801;—CL 1915, 14904;—CL 1929, 13150;—CL 1948, 570.414.

570.415 Bond on restitution; notice of application; sureties, justification and examination.

Sec. 15. Upon application to the clerk to bond, as aforesaid, notice thereof shall be given to the attorney of the complainants, of at least 3 hours if the attorney reside in the same city or village with the clerk, and if not, the notice shall be of 24 hours, exclusive of Sundays and holidays, in addition to the ordinary time of travel between the

residence of the clerk and such attorney; and the surety or sureties offered, shall justify their responsibility to the satisfaction of the clerk; and such attorney may examine the surety or sureties, under oath, touching their property and liabilities; and it shall be the duty of the clerk, if requested by such attorney, to reduce such examination to writing, and cause the same to be subscribed by the persons examined, and filed.

HISTORY: CL 1871, 6661;—How. 8249;—CL 1897, 10802;—CL 1915, 14905;—CL 1929, 13151;—CL 1948, 570.415.

570.416 Motion for additional security.

Sec. 16. If such complainant shall at any time become satisfied that his security has become imperiled, he may by motion founded upon affidavit filed, and upon notice served with copy of papers, move the court or judge thereof to direct the giving of additional security, which motion shall be summarily heard and determined, and such order made therein as justice shall require.

HISTORY: CL 1871, 6662;—How. 8250;—CL 1897, 10803;—CL 1915, 14906;—CL 1929, 13152;—CL 1948, 570.416.

570.417 Order of appraisement; issuance of writ of restitution; court order for sale to prevent loss.

Sec. 17. If any party in interest so elect, in place of bonding as aforesaid, he may apply to the court or judge thereof upon like notice as aforesaid, for an order of appraisement of such water-craft so seized, by 3 competent persons to be appointed by the court or judge thereof, and named in the order; and upon such party depositing with the clerk the amount of such appraisement in money, or executing and filing with him a bond for said amount, executed as heretofore provided in sections 13 and 14, it shall be the duty of the clerk to issue a writ of restitution as provided in the next section; and if the claimant of such water-craft shall decline any such application, or the property seized shall be liable to decay, depreciation, or injury from delay, the court in its discretion may order the same or part thereof to be sold, and the proceeds thereof to be brought into court to abide the event of the suit.

HISTORY: CL 1871, 6663;—How. 8251;—CL 1897, 10804;—CL 1915, 14907;—CL 1929, 13153;—CL 1948, 570.417.

570.418 Writ of restitution; issuance by clerk upon receipt of security, discharge from lien.

Sec. 18. Upon receiving a bond or deposit as aforesaid, it shall be the duty of the clerk to issue a writ of restitution, directing the person who seized the water-craft to deliver the same to the person from whose possession the same was taken and seized; and the said water-craft shall thenceforth be discharged from all the liens secured by such bond or deposit, unless the court or judge thereof, upon motion as aforesaid, shall order the same again into custody by special writ, on account of the insolvency of the surety or sureties.

HISTORY: CL 1871, 6664;—How. 8252;—CL 1897, 10805;—CL 1915, 14908;—CL 1929, 13154;—CL 1948, 570.418.

570.419 Entry of appearance; notice, default.

Sec. 19. Within 14 days after the return day of the summons, if personally served, or if not served then within the time prescribed in the published notice, the owner or any person interested adversely to the claims mentioned in the notice, may enter an appearance by attorney, in the book of common rules, within [with] an order that a copy of the complaint be served upon him, and serve notice of such appearance and order upon the attorney filing the complaint, who shall serve a copy thereof as required, within 10 days thereafter, or the default of the complainant (or intervenor) may be duly entered in said book, made absolute, and judgment of discontinuance entered as in personal actions.

HISTORY: CL 1871, 6665;—How. 8253;—CL 1897, 10806;—CL 1915, 14909;—CL 1929, 13155;—CL 1948, 570.419.

570.420 Answer or demurrer; time for filing, effect of answer.

Sec. 20. Within 10 days after service of a copy of complaint unless on cause shown, further time shall be allowed by the circuit judge, or circuit court commissioner of the proper county, the party defending shall demur or file his answer upon oath or affirmation or his default may be entered and judgment rendered against him as upon similar actions. The answer shall be full and distinct to each article and allegation of the complaint, but such answer shall not have the effect of a sworn answer in chancery as evidence, nor shall it be necessary to answer any allegation or interrogatory (as provided in the next session) involving a liability to prosecution or punishment, or for a penalty or forfeiture.

HISTORY: Am. 1865, p. 674, Act 323, Eff. June 22;—CL 1871, 6666;—How. 8254;—CL 1897, 10807;—CL 1915, 14910;—CL 1929, 13156;—CL 1948, 570.420.

*NOTE: It is evident the word "session" should be "section".

570.421 Interrogation; appended to pleadings, filing; answer.

Sec. 21. Any party complaining or defending, may append to the complaints or answer, as the case may be, any pertinent interrogatories, or upon such motion or notice, the court may permit such interrogatories to be filed at any other time; and the personal answer to all such interrogatories shall be filed upon oath within the same time that pleadings are required to be filed, or as required by special order; and such answers so far as responsive, may be read as evidence by either party on the trial or hearing; and if either party shall refuse to answer to such interrogatories, the court shall make such order as to right shall appertain.

HISTORY: CL 1871, 6667;—How. 8255;—CL 1897, 10806;—CL 1915, 14911;—CL 1929, 13157;—CL 1948, 570.421.

570.422 Pleadings subsequent to answer; amended complaint.

Sec. 22. There shall be no pleadings subsequent to the answer, but within 10 days after filing and service of answer, or demurrer, the complainant or intervenor, may file and serve an amended complaint, to which answer or demurrer shall be filed, as herebefore provided in case of original complaints.

HISTORY: CL 1871, 6668;—How. 8256;—CL 1897, 10809;—CL 1915, 14912;—CL 1929, 13158;—CL 1948, 570.422.

570.423 Exceptions to answer.

Sec. 23. Complainant, or intervenor, may except to the answer, and either party may except to answer to interrogatories, for irrelevancy, or want of fullness, distinctness, and such exceptions may be noticed for hearing in term, or at chambers.

HISTORY: CL 1871, 6669;—How. 8257;—CL 1897, 10810;—CL 1915, 14913;—CL 1929, 13159;—CL 1948, 570.423.

570.424 Trial or hearing; notice.

Sec. 24. Notice of trial or hearing may be for any day in term, and shall be of 10 days, exclusive of both day of service and the day for which the notice is given; and it shall be the duty of the clerk to prepare a separate docket of all such cases noticed, of which a note of issue has been filed within the time required for notices of trial.

HISTORY: CL 1871, 6670;—How. 8258;—CL 1897, 10811;—CL 1915, 14914;—CL 1929, 13160;—CL 1948, 570.424.

570.425 Trial or hearing; jury trial, demand.

Sec. 25. The trial or hearing shall be by the court without a jury, unless a jury be demanded by either party, by filing the demand 5 days before the time for which notice shall have been given, and serving a notice of such demand upon the adverse party.

HISTORY: CL 1871, 6671;—How. 8259;—CL 1897, 10812;—CL 1915, 14915;—CL 1929, 13161;—CL 1948, 570.425.

570.426 Evidence; taking by attorney or commissioner, report to court.

Sec. 26. The court may, by special order, refer any matter arising in the progress of the cause, to any attorney or circuit court commissioner, to take evidence, and report the same to the court, with his opinion thereon, with all convenient speed; but said opinion shall not be binding on the court.

HISTORY: CL 1871, 6672;—How. 8260;—CL 1897, 10613;—CL 1915, 14916;—CL 1929, 13162;—CL 1948, 570.426.

570.427 Admiralty principles; applicability.

Sec. 27. All cases of general average, salvage and collision, and all cases relating to sailors' wages, or to the employment of seamen, arising under this act, shall be determined, upon the trial or hearing, and upon appeal, according to the principles established in courts of admiralty and *maritime jurisdiction, in such cases.

HISTORY: Am. 1867, p. 114, Act 82, Eff. June 27;—CL 1871, 6673;—How. 8261;—CL 1897, 10614;—CL 1915, 14917;—CL 1929, 13163;—CL 1948, 570.427.

See history note to Compilers' § 570.402.

*NOTE: It is evident the word "maritime" should be "maritime".

570.428 Judgment for complainant; in personam .

Sec. 28. If, upon the trial or hearing, judgment or decree shall pass for complainant, and the water-craft has been discharged from custody, as herein provided, said judgment or decree shall be rendered and entered against the principal and sureties in the bond: Provided, That in no case shall the judgment exceed the penalty of the bond, and the subsequent proceedings shall be the same as now provided by law in personal actions in the circuit courts: Provided further, That if the release has been upon deposit, the judgment shall be in form against the party making the deposit, with a clause that it be satisfied out of said deposit, and said party shall not be personally liable upon said judgment.

HISTORY: CL 1871, 6674;—How. 8262;—CL 1897, 10615;—CL 1915, 14918;—CL 1929, 13164;—CL 1948, 570.428.

570.429 Judgment for complainant; in rem.

Sec. 29. In case the water-craft has not been discharged from custody, the judgment or decree shall be in form against the water-craft, with an additional order that the same, with the appurtenances, be sold at public vendue by the sheriff, after notice of the time and place of said sale, published as herein required in cases of seizure, at least 10 days before such sale. Provided, That, in case of complaint filed prior to sale, but not in judgment at the time thereof, the judgment or decree shall be the same in form with a clause for payment out of the proceeds of sale; and in case of claims filed against surplus proceeds, the judgment, if in favor of claimant, shall in substance, affirm the claim to be sustained and direct payment thereof from the surplus proceeds.

HISTORY: Am. 1867, p. 114, Act 82, Eff. June 27;—CL 1871, 6675;—How. 8263;—CL 1897, 10616;—CL 1915, 14919;—CL 1929, 13165;—CL 1948, 570.429.

See history note to Compilers' § 570.402.

570.430 Sale of craft; writ.

Sec. 30. The clerk shall thereupon issue a writ of sale commanding the sheriff to sell such water-craft as directed in the judgment or decree, and to return said writ within 24 hours after sale, with his doings in the premises, and with proof by affidavit of the requisite notice, with a copy of such notice.

HISTORY: CL 1871, 6676;—How. 8264;—CL 1897, 10617;—CL 1915, 14920;—CL 1929, 13166;—CL 1948, 570.430.

570.431 Sale of craft; duty of sheriff.

Sec. 31. It shall be the duty of the sheriff, upon receiving the amount of the bid from the purchaser, or in case the purchaser is the complainant or an intervenor, upon

receiving so much of the bid as the court or judge thereof shall direct by special order, reference being had to the relative amount of the buyer's claim, to deliver such watercraft and appurtenances to the purchaser and also a bill of sale thereof, and to deliver to the clerk the amount by him, the sheriff, so received.

HISTORY: CL 1871, 6676;—How. 8265;—CL 1897, 10618;—CL 1915, 14921;—CL 1929, 13167;—CL 1948, 570.431.

570.432 Sale of craft; bill of sale, contents, use as evidence, effect on title.

Sec. 32. A copy of the last enrollment, if any, of such watercraft, shall be recited in the bill of sale, if such copy can be obtained; and a copy of the judgment or decree, with the order of sale, shall also be recited in such bill of sale; and such recital, together with a copy of such decree and order, certified by the clerk, under the seal of the court, shall be full and complete evidence of the regularity of the decree and sale in all courts and places, and shall supersede the necessity of any other proof thereof to validate said bill of sale; and all bills of sale containing such recital and supported by such proof shall be as effectual to pass the title of such watercraft therein mentioned, free and clear of all liens existing before such sale under this act or any previous law of this state, and all liens asserted or which might have been asserted in the proceedings prior to sale to the purchaser, as fully as if made by the owners immediately before the sale, and shall also vest in such purchaser an indefeasible title as against all chattel mortgages or other incumbrances created by the owner as well as against the owner himself, and such liens as aforesaid.

HISTORY: CL 1871, 6677;—How. 8266;—CL 1897, 10619;—CL 1915, 14922;—CL 1929, 13168;—CL 1948, 570.432.

570.433 Sale of craft; distribution of proceeds.

Sec. 33. The sum delivered by the sheriff, to the clerk as aforesaid shall be distributed by the court, or by the circuit judge at chambers, upon motion of any party in interest of record, prior to the sale, and due notice to the other parties, and after the following manner:

First. The costs accruing upon all complaints filed before sale, and on which judgment or decree are, or may be within 20 days thereafter, rendered in favor of the complainant.

Second. Salvage.

Third. Seaman's wages.

Fourth. All other claims filed prior to sale, and on which decree, or judgment, may have been, or may, within 20 days thereafter be rendered, in favor of complainant.

HISTORY: Am. 1865, p. 675, Act 323, Eff. June 22;—Am. 1867, p. 114, Act 82, Eff. June 27;—CL 1871, 6678;—How. 8267;—CL 1897, 10620;—CL 1915, 14923;—CL 1929, 13169;—CL 1948, 570.433.

See history note to Compilers' § 570.402.

570.434 Sale of craft; distribution of surplus.

Sec. 34. Any portion of the sum so paid by the sheriff to the clerk, or of a deposit remaining after such distribution as aforesaid shall be denominated surplus proceeds, and when any claim or complaint shall be filed against the same, as provided in section 11 of this act, distribution shall be directed by the court, after decrees or judgment, upon motion and notice as provided in the last section, and after the following order:

First. All costs upon claims passing into decree which were filed after sale:

Second. All other liens enforceable under this act against the watercraft prior to sale in the order in which they were filed:

Third. All claims upon mortgages of such watercraft or other incumbrances created by the owner in proportion to the interest they cover and priority:

Fourth. The owner.

HISTORY: Am. 1865, p. 675, Act 323, Eff. June 22;—CL 1871, 6679;—How. 8268;—CL 1897, 10621;—CL 1915, 14924;—CL 1929, 13170;—CL 1948, 570.434.

570.435 Sale of craft; payment of claims based on subsequent decree or appeal.

Sec. 35. In case the sum for which the water-craft is sold, is sufficient to pay all the claims filed before sale, with costs thereon, the court may, from time to time, order such claim and costs thereon to be paid, in whole or in part, as decrees may from time to time be rendered; and in case of appeal from any decree, as hereinafter provided, the court may order distribution of such portion of the sum brought on the sale as may seem just and proper.

HISTORY: CL 1871, 6680;—How. 8269;—CL 1897, 10822;—CL 1915, 14925;—CL 1929, 13171;—CL 1948, 570.435.

570.436 Appeal to supreme court; claim, bond.

Sec. 36. Any party complaining or defending, who may think himself aggrieved by the final decree or judgment of the court, may appeal therefrom to the supreme court. A claim of appeal shall be filed with the clerk within 10 days after the making of the decree or judgment appealed from, and the appellant shall within 5 days thereafter, file a bond to the adverse party with the clerk, with surety or sureties to be approved as hereinbefore provided in case of bonding the water-craft, and to be in case of an appeal by a defendant, in a penalty double the amount of the decree or judgment conditioned to abide the order of the appellate court, and further conditioned that judgment may be entered against them in accordance with such order; in case of appeal by complainant the penalty shall be 200 dollars, and the condition as above provided.

HISTORY: CL 1871, 6681;—How. 8270;—CL 1897, 10823;—CL 1915, 14926;—CL 1929, 13172;—CL 1948, 570.436.

570.437 Appeal to supreme court; transcript of record.

Sec. 37. Upon such appeal being perfected, it shall be the duty of the clerk to prepare a transcript of the pleadings, and the judgment or decree of the court below, and send up the same with any original depositions taken in the case, within 20 days thereafter.

HISTORY: CL 1871, 6682;—How. 8271;—CL 1897, 10824;—CL 1915, 14927;—CL 1929, 13173;—CL 1948, 570.437.

570.438 Appeal to supreme court; hearing de novo.

Sec. 38. The hearing in the supreme court shall be de novo upon such transcript and depositions, and further testimony taken as provided in the next section.

HISTORY: CL 1871, 6683;—How. 8272;—CL 1897, 10825;—CL 1915, 14928;—CL 1929, 13174;—CL 1948, 570.438.

570.439 Appeal to supreme court; jurisdiction, acquisition, taking of testimony.

Sec. 39. The causes shall be considered as in the supreme court, from the perfecting of the appeal; and at any time within 60 days thereafter, unless the time shall be extended by order of any justice of the court, either party may take testimony by deposition or commission in the mode now provided by law in any case, without regard to the place of residence of the witness.

HISTORY: CL 1871, 6684;—How. 8273;—CL 1897, 10826;—CL 1915, 14929;—CL 1929, 13175;—CL 1948, 570.439.

570.440 Appeal to supreme court; order.

Sec. 40. The supreme court shall hear and determine such appeal, and shall have power to reverse, affirm or modify the judgment or decree of the court below, and to make such other order as shall be just.

HISTORY: CL 1871, 6685;—How. 8274;—CL 1897, 10827;—CL 1915, 14930;—CL 1929, 13176;—CL 1948, 570.440.

570.441 Appeal to supreme court; judgment on order.

Sec. 41. Upon filing a certified copy of the order of the supreme court, in the court below, judgment shall be entered in accordance therewith, against such parties as the court shall direct, and against all principals and sureties in any bond or bonds filed by such parties.

HISTORY: CL 1871, 6686;—How. 8275;—CL 1897, 10828;—CL 1915, 14931;—CL 1929, 13177;—CL 1948, 570.441.

570.442 Fees; clerk, sheriff, attorney.

Sec. 42. The fees of the clerk and sheriff, shall be the same as now provided by law, in personal actions, in the circuit court, as near as may be, and the court shall have power, by general order, to make all needed modifications. The court shall also have power, in any particular case, to make a further allowance to the sheriff, or his deputies, when the circumstances of the case shall require. The sheriff shall receive, for the custody of any craft, under 75 tons, 1 dollar per day; if over 75 tons, 1 dollar and 50 cents per day. The fees of attorneys, to be taxed in favor of the prevailing party, shall be the same as provided in personal actions, by the rules of the circuit court.

HISTORY: Am. 1867, p. 115, Act 82, Eff. June 27;—CL 1871, 6687;—How. 8276;—CL 1897, 10629;—CL 1915, 14932;—CL 1929, 13178;—CL 1948, 570.442.

See history note to Compilers' § 570.402.

FEES: Of clerks, see Compilers' § 600.2501 et seq.; of sheriff, see Compilers' § 600.2558.

570.443 Rules of practice.

Sec. 43. The supreme court may make any rules deemed necessary for the regulation of proceedings under this act, not conflicting with any of its provisions.

HISTORY: CL 1871, 6688;—How. 8277;—CL 1897, 10630;—CL 1915, 14933;—CL 1929, 13179;—CL 1948, 570.443.

570.444 Proceedings upon cases arising in other states.

Sec. 44. In cases where by the general maritime law or laws of any other of the United States, now or hereafter to be passed, liens similar to those provided for in this act shall have been created against water-craft, the same may be enforced under the proceedings established by this act, in like manner as if they accrued in this state, and chattel mortgages upon such water-craft, or other interest therein held in such other states under the laws thereof, may be enforced hereunder against surplus proceeds, in like manner as if held in this state under its laws.

HISTORY: CL 1871, 6689;—How. 8278;—CL 1897, 10631;—CL 1915, 14934;—CL 1929, 13180;—CL 1948, 570.444.

570.445 Enforcement of lien; time limitation, effect of bona fide purchase of craft.

Sec. 45. Liens may be enforced under this act at any time within 6 years from their origin: Provided, That no lien shall be enforced against a water-craft in the hands of a bona-fide purchaser without notice, unless a complaint to enforce the same shall have been filed in the proper court in the county where the party claiming the lien resides, within 1 year from the time when the same accrued.

HISTORY: CL 1871, 6690;—How. 8279;—CL 1897, 10632;—CL 1915, 14935;—CL 1929, 13181;—CL 1948, 570.445.

570.446 Costs; security; taxation, appeal.

Sec. 46. The complainant and intervenors shall, at the time of filing their complaints, file security for costs to the satisfaction of the clerk; and the attorney for complainant or intervenor shall be liable for all costs and expenses until such security shall be given, and payment of the same may, upon motion of the court, be enforced by summary process of attachment: Provided, That in suits for seamen's wages no security for costs shall be required, except by special order of the court or judge thereof, upon motion and notice, and for good cause shown. Costs shall be taxed by the clerk upon notice as provided by the rules of the circuit courts, and either party may appeal from the taxation to the court, by filing his objections, serving a copy thereof upon the adverse party, and bringing the same to hearing upon notice.

HISTORY: CL 1871, 6691;—How. 8280;—CL 1897, 10633;—CL 1915, 14936;—CL 1929, 13182;—CL 1948, 570.446.

570.447 Proceedings and practice; depositions, writs, costs.

Sec. 47. The proceedings and practice under this act shall be the same as in personal actions at law except as herein otherwise provided so far as the same may be applicable, and the depositions of witnesses may be taken for the same causes, in the same manner and with the like effect as in personal actions. Forms of writ under this act

shall be devised by the court in analogy to those in use in such actions and in case the claimant of such watercraft or any person interested therein defending such suit shall prevail either upon an issue of law or of fact, the court shall render judgment in his favor for all costs incurred in such said suit and for all damages which he may have sustained by reason of the seizure of such water-craft to be assessed by the court or a jury the same as in personal actions, and the court may render judgment against the complainant and his surety for costs, and in favor of the party interested defending such claim. And execution may issue for the collection of such damages and costs, the same as in personal actions.

HISTORY: Am. 1865, p. 675, Act 323, Eff. June 22;—CL 1871, 6692;—How. 8281;—CL 1897, 10634;—CL 1915, 14937;—CL 1929, 13183;—CL 1948, 570.447.

570.448 Record of proceedings; fee for certifying copies.

Sec. 48. The proceedings under this act shall be deemed matters of record, but the same shall not be required to be recorded at large, but shall be carefully filed, kept and numbered, being fastened together in the clerk's office, and a docket, calendar or short memorandum thereof, with the numbers, kept in a book by the clerk; and the clerk for affixing his name and the seal of the court to any form or paper, or certifying a copy thereof, shall be entitled to receive as compensation \$1.00 per page.

HISTORY: CL 1871, 6693;—How. 8282;—CL 1897, 10635;—CL 1915, 14938;—CL 1929, 13184;—CL 1948, 570.448;—Am. 1963, p. 29, Act 29, Imd. Eff. Apr. 25.

570.449 Clerk of recorder's court; bond.

Sec. 49. The clerk of the recorder's court of the city of Detroit, before performing any duties under this act, shall file with the city clerk, a bond to the people of the state, in a penalty of 5,000 dollars, with 2 sufficient sureties to be approved by the recorder or judge of the court, conditioned to safely keep and account for all moneys received by him under this act, and to abide by all orders of the court relative thereto; and said bond may be prosecuted by any party injured, in his own name.

HISTORY: CL 1871, 6694;—How. 8283;—CL 1897, 10636;—CL 1915, 14939;—CL 1929, 13185;—CL 1948, 570.449.

BOND: General bond of recorder's court clerk, see Compilers' § 726.8.

570.501-570.512 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections related to lien on inventory, creation, renewal, discharge and remedies.

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JUDICATURE ACT
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600.1, 600.2 Repealed. 1961, p. 688, Act 236, Eff. Jan. 1, 1963.

Sections related to Judicature act of 1915; short title; construction.

Act 236, 1961, p. 418; Eff. Jan. 1, 1963.

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil actions and proceedings in said

courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act.

The People of the State of Michigan enact:

CHAPTER 1.

SHORT TITLE AND CONSTRUCTION

600.101 Revised judiciary act of 1961; short title.

Sec. 101. This act shall be known and may be cited as the "revised judiciary act of 1961." RJA may be used as an abbreviation for the revised judiciary act.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

600.102 Construction of act.

Sec. 102. This act is remedial in character, and shall be liberally construed to effectuate the intents and purposes thereof.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

600.103 Construction of act as to common pleas court act.

Sec. 103. Nothing in this act shall be construed to alter or amend the provisions of Act No. 260 of the Public Acts of 1929, as amended, being sections 728.1 to 728.30 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

600.111 Counterclaim; definition.

Sec. 111. The term "counterclaim," as used in this act, includes setoff and recoupment.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

600.112 Judgment; definition.

Sec. 112. The term "judgment," as used in this act, includes decree.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

JUDICIAL SYSTEM

600.151 Judicial power of state; vesting in courts.

Sec. 151. The judicial power of the state is vested exclusively in 1 court of justice which shall be divided into 1 supreme court, 1 court of appeals, 1 trial court of general jurisdiction known as the circuit court, 1 probate court, and courts of limited jurisdiction created by the legislature.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Ses., p. 25, Act 18, Eff. Mar. 24, 1964.

600.152 Chief justice; head of judicial system.

Sec. 152. The chief justice of the supreme court is the head of the judicial system.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

CHAPTER 2.

SUPREME COURT: ORGANIZATION AND POWERS

600.201 Repealed. 1963, 2nd Ex. Ses., p. 25, Act 18, Eff. Mar. 24, 1964.

Section provided that supreme court should consist of a chief justice and 7 associate justices.

600.202 Chief justice; selection, resignation.

Sec. 202. A chief justice shall be chosen by the supreme court justices from their own number as provided by the rules of the court. The chief justice may resign without resigning from his office as justice.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Ses., p. 25, Act 18, Eff. Mar. 24, 1964.

600.203 Justices; election.

Sec. 203. Justices of the supreme court shall be elected in the manner provided by the constitution and the election laws of the state.

HISTORY: New 1961, p. 418, Act 236, Eff. Jan. 1, 1963.

600.204 Repealed. 1963, 2nd Ex. Ses., p. 25, Act 18, Eff. Mar. 24, 1964.

Section provided for filling vacancies in office of supreme court justice.

600.205 Justices; availability.

Sec. 205. At least 1 justice shall at all times be at the seat of government.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.206 Justices; oath.

Sec. 206. The supreme court justices shall take and subscribe the oath required by the constitution before entering upon the discharge of their duties.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.207 Justices; practice of law prohibited.

Sec. 207. The supreme court justices shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.208 Judges; salary and expenses.

Sec. 208. (1) Each supreme court justice shall receive an annual salary of \$35,000.00, payable out of the moneys appropriated by the legislature.

(2) The justices shall not receive any allowance for traveling expenses between their residences and the seat of government.

(3) The justices who attend judicial meetings called by the court administrator shall be reimbursed from the state treasury, upon the warrant of the state treasurer, for their actual and necessary expenses.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 305, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly §§ 15.216 and 15.217 relating to determination of salaries and expense allowances of the justices of the supreme court.

600.211 Terms of court; quorum.

Sec. 211. (1) There shall be 4 terms of court annually, held at times designated by the court. The court in its discretion may hold special or adjourned terms.

(2) Court sessions shall be held at the supreme court room at the seat of government.

(3) A majority of the justices shall constitute a quorum for hearing cases and transacting business.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Ses., p. 25, Act 18, Eff. Mar. 24, 1964.

600.212 Powers and jurisdiction; source.

Sec. 212. The supreme court has all the powers and jurisdiction conferred upon it by the constitution and laws of this state.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.215 Jurisdiction and power.

Sec. 215. The supreme court has jurisdiction and power over:

(1) any matter brought before it by any appropriate writ to any inferior court, magistrate, or other officer;

(2) any question of law brought before it in accordance with court rules, by certification by any trial judge of any cause pending or tried before him;

(3) any case brought before it for review in accordance with the court rules promulgated by the supreme court.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.217 Jurisdiction and power as to writs.

Sec. 217. The supreme court has jurisdiction and power to issue, hear, and determine writs of:

- (1) error,
- (2) habeas corpus,
- (3) mandamus,
- (4) quo warranto,
- (5) procedendo, and other original and remedial writs.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.219 Superintending control over inferior courts.

Sec. 219. The supreme court has a general superintending control over all inferior courts and tribunals. The supreme court has authority to issue any writs, directives, and mandates that it judges necessary and expedient to effectuate its determinations, and to take any action it deems proper to facilitate the proper administration of justice.

HISTORY: New 1961, p. 419, Act 236, Eff. Jan. 1, 1963.

600.221 Reports relative to administration of justice; opinions.

Sec. 221. The supreme court has authority to publish any reports relative to the administration of justice that it deems proper to facilitate the proper administration of justice as well as the authority to publish the majority, concurring, and dissenting opinions of the court.

HISTORY: New 1961, p. 420, Act 236, Eff. Jan. 1, 1963.

600.223 Rule-making power.

Sec. 223. The supreme court has authority to promulgate and amend general rules governing practices and procedure in the supreme court and all other courts of record, including but not limited to authority:

- (1) to prescribe the forms of all process to be issued by courts of record,
- (2) to prescribe the practices and procedure in the supreme court and other courts of record concerning:
 - (a) methods of review,
 - (b) special verdicts,
 - (c) the granting of new trials,
 - (d) motions in arrest of judgment,
 - (e) taxation of costs,
 - (f) giving notice of special motions and other proceedings,
 - (g) the staying of proceedings,
 - (h) hearing of motions,
 - (i) imposing of terms on motions granted,
 - (j) discovery procedure, and
 - (k) other matters at its discretion,
- (3) to prescribe in which cases the circuit court, or any circuit court judge, or circuit court commissioner may grant orders to stay proceedings in matters pending in the circuit courts, and to prescribe the terms and conditions upon which the orders shall be granted and the effect the orders will have,
- (4) to prescribe the terms and conditions upon which orders may be granted by circuit court commissioners in any specific class of actions, to prescribe actions in which circuit court commissioners are not authorized to make orders, and to prescribe rules of practice and procedure for all proceedings involving circuit court commissioners,

(5) to abolish, as far as practicable, distinctions between law and equity.

HISTORY: New 1961, p. 420, Act 236, Eff. Jan. 1, 1963.

600.225 Assignment of judges to serve in other courts.

Sec. 225. (1) The supreme court shall have the right to direct and compel a judge of any court hereinafter named to serve as a judge in any court in which by law he is authorized to act as judge. This section applies to the following courts and to the judges thereof:

- (a) The circuit courts.
- (b) The probate courts.
- (c) The recorder's court of the city of Detroit.

(d) Municipal courts and the common pleas court of the city of Detroit. Any municipal court judge or any associate municipal court judge elected or appointed under state law or local charter provisions is authorized to serve on the common pleas court of the city of Detroit.

(e) District courts. Any district judge is authorized to serve on the common pleas court of the city of Detroit.

(2) The supreme court shall have the power to direct and compel the judge of any municipal court who is an active member of the state bar of Michigan or any district court judge to serve as a judge of the recorder's court of the city of Detroit. Each judge so designated shall hold court and perform the duties of the office just as he would had he been elected to such recorder's court for the time he is designated to serve. A municipal court judge shall be limited to trial and other proceedings wherein elected recorder's court judges act in a magisterial capacity exercising jurisdiction comparable to that formerly cognizable by a justice of the peace. A district court judge so designated shall exercise the same jurisdiction as exercisable by a judge of the recorder's court of Detroit.

(3) Whenever possible, with respect to subdivision (d) of subsection (1) and subsection (2), other municipal court judges or district court judges within the same county within which the court is located shall be designated to serve as judges of such court.

(4) The authority granted by this section may be exercised by the supreme court at its discretion through its direct order, or through the court administrator.

(5) A district judge transferred to the recorder's court of Detroit or to the common pleas court of Detroit as provided in this section shall receive as salary for each day he serves in such court 1/250 of the amount by which the salary of the judgeship to which he is transferred exceeds his total salary, such salary to be payable at the same time and from the same source as provided for the judicial office to which the judge is transferred. In addition thereto, a district judge so transferred shall be entitled to receive actual and necessary expenses for travel, meals and lodging, if approved by the governing body of the political unit where the court is located and to which he is assigned, payable at the same time and from the same source as provided for the judicial office to which the judge is transferred. The same source paying such salary and expenses shall return to the district control units of the district in which the district judge was appointed or elected, for each day so served, 1/250 of the annual supplemental salary paid by those units to the district judge so transferred.

HISTORY: New 1961, p. 420, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 22, Act 10, Imd. Eff. Mar. 23;—Am. 1969, p. 496, Act 263, Imd. Eff. Aug. 11.

600.225a Municipal judges transferred to other courts; compensation and expenses.

Sec. 225a. Municipal judges transferred from one court to another as provided in section 225 shall receive the same salary as the judge to whose court he is assigned, in addition to travel and living expenses and an additional sum of not to exceed \$20.00

per day, if approved by the governing body of the political unit where the court is located and to which he is assigned, payable at the same time and from the same source as provided for the judicial office to which the judge is transferred. The salary for each day in which the judge serves as authorized shall be 1/250 of the annual salary for the vacant judicial office. In all cases where the transferred judge is receiving a salary from the municipality where he is appointed or elected, he shall be paid only the difference, if any, between his home salary and the salary of the judgeship to which he has been transferred, and the amount of his home salary shall be returned by the governmental unit to which he is transferred to the governmental unit from which he is appointed or elected.

HISTORY: Add. 1966, p. 23, Act 11, Imd. Eff. Mar. 23.

600.226 Retired judges; appointment to judicial vacancy, compensation, waiver of retirement benefits, expenses.

Sec. 226. (1) The supreme court may authorize any retired judge from any court of record to perform judicial duties in any court of record in the state where there is a judicial vacancy. Such authorization may be for such period or periods the supreme court shall designate with the consent of the retired judge. Subsequent authorizations of other retired judges from courts of record to such court may be made when deemed necessary with the consent of such judges.

(2) Any retired judge of any court of record assigned to any period of active judicial service pursuant to article 6, section 23 of the state constitution of 1963 and pursuant to the laws of the state relating to such service, shall be compensated as follows:

(a) Such judge shall receive the same salary payable at the same times and from the same sources as provided for the vacant judicial office in which such judge is authorized to perform judicial duties, provided he files the waiver prescribed by this section.

(b) Such judge shall, before undertaking the authorized duties, execute and file a waiver of any and all retirement benefits based on judicial service from any state, county or municipal retirement system for the period that he may perform the authorized judicial duties. The waiver shall be filed with the retirement board of each retirement system from which he is receiving any annuity or retirement benefit. The respective retirement boards shall suspend payments to him for the period he is performing the authorized judicial duties only. The performance of such authorized judicial duties shall be without prejudice to all other rights of such judge under the retirement systems.

(c) The salary for each day in which the judge serves as authorized shall be 1/250 of the annual salary for the vacant judicial office. Retirement benefits waived for each day shall be 1/250 of the annual retirement benefits.

(d) Necessary expenses incidental to the performance of duties required by such assignment shall be paid by the state in accordance with the established provisions and procedures for state officials and upon the approval of the court administrator.

HISTORY: Add. 1964, p. 83, Act 81, Imd. Eff. May 12.

600.227 Process; style, seal, evidence.

Sec. 227. All writs and process issuing out of the supreme court shall be styled: "In the Name of the People of the State of Michigan," and shall run into and be executed in any county of the state. The seal of the supreme court affixed to, or impressed upon, any writ or process in any action or proceeding shall be conclusive evidence that the writ or process was issued by the supreme court in all cases where such writ or process may be lawfully issued.

HISTORY: New 1961, p. 420, Act 236, Eff. Jan. 1, 1963.

600.229 Decisions; contents, dissents, copies.

Sec. 229. Decisions of the supreme court, including all cases of mandamus, quo warranto, and certiorari, shall be in writing, with a concise statement of the facts and reasons for the decisions; and shall be signed by the justices concurring in the opinion. Any justice dissenting from a decision shall give the reasons for his dissent in writing under his signature. All opinions and dissents shall be filed in the office of the clerk of the supreme court, and copies of them shall be delivered to the supreme court reporter at the same time.

HISTORY: New 1961, p. 421, Act 236, Eff. Jan. 1, 1963.

600.230 Equally divided court; affirmance of judgment.

Sec. 230. When the justices of the supreme court are equally divided as to the ultimate decision of any case properly before the court on review, the judgment of the court below shall be affirmed.

HISTORY: New 1961, p. 421, Act 236, Eff. Jan. 1, 1963.

600.232 Appeals to supreme court.

Sec. 232. Appeals to the supreme court may be by right or by leave as provided by the rules of the supreme court, except as otherwise provided by statute.

HISTORY: New 1961, p. 421, Act 236, Eff. Jan. 1, 1963.

600.235 Repealed. 1963, 2nd Ex. Ses., p. 72, Act 55, Imd. Eff. Dec. 27.

Section provided for appointment of certain court officers and prescribed their powers and duties.

600.242 Repealed. 1963, 2nd Ex. Ses., p. 72, Act 55, Imd. Eff. Dec. 27.

Section provided for employment of research law clerks and prescribed their qualifications, terms and duties.

600.245 Repealed. 1963, 2nd Ex. Ses., p. 72, Act 55, Imd. Eff. Dec. 27.

Section empowered supreme court justices to employ secretarial personnel.

600.247 Repealed. 1963, 2nd Ex. Ses., p. 72, Act 55, Imd. Eff. Dec. 27.

Section provided for determination and payment of salaries of certain supreme court officers.

600.250 Repealed. 1963, 2nd Ex. Ses., p. 72, Act 55, Imd. Eff. Dec. 27.

Section provided for expenses of certain supreme court officers.

600.251 Staff; budget, expenditures, fees and prerequisites.

Sec. 251. The supreme court may appoint, remove and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and expenditures of moneys appropriated for any purpose by the legislature pertaining to the operation of the court or the performance of the activities of its staff. All fees and perquisites collected by the court staff shall be transmitted to the state treasury and credited to the general fund.

HISTORY: Add. 1963, 2nd. Ex. Ses., p. 71, Act 55, Imd. Eff. Dec. 27.

CHAPTER 3.

COURT OF APPEALS: ORGANIZATION AND POWERS

600.301 Court of appeals; judges; court of record.

Sec. 301. The court of appeals shall consist of 12 judges and is a court of record.

HISTORY: Add. 1964, p. 524, Act 281, Imd. Eff. Jun. 11;—Am. 1968, p. 189, Act 127, Imd. Eff. Jun. 11.

600.302 Judges; election districts.

Sec. 302. For the election of judges, the state shall be divided into 3 judicial districts. Districts 1, 2 and 3 shall be entitled to elect 4 judges for their respective districts. The districts shall be initially constituted and numbered as follows:

District 1 shall consist of the county of Wayne.

District 2 shall consist of the counties of Huron, Tuscola, Sanilac, Genesee, Lapeer,

St. Clair, Shiawassee, Livingston, Oakland, Macomb, Ingham, Jackson, Washtenaw, Hillsdale, Lenawee and Monroe.

District 3 shall consist of the counties of Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Barry, Eaton, Ionia, Kent, Ottawa, Muskegon, Montcalm, Clinton, Gratiot, Saginaw, Bay, Midland, Isabella, Mecosta, Newaygo, Oceana, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Iosco, Ogemaw, Roscommon, Missaukee, Wexford, Manistee, Benzie, Grand Traverse, Leelanau, Kalkaska, Crawford, Oscoda, Alcona, Alpena, Montmorency, Otsego, Antrim, Emmet, Charlevoix, Cheboygan, Presque Isle, Mackinac, Chippewa, Luce, Schoolcraft, Alger, Delta, Menominee, Dickinson, Marquette, Iron, Baraga, Houghton, Keweenaw, Gogebic and Ontonagon.

HISTORY: Add. 1964, p. 524, Act 281, Imd. Eff. Jun. 11;—Am. 1968, p. 189, Act 127, Imd. Eff. Jun. 11.

600.303 Judges; terms, oath of office.

Sec. 303. (1) Judges of the court of appeals shall be elected at the general November elections and shall take office on the succeeding January 1 in accordance with the constitution and election laws of the state.

(2) Judges of the first court of appeals shall be elected in the general November election of 1964.

(3) In the general November election of 1964, the 3 candidates for the office of judge of the court of appeals in each district receiving the highest number of votes shall be deemed elected. Of these candidates elected, the candidate receiving the highest number of votes cast shall be elected for a 10-year term, the candidate receiving the next highest number of votes cast shall be elected for an 8-year term and the candidate receiving the third highest number of votes shall be elected for a 6-year term. Thereafter in each general November election in which judges are to be elected for a 6-year term, the office shall be filled under the general election laws of this state.

(4) Judges of the court of appeals shall take and subscribe the oath of office required by the constitution before entering upon the discharge of their duties.

HISTORY: Add. 1964, p. 525, Act 281, Imd. Eff. Jun. 11.

600.304 Judges; salary and expenses.

Sec. 304. (1) Each judge of the court of appeals shall receive an annual salary of \$38,500.00.

(2) The judges shall be reimbursed for their actual and necessary expenses from the state treasury, upon the warrant of the state treasurer.

HISTORY: Add. 1964, p. 525, Act 281, Imd. Eff. Jun. 11;—Am. 1966, p. 518, Act 306, Imd. Eff. Jul. 14;—Am. 1970, p. 664, Act 248, Imd. Eff. Jul. 1, 1971.

600.305 Administration of court; rules of practice.

Sec. 305. The administration of the court of appeals shall be under the control of the supreme court. The court of appeals has authority to promulgate and amend general rules of practice and procedure before the court of appeals subject to the rule making powers of the supreme court.

HISTORY: Add. 1964, p. 525, Act 281, Imd. Eff. Jun. 11.

600.306 Judges; transfer; divisions of court.

Sec. 306. The supreme court may transfer judges from the circuit or superior courts to the court of appeals to act as temporary judges thereof. The transfer may be made to replace disabled or disqualified judges, or to enlarge the court of appeals temporarily to not more than 18 judges if the business of the court of appeals is deemed by the supreme court to warrant it. If the court of appeals sits in divisions, such temporary

judges may be assigned to any such division. No more than 1 circuit judge shall be assigned to hear any case. Such temporary judge shall be disqualified from hearing, in the court of appeals, cases tried before him in the trial court.

HISTORY: Add. 1964, p. 525, Act 281, Imd. Eff. Jun. 11;—Am. 1968, p. 189, Act 127, Imd. Eff. Jun. 11.

600.307 Judges; practice of law prohibited.

Sec. 307. The judges of the court of appeals shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation.

HISTORY: Add. 1964, p. 525, Act 281, Imd. Eff. Jun. 11.

600.308 Jurisdiction; cases.

Sec. 308. The court of appeals has jurisdiction on appeals from:

(1) All final judgments from the circuit courts, court of claims, and recorder's court, except judgments on ordinance violations in the traffic and ordinance division of recorder's court. Appeals from final judgments from all other courts and from convictions for ordinance violations in the traffic and ordinance division of recorder's court shall be taken to the circuit courts, upon which further review may be had only upon application for leave to appeal granted by the court of appeals.

(2) Such other judgments or interlocutory orders as the supreme court may by rule determine.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11;—Am. 1968, p. 178, Act 116, Imd. Eff. Jun. 11.

600.309 Appeals as of right; appeals by leave of court.

Sec. 309. All appeals to the court of appeals from final judgments or decisions permitted by this act shall be a matter of right. All other appeals from other judgments or orders to the court of appeals permitted by statute or supreme court rule shall be by right or by leave as provided by the statute or the rules promulgated by the supreme court.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11.

600.310 Original jurisdiction; writs, directives and mandates.

Sec. 310. The court of appeals has original jurisdiction to issue prerogative and remedial writs or orders as provided by rules of the supreme court, and has authority to issue any writs, directives and mandates that it judges necessary and expedient to effectuate its determination of cases brought before it.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11;—Am. 1967, p. 85, Act 65, Imd. Eff. Jun. 20.

600.311 Divisions; quorum, rotation.

Sec. 311. (1) Unless otherwise provided by supreme court rule, the court of appeals shall sit in 3 divisions.

(2) A majority of the judges assigned to each division shall constitute a quorum for hearing cases and transacting business.

(3) The rotation of divisions and the assignment of judges and cases shall be in accordance with rules of the supreme court.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11.

600.312 Sessions of court; office space.

Sec. 312. (1) The court of appeals shall hold such sessions as are necessary to dispose of the matters before it.

(2) The court of appeals shall hold court sessions at such places as the supreme court shall direct.

(3) Except as otherwise provided by law or by supreme court rule, the offices of the court of appeals shall be located in the city of Lansing.

(4) The department of administration shall furnish the court with suitable space and equipment in the city of Lansing, and at such other locations as the court shall hold court sessions.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11.

600.313 Decisions in writing; delivery to supreme court reporter and clerk of court of appeals; equal division of court.

Sec. 313. (1) Decisions of the court of appeals shall be in writing. Copies of written opinions of the court of appeals shall be delivered to the supreme court reporter not later than when they are filed with the clerk of the court of appeals. The reporter shall cause such opinions to be printed in accordance with rules of the supreme court.

Equal division of court.

(2) When the judges of the district court of appeals hearing a case are equally divided as to the ultimate decision of any case properly before the court on review, the judgment of the court below shall be affirmed.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11.

600.314 Finality of decisions; superintending control of supreme court.

Sec. 314. (1) The decisions on appeal of the court of appeals are final, except as reviewed by the supreme court as provided by supreme court rule.

(2) The court of appeals is subject to the superintending control power of the supreme court, and this section does not affect the exercise of that power, nor the issuance of writs by the supreme court pursuant to its constitutional powers.

HISTORY: Add. 1964, p. 526, Act 281, Imd. Eff. Jun. 11.

600.315 Process; style, execution, seal.

Sec. 315. (1) All writs and process issuing out of the court of appeals shall be styled: "In the name of the people of the state of Michigan," and shall run into and be executed in any county of the state.

(2) The seal of the court of appeals affixed to, or impressed upon, any writ or process in any action or proceeding shall be conclusive evidence that the writ or process was issued by the court of appeals in all cases where such writ or process may be lawfully issued.

HISTORY: Add. 1964, p. 527, Act 281, Imd. Eff. Jun. 11.

600.316 Process; service.

Sec. 316. Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of a circuit court.

HISTORY: Add. 1964, p. 527, Act 281, Imd. Eff. Jun. 11.

600.317 Chief clerk; deputy clerks; personnel.

Sec. 317. (1) There shall be 1 chief clerk who shall be appointed and may be removed by the court of appeals. The office of the chief clerk shall be located in the city of Lansing.

Deputy clerks, personnel, duties, qualifications, bond; court officers.

(2) Deputy clerks as are necessary shall be appointed by the chief clerk with the approval of the court of appeals. Such deputy clerks shall be assigned by the chief clerk to locations approved by the court of appeals. The chief clerk and deputy clerks shall engage necessary personnel with the approval of the court of appeals and maintain such records under such standards as the court of appeals shall direct. Action taken in accordance with this subsection shall be subject to the superintendence of the supreme court and the court administrator.

(3) The chief clerk shall:

- (a) Be an attorney admitted to practice in Michigan;
- (b) Take and subscribe the oath required by the constitution before taking office; and

(c) Perform such duties as may be provided by law, or as prescribed by the court of appeals.

(4) The chief clerk and all deputy clerks shall each furnish a bond before taking office. The bond shall be:

- (a) In favor of the people of the state;
- (b) In the penal sum of \$10,000.00;
- (c) Approved by the presiding judge of the court of appeals;
- (d) Filed with the secretary of state;
- (e) Paid from the general fund in the state treasury on vouchers approved by the presiding judge of the court of appeals; and
- (f) Conditioned on the faithful performance of his official duties with impartiality and correctness.

(5) The judges of the court of appeals shall appoint such court officers as shall be deemed necessary by the court of appeals.

HISTORY: Add. 1964, p. 527, Act 281, Imd. Eff. Jun. 11.

600.318 Research law clerks; employment, qualifications.

Sec. 318. (1) Each judge of the court of appeals may employ a research law clerk to assist him in connection with the work of his office.

(2) The clerks shall

- (a) Be Michigan residents and graduates of a law school approved and accredited by the council of legal education of the American Bar Association;
- (b) Be employed for a maximum of 2 years; and
- (c) Perform such duties as may be prescribed by the court of appeals.

HISTORY: Add. 1964, p. 528, Act 281, Imd. Eff. Jun. 11.

600.319 Secretarial personnel; employment.

Sec. 319. Each judge of the court of appeals may employ secretarial personnel to the extent he deems expedient to assist him in connection with the work of his office.

HISTORY: Add. 1964, p. 528, Act 281, Imd. Eff. Jun. 11.

600.320 Salaries and expenses; payment.

Sec. 320. All salaries and expenses of the court and its employees shall be paid out of appropriations made therefor in accordance with the accounting laws of the state.

HISTORY: Add. 1964, p. 528, Act 281, Imd. Eff. Jun. 11.

600.321 Fees; payment, waiver, deposit; costs.

Sec. 321. The following fees shall be paid to the clerk of the court of appeals, and may be taxed as costs where costs are allowed by order of the court:

- (1) There shall be paid to the clerk the sum of \$50.00 on appeal as of right and \$50.00 on application for leave to appeal.
- (2) Upon the entry of any motion upon the motion docket, there shall be paid to the clerk the sum of \$20.00.
- (3) The clerk shall be allowed the sum of 50 cents per page for certified copies of any entries or papers in any action or proceedings when required for any other purpose than one connected with the progress or disposition of such action or proceeding.
- (4) The clerk shall charge the sum of 50 cents per page for all uncertified copies of opinions, excepting those sent to 1 counsel representing each party in the case, for which no charge shall be made.

(5) If a person is unable to pay the fees mentioned herein, he may by motion, accompanied by his affidavit stating facts showing such inability, ask the court to waive such fees and the court or a judge thereof may waive payment of such fees.

(6) Each month the clerk shall deposit with the state treasurer all fees collected, securing and filing a receipt therefor.

(7) Costs shall be awarded in the discretion of the court.

(8) Upon appeal to the court of appeals there shall be paid to the clerk of the trial court the sum of \$10.00 as an appeal fee.

HISTORY: Add. 1964, p. 528, Act 281, Imd. Eff. Jun. 11;—Am. 1970, p. 664, Act 248, Imd. Eff. Jan. 1, 1971.

CHAPTER 5.

CIRCUIT COURTS: ORGANIZATION AND POWERS

600.501 Judicial circuits.

Sec. 501. The state is divided into judicial circuits as provided in sections 502 to 542 of this act.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963.

600.502 First judicial circuit.

Sec. 502. The first judicial circuit consists of the county of Hillsdale and has 1 judge.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963.

600.503 Second judicial circuit.

Sec. 503. The second judicial circuit consists of the county of Berrien and has 3 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 189, Act 127, Imd. Eff. Jun. 11.

600.504 Third judicial circuit.

Sec. 504. The third judicial circuit consists of the county of Wayne and has 27 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 235, Act 172, Eff. Sep. 6;—Am. 1965, p. 532, Act 284, Imd. Eff. Jul. 22.

600.505 Fourth judicial circuit.

Sec. 505. The fourth judicial circuit consists of the county of Jackson and has 3 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20.

600.506 Fifth judicial circuit.

Sec. 506. The fifth judicial circuit consists of the counties of Barry and Eaton and has 2 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.507 Sixth judicial circuit.

Sec. 507. The sixth judicial circuit consists of the county of Oakland and has 11 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 266, Act 179, Eff. Sep. 6;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.508 Seventh judicial circuit.

Sec. 508. The seventh judicial circuit consists of the county of Genesee and has 6 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20.

600.509 Eighth judicial circuit.

Sec. 509. The eighth judicial circuit consists of the counties of Ionia and Montcalm and has 1 judge.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963.

600.510 Ninth judicial circuit.

Sec. 510. The ninth judicial circuit consists of the county of Kalamazoo and has 3 judges.

HISTORY: New 1961, p. 422, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 414, Act 264, Imd. Eff. Jun. 3.

600.511 Tenth judicial circuit.

Sec. 511. The tenth judicial circuit consists of the county of Saginaw and has 4 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 189, Act 127, Imd. Eff. Jun. 11.

600.512 Eleventh judicial circuit.

Sec. 512. The eleventh judicial circuit consists of the counties of Alger, Chippewa, Luce and Schoolcraft and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.513 Twelfth judicial circuit.

Sec. 513. The twelfth judicial circuit consists of the counties of Baraga, Houghton and Keweenaw and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.514 Thirteenth judicial circuit.

Sec. 514. The thirteenth judicial circuit consists of the counties of Antrim, Charlevoix, Grand Traverse and Leelanau and has 2 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 189, Act 127, Imd. Eff. Jun. 11;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11;—Am. 1970, p. 140, Act 49, Imd. Eff. Jan. 1, 1971.

600.515 Fourteenth judicial circuit.

Sec. 515. The fourteenth judicial circuit consists of the county of Muskegon and has 3 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 189, Act 127, Imd. Eff. Jun. 11.

600.516 Fifteenth judicial circuit.

Sec. 516. The fifteenth judicial circuit consists of the county of Branch and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.517 Sixteenth judicial circuit.

Sec. 517. The sixteenth judicial circuit consists of the county of Macomb and has 7 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 396, Act 187, Imd. Eff. May 24;—Am. 1964, p. 269, Act 198, Imd. Eff. May 22;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.518 Seventeenth judicial circuit.

Sec. 518. The seventeenth judicial circuit consists of the county of Kent and has 5 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 409, Act 262, Imd. Eff. Jun. 3;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20.

600.519 Eighteenth judicial circuit.

Sec. 519. The eighteenth judicial circuit consists of the county of Bay and has 2 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.520 Nineteenth judicial circuit.

Sec. 520. The nineteenth judicial circuit consists of the counties of Lake, Manistee, Mason and Osceola and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.521 Twentieth judicial circuit.

Sec. 521. The twentieth judicial circuit consists of the counties of Allegan and Ottawa and has 2 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20.

600.522 Twenty-first judicial circuit.

Sec. 522. The twenty-first judicial circuit consists of the counties of Clare, Isabella and Gladwin and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22.

600.523 Twenty-second judicial circuit.

Sec. 523. The twenty-second judicial circuit consists of the county of Washtenaw and has 4 judges.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 32, Act 32, Imd. Eff. Apr. 26;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.524 Twenty-third judicial circuit.

Sec. 524. The twenty-third judicial circuit consists of the counties of Alcona, Iosco and Oscoda and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.525 Twenty-fourth judicial circuit.

Sec. 525. The twenty-fourth judicial circuit consists of the counties of Huron and Sanilac and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.526 Twenty-fifth judicial circuit.

Sec. 526. The twenty-fifth judicial circuit consists of the counties of Delta and Marquette and has 1 judge.

HISTORY: New 1961, p. 423, Act 236, Eff. Jan. 1, 1963.

600.527 Twenty-sixth judicial circuit.

Sec. 527. The twenty-sixth judicial circuit consists of the counties of Alpena, Montmorency and Presque Isle and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.528 Twenty-seventh judicial circuit.

Sec. 528. The twenty-seventh judicial circuit consists of the counties of Mecosta, Newaygo and Oceana and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.529 Twenty-eighth judicial circuit.

Sec. 529. The twenty-eighth judicial circuit consists of the counties of Benzie, Kalkaska, Missaukee and Wexford and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.530 Twenty-ninth judicial circuit.

Sec. 530. The twenty-ninth judicial circuit consists of the counties of Clinton and Gratiot and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.531 Thirtieth judicial circuit.

Sec. 531. The thirtieth judicial circuit consists of the county of Ingham and has 5 judges.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.532 Thirty-first judicial circuit.

Sec. 532. The thirty-first judicial circuit consists of the county of St. Clair and has 2 judges.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.533 Thirty-second judicial circuit.

Sec. 533. The thirty-second judicial circuit consists of the counties of Gogebic and Ontonagon and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.534 Thirty-third judicial circuit.

Sec. 534. The thirty-third judicial circuit consists of the counties of Cheboygan, Emmet and Mackinac and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.535 Thirty-fourth judicial circuit.

Sec. 535. The thirty-fourth judicial circuit consists of the counties of Arenac, Crawford, Ogemaw, Otsego and Roscommon and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1970, p. 81, Act 30, Imd. Eff. Jun. 11;—Am. 1970, p. 140, Act 49, Imd. Eff. Jan. 1, 1971.

600.536 Thirty-fifth judicial circuit.

Sec. 536. The thirty-fifth judicial circuit consists of the county of Shiawassee and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.537 Thirty-sixth judicial circuit.

Sec. 537. The thirty-sixth judicial circuit consists of the county of Van Buren and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.538 Thirty-seventh judicial circuit.

Sec. 538. The thirty-seventh judicial circuit consists of the county of Calhoun and has 2 judges.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.539 Thirty-eighth judicial circuit.

Sec. 539. The thirty-eighth judicial circuit consists of the county of Monroe and has 2 judges.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 40, Act 22, Imd. Eff. Apr. 20.

600.540 Thirty-ninth judicial circuit.

Sec. 540. The thirty-ninth judicial circuit consists of the county of Lenawee and has 1 judge.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963.

600.541 Fortieth judicial circuit.

Sec. 541. The fortieth judicial circuit consists of the counties of Lapeer and Tuscola and has 2 judges.

HISTORY: New 1961, p. 424, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.542 Forty-first judicial circuit.

Sec. 542. The forty-first judicial circuit consists of the counties of Dickinson, Iron and Menominee and has 1 judge.

HISTORY: New 1961, p. 425, Act 236, Eff. Jan. 1, 1963.

600.543 Forty-second judicial circuit.

Sec. 543. The forty-second judicial circuit consists of the county of Midland and has 1 judge.

HISTORY: Add. 1965, p. 533, Act 284, Imd. Eff. Jul. 22.

600.544 Forty-third judicial circuit.

Sec. 544. The forty-third judicial circuit consists of the county of Cass and has 1 judge.

HISTORY: Add. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.545 Forty-fourth judicial circuit.

Sec. 545. The forty-fourth judicial circuit consists of the county of Livingston and has 1 judge.

HISTORY: Add. 1968, p. 190, Act 127, Imd. Eff. Jun. 11.

600.546 Forty-fifth judicial circuit.

Sec. 546. The forty-fifth judicial circuit consists of the county of St. Joseph and has 1 judge.

HISTORY: Add. 1970, p. 81, Act 30, Imd. Eff. Jun. 11.

600.551 Additional courtroom facilities in multi-judge counties.

Sec. 551. The boards of supervisors of counties of circuits which have more than 1 circuit judge shall provide additional courtroom facilities as they are required for the prompt and orderly dispatch of business.

HISTORY: New 1961, p. 425, Act 236, Eff. Jan. 1, 1963.

600.555 Judges; salaries, state and county; expenses.

Sec. 555. (1) Each circuit judge shall receive an annual salary of \$24,000.00 payable by the state. The boards of commissioners in their discretion may vote to pay the circuit judge or judges of their respective counties a salary in addition to the amount of the state salary. In no case shall the total of the salary payable by the state plus the salary payable by the county exceed \$35,000.00. Wherever a county board of commissioners supplements the state salary so that the total of the state and county salaries would exceed \$35,000.00, the salary payable by the state shall be reduced so that the total of the state and county salaries is \$35,000.00.

(2) Every circuit judge who holds court in any county other than the county of his residence shall be reimbursed for his actual and necessary expenses incurred in so holding court. Each circuit judge entitled to such reimbursement shall certify the expenses incurred to the court administrator for allowance. Upon allowance thereof, the state treasurer shall issue his warrant on the state treasury for payment.

HISTORY: New 1961, p. 425, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 236, Act 172, Eff. Sep. 6;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22;—Am. 1968, p. 341, Act 252, Eff. Jan. 1, 1967;—Am. 1970, p. 664, Act 248, Imd. Eff. Jul. 1, 1971.

600.558 Visiting judges; powers, expenses, salary.

Sec. 558. (1) The supreme court may in its discretion, through its direct order or through the court administrator, direct and compel any judge of any circuit court to serve as a judge of any other circuit court. Though the court has a broad discretion, it should particularly consider those cases where the presiding judge of a circuit court has asked that another judge be sent to that circuit and has properly shown:

(a) that the business of that court has increased beyond the capacity of the judge or judges of that circuit court to properly dispose of, or

(b) that a vacancy exists in the office of the circuit judge of any judicial circuit, or

(c) that any circuit court judge is unable to discharge the duties of his office, or

(d) any other sufficient reasons.

(2) Judges so designated shall hold court and fulfill the duties of the office just as

they would had they been elected in the respective circuits for the time they were designated to serve.

(3) It is the duty of the sheriffs or the county supervisors of the respective counties to provide suitable places where such judges shall hold court. All other expenses incurred for this purpose are proper charges against the respective counties for which the courts are held, and shall be audited and allowed by the boards of auditors or supervisors of these counties.

(4) Any judge designated to hold court as provided in this section may receive extra compensation not to exceed \$20.00 for each day he held court as provided in this section. To obtain this extra compensation, the judges shall certify, at the end of the period for which they respectively have been designated, the amounts due; the boards of county auditors or supervisors of the respective counties shall then audit and allow these amounts; thereupon the treasuries of the respective counties shall pay over these amounts to the respective circuit judges.

HISTORY: New 1961, p. 425, Act 236, Eff. Jan. 1, 1963.

600.560 Judges; absence or disability, authority of judge in adjoining circuit.

Sec. 560. In case of the absence or disability of all the circuit judges of any judicial circuit in this state, the circuit judge of any adjoining circuit is authorized to grant any order which may be made by a circuit judge at chambers with reference to any suit or action pending or about to be brought in the circuit from which the judge or judges thereof may be absent or unable to act. A recital of such absence or disability in any order so granted shall be conclusive evidence thereof.

HISTORY: New 1961, p. 425, Act 236, Eff. Jan. 1, 1963.

600.562 Judges; practice of law prohibited.

Sec. 562. The circuit court judges shall not practice as attorneys or counselors in any court of the state, nor shall they engage in the practice of law for compensation. No circuit judge may have any law partner practicing in the circuit of which he is a judge.

HISTORY: New 1961, p. 426, Act 236, Eff. Jan. 1, 1963.

COURT OFFICERS

600.565 Judicial clerks; appointment, duties, salary.

Sec. 565. (1) Upon recommendation of the circuit judges of the county, the governor may

(a) appoint the indicated number of judicial clerks in the specified circuits and counties as follows:

- (i) one clerk in counties having 2 or more judges, CIRCUIT COURTS
- (ii) three or more clerks in counties having more than 1,000,000 population; CIRCUIT COURTS

(b) remove the judicial clerks and appoint successors.

(2) The judicial clerks shall

(a) perform such duties as the circuit judges prescribe in connection with the court's business;

(b) receive an annual salary from the county, payable in monthly installments,

(i) in accordance with the official salary plan of the county where the county has adopted civil service under Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428, inclusive, of the Compiled Laws of 1948;

(ii) as fixed and determined by the board of supervisors for the county where the county has not adopted civil service. The board of supervisors may increase the judicial clerk's salary at any regular October session.

HISTORY: New 1961, p. 426, Act 236, Eff. Jan. 1, 1963.

600.567 Court administrator of certain circuits; duties, compensation, term.

Sec. 567. (1) In any circuit court which has 20 or more judges, such judges may recommend a court administrator for their court who may be appointed by the Governor and who shall then subscribe a constitutional oath of office administered by the presiding circuit judge and file such oath with the secretary of state.

(2) The court administrator, acting under the direction of the judges, shall perform such duties as prescribed by such judges.

(3) The compensation of the court administrator shall be fixed by the recommending judges within the sum appropriated therefor by the legislative body of the governmental unit, other than the state of Michigan, which pays the compensation of such judges.

(4) The term of office of the court administrator shall be 6 years, subject to reappointment for like terms. The court administrator shall not be subject to civil service regulation nor to compulsory retirement. Removal during any given term shall be by the governor upon recommendation by the judges of the court.

HISTORY: Add. 1969, p. 759, Act 333, Imd. Eff. Nov. 4.

600.571 Circuit court clerks; duties, accounting.

Sec. 571. The county clerk of each county shall

(a) Be the clerk of the circuit court for the county.

(b) Attend the circuit court sessions.

(c) Appoint in counties with more than 1 circuit judge or having more than 100,000 population but less than 1,000,000 a deputy for each judge and approved by the judge to attend the court sessions. Each deputy shall receive a salary of at least \$6,500.00.

(d) On the first day of each court term render an accounting to the court of all funds, stocks or securities deposited with the court clerk pursuant to court order.

(e) Within 10 days after the beginning of each court term pay over to the county treasurer all fees belonging to the county received during the preceding court term together with an accounting thereof.

(f) Have the care and custody of all the records, seals, books and papers pertaining to the office of the clerk of such court, and filed or deposited therein, and shall provide such books for entering the proceedings in said court, as the judge thereof shall direct.

(g) Perform such duties as may be prescribed by court rule. Whenever in any statute of this state, the designation "register in chancery" occurs, it shall be deemed to apply to the clerk of the circuit court.

HISTORY: New 1961, p. 426, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 47, Act 31, Imd. Eff. May 14;—Am. 1966, p. 641, Act 343, Eff. Jan. 1, 1967.

600.572 Deposits with court; bond of clerk.

Sec. 572. The circuit judge in his discretion may

(a) make and file with the clerk of the court rules and regulations concerning funds, stocks, or securities deposited with the court pursuant to court order;

(b) require the court clerk to file a bond with the county treasurer conditioned that said clerk shall, in all respects comply with the requirements of law and the court rules in the handling and management of such funds, and to faithfully account for the same.

(3) Whenever the court directs by order that stocks and securities be deposited with a court officer, they shall be taken in the name of the court clerk. Upon the death, re-

removal from office, or resignation of a court clerk, all bank accounts, stocks, or securities vested in him by virtue of his office shall vest in his successor.

HISTORY: New 1961, p. 426, Act 236, Eff. Jan. 1, 1963.

600.573 Deposits with court; deposit in bank.

Sec. 573. All funds, stocks, or securities deposited with the court for or by any person and received by the court clerk shall be deposited in a bank or otherwise safeguarded in the manner directed by the court.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963.

600.574 Deposits with court; certificate; securities, accounting.

Sec. 574. Any funds which the clerk deposits in a bank shall be evidenced by a certificate from the bank cashier except for stocks or securities deposited in a safety deposit box as directed by the court. The certificate shall state that the amount deposited is actually in the bank, is credited to the clerk's account, and is not mingled with any other account. Stocks or securities deposited in a safety deposit box shall be accounted for as directed by the court.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 149, Act 60, Imd. Eff. Jul. 10.

600.575 Deposits with court; payment on court order.

Sec. 575. Funds which the clerk deposits in a bank to the credit of any officer of the court shall be paid out by the bank only upon presentation of a court order signed by the circuit judge.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963.

600.576 Deposits with court; liability of payor.

Sec. 576. A person depositing funds, stocks, or securities with the court clerk pursuant to court order is discharged from all further liability to the extent of the deposit.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963.

600.579 Deputy circuit court clerks; appointment, salary.

Sec. 579. (1) In counties having a population of more than 1,000,000 or that shall hereafter attain a population of more than 1,000,000 and that have adopted civil service under Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Compiled Laws of 1948, the county clerk shall appoint or promote from the classified eligible list of the civil service a chief deputy circuit court clerk and at least 1 deputy circuit court clerk for each acting circuit judge in the county.

(2) In counties that may hereafter attain a population of more than 1,000,000 and that have not adopted civil service under Act No. 370 of the Public Acts of 1941, the county clerk shall appoint a chief deputy circuit court clerk and at least 1 deputy circuit court clerk for each acting circuit judge in the county.

(3) The salary of the deputy circuit court clerks shall be not less than \$10,750.00 per year; and shall be paid in the same manner and at the same time that other county employees are paid.

(4) The civil service commission, with the approval of the board of supervisors in counties of more than 1,000,000 population which have adopted civil service under Act No. 370 of the Public Acts of 1941, may, by resolution, provide for increase in the salaries of deputy circuit court clerks.

(5) The board of supervisors in counties that may hereafter attain a population of more than 1,000,000 and that have not adopted civil service under Act No. 370 of the Public Acts of 1941, may, by resolution, provide for increase in the salaries of deputy circuit court clerks.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 102, Act 103, Eff. Aug. 28;—Am. 1966, p. 641, Act 343, Eff. Jan. 1, 1967.

600.581 Sheriff and deputy; attendance at court sessions.

Sec. 581. The sheriff of the county, or his deputy, shall attend the circuit court sessions, and the sessions of such other courts of record as required by law. The judge in his discretion

(a) shall fix, determine, and regulate the attendance at court sessions of the sheriff and his deputies;

(b) may fine the sheriff and his deputies for failure to attend.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963.

600.582 Sheriff and deputy; officers of court, powers.

Sec. 582. The sheriff and his deputies

(a) are officers of the circuit court for the purpose of executing the process of the court;

(b) may execute all lawful orders and process of the court in any county of the state;

(c) to whom process is directed may be punished for disobedience or default therein in the manner prescribed by law.

HISTORY: New 1961, p. 427, Act 236, Eff. Jan. 1, 1963.

600.584 Sheriff and deputy, coroner; aid in performing duties.

Sec. 584. The sheriff, his deputies, and any coroner or constable having the power to perform such duty may require suitable aid in

(a) serving process in civil or criminal cases;

(b) preserving the peace;

(c) apprehending or securing any person for felony or breach of the peace.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.585 Sheriff and deputy, coroner; power of the county.

Sec. 585. Whenever the sheriff, a deputy, coroner, or a constable encounters resistance in serving process or reasonably believes that resistance will be encountered, he may take the power of the county and proceed therewith to serve the process.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.586 Sheriff and deputy, coroner; acting as attorney; forfeiture, exceptions.

Sec. 586. Any sheriff, deputy sheriff, or coroner who:

(a) appears in any court as attorney or counsel for or in behalf of any party in any action, or

(b) draws, makes, or fills out any writ, complaint, or process for any party, or

(c) with the intent to procure himself to be employed in the collection of any demand or the service of any process, advises or counsels any person to commence any action or proceeding shall forfeit the sum of \$150.00. This section shall not apply to deputy sheriffs who are specially appointed to serve in advisory capacities and who do not serve civil process.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.587 Sheriff and deputy, constable; willful neglect, penalty.

Sec. 587. Any sheriff, constable, or other officer who wilfully neglects to execute any:

(a) attachment,

(b) summons,

(c) precept to summon a jury,

(d) warrant to apprehend a witness or any other person, or

(e) any other process authorized to be issued by any judge, circuit court commissioner, or justice of the peace in any special proceeding or matter before him, except

civil actions before justices of the peace, which is directed and delivered to him may be fined by the officer who issued the process in a sum not exceeding \$100.00.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.588 Sheriff and deputy, constable; attending jury.

Sec. 588. Any sheriff, constable, or other officer, who has summoned any jury as mentioned in section 587 above, shall attend the jury and take charge of them when required to do so by the officer issuing the summons. For any wilful neglect to obey the order to do so or for any misconduct while attending the jury, by which the rights or remedies of any party to the proceedings may be impaired or prejudiced, he shall be liable to be fined in a sum not exceeding \$100.00 by the officer before whom the jury appeared.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.589 Fine; excuse, remission.

Sec. 589. Upon any fine being imposed in any of the cases hereinbefore specified, notice thereof shall be given to the person fined, to the end that he may, within a reasonable time, render any excuse to the officer imposing such fine, or show cause why such fine should be remitted.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

CHAPTER 6.

JURISDICTION OF THE CIRCUIT COURTS

600.601 Circuit courts; jurisdiction.

Sec. 601. Circuit courts have the power and jurisdiction

- (1) possessed by courts of record at the common law, as altered by the constitution and laws of this state and the rules of the supreme court, and
- (2) possessed by courts and judges in chancery in England on March 1, 1847, as altered by the constitution and laws of this state and the rules of the supreme court, and
- (3) prescribed by rule of the supreme court.

HISTORY: New 1961, p. 428, Act 236, Eff. Jan. 1, 1963.

600.605 Circuit court; original jurisdiction.

Sec. 605. Circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.611 Circuit court; orders to effectuate judgments.

Sec. 611. Circuit courts have jurisdiction and power to make any order proper to fully effectuate the circuit courts' jurisdiction and judgments.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.615 Circuit court; superintending control over inferior courts.

Sec. 615. The circuit courts have a general superintending control over all inferior courts and tribunals, subject to the rules of the supreme court.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.621 Circuit court; rules of practice.

Sec. 621. The circuit courts from time to time may make rules for regulating the practice of the said courts in matters not covered by rule of the supreme court or by statute.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.631 Circuit court; nonjury appeal from state agency, procedure, jurisdiction, appeal bond.

Sec. 631. An appeal shall lie from any order, decision or opinion of any state board, commission or agency, authorized under the laws of this state to promulgate rules and regulations from which an appeal or other judicial review has not heretofore been provided for by law, to the circuit court of the county of which the appellant is a resident or to the circuit court of Ingham county, and such circuit court shall have and exercise jurisdiction with respect thereto as in nonjury cases. Such appeals shall be made in the same manner as appeals are made from justice courts, except that no appeal bond is required.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.641 Civil actions; transfer to lower court; fee; jury trial.

Sec. 641. (1) If it appears at the conclusion of a pretrial hearing on an action commenced in the circuit court that the amount of damages sustained may be less than the jurisdictional limitation as to the amount in controversy applicable to the lower court, the circuit judge may, without the consent of the parties, remove such action to any lower court within the county which would have had jurisdiction but for the amount of damages demanded and in which venue would have been proper.

(2) When an action is removed to a lower court, the circuit court shall forward to the lower court, as a filing fee, a portion of the filing fee paid at the commencement of the action in circuit court which is equal to the filing fee otherwise required in the lower court.

(3) A waiver of jury trial in the circuit court is inoperative after the removal. But failure of a party to file a demand for a jury trial in the lower court and to pay the appropriate lower court jury fee within 30 days after the case is so removed constitutes a waiver by him of a trial by jury in the lower court.

(4) If the action is so removed, then the verdict or judgment shall be lawful to the extent of the amount demanded, notwithstanding the jurisdictional limitation as to the amount in controversy otherwise applicable to cases commenced in the lower court.

(5) As used in this section "lower court" means the common pleas court of Detroit and the district court.

(6) This section applies to an action for which a pretrial hearing had not been held as of August 11, 1969 and to an action commenced after such date.

HISTORY: Add. 1969, p. 480, Act 258, Imd. Eff. Aug. 11;—Am. 1970, p. 647, Act 238, Imd. Eff. Jan. 1, 1971.

CHAPTER 7.

BASES OF JURISDICTION

600.701 Individuals; general personal jurisdiction.

Sec. 701. The existence of any of the following relationships between an individual and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over such individual or his representative and to enable such courts to render personal judgments against such individual or representative.

(1) Presence in the state at the time when process is served.

(2) Domicile in the state at the time when process is served.

(3) Consent, to the extent authorized by the consent.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.705 Individuals; limited personal jurisdiction.

Sec. 705. The existence of any of the following relationships between an individual or his agent and the state shall constitute a sufficient basis of jurisdiction to enable the

courts of record of this state to exercise limited personal jurisdiction over such individual and to enable such courts to render personal judgments against such individual or his representative arising out of the act or acts which create any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use, or possession of any real or tangible personal property situated within the state.
- (4) Contracting to insure any person, property, or risk located within this state at the time of contracting.
- (5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.
- (6) Acting as a director, manager, trustee, or other officer of any corporation incorporated under the laws of, or having its principal place of business within, the state of Michigan.

HISTORY: New 1961, p. 429, Act 236, Eff. Jan. 1, 1963.

600.711 Corporations; general personal jurisdiction.

Sec. 711. The existence of any of the following relationships between a corporation and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over such corporation and to enable such courts to render personal judgments against such corporation.

- (1) Incorporation under the laws of this state.
- (2) Consent, to the extent authorized by the consent.
- (3) The carrying on of a continuous and systematic part of its general business within the state.

HISTORY: New 1961, p. 430, Act 236, Eff. Jan. 1, 1963.

600.715 Corporations; limited personal jurisdiction.

Sec. 715. The existence of any of the following relationships between a corporation or its agent and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such corporation and to enable such courts to render personal judgments against such corporation arising out of the act or acts which create any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use, or possession of any real or tangible personal property situated within the state.
- (4) Contracting to insure any person, property, or risk located within this state at the time of contracting.
- (5) Entering into a contract for services to be performed or for materials to be furnished in the state by the defendant.

HISTORY: New 1961, p. 430, Act 236, Eff. Jan. 1, 1963.

600.721 Partnerships; general personal jurisdiction.

Sec. 721. The existence of any of the following relationships between a partnership or limited partnership and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over such partnership or limited partnership and to enable such courts to render personal judgments against such partnership or limited partnership.

- (1) Formation under the laws of this state.
- (2) Consent, to the extent authorized by the consent.
- (3) The carrying on of a continuous and systematic part of its general business within the state.

HISTORY: New 1961, p. 430, Act 236, Eff. Jan. 1, 1963.

600.725 Partnerships; limited personal jurisdiction.

Sec. 725. The existence of any of the following relationships between a partnership or limited partnership or an agent thereof and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such partnership or limited partnership and to enable such courts to render personal judgments against such partnership or limited partnership arising out of the act or acts which create any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use, or possession of any real or tangible personal property situated within the state.
- (4) Contracting to insure any person, property, or risk located within this state at the time of contracting.
- (5) Entering into a contract for services to be performed or for materials to be furnished in the state by the defendant.

HISTORY: New 1961, p. 430, Act 236, Eff. Jan. 1, 1963.

600.731 Partnership association or unincorporated voluntary association; general personal jurisdiction.

Sec. 731. The existence of any of the following relationships between a partnership association or unincorporated voluntary association and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise general personal jurisdiction over such partnership association or unincorporated voluntary association and to enable such courts to render personal judgments against such partnership association or unincorporated voluntary association.

- (1) Formation under the laws of this state.
- (2) Consent, to the extent authorized by the consent.
- (3) The carrying on of a continuous and systematic part of its general business within the state.

HISTORY: New 1961, p. 431, Act 236, Eff. Jan. 1, 1963.

600.735 Partnership association or unincorporated voluntary association; limited personal jurisdiction.

Sec. 735. The existence of any of the following relationships between a partnership association or unincorporated voluntary association or an agent thereof and the state shall constitute a sufficient basis of jurisdiction to enable the courts of record of this state to exercise limited personal jurisdiction over such partnership association or unincorporated voluntary association and to enable such courts to render personal judgments against such partnership association or unincorporated voluntary association arising out of the act or acts which create any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing any act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use or possession of any real or tangible personal property situated within the state.

(4) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.

HISTORY: New 1961, p. 431, Act 236, Eff. Jan. 1, 1963.

600.741 Limited jurisdiction; bond by plaintiff.

Sec. 741. In all civil actions where sections 705, 715, 725 or 735 constitute the basis of jurisdiction of a defendant, on such defendant's motion the court shall require the plaintiff to post a bond to such defendant with 2 or more sureties to be approved by the judge or clerk of court, or with a surety company authorized to do business in this state, in the sum to be fixed by the court conditioned that in the event judgment is not rendered in favor of such plaintiff, so much of the penalty of said bond as may be required shall be applied to the satisfaction of any judgment for court costs and to defray the actual expenses of such defendant incurred in defending the action (but not to include attorney's fees). If plaintiff prevails in the action, he may tax as costs in the case his reasonable expense in procuring the bond furnished.

HISTORY: New 1961, p. 431, Act 236, Eff. Jan. 1, 1963.

600.751 Jurisdiction over land irrespective of ownership.

Sec. 751. The courts of record of this state shall have jurisdiction over land situated within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of this state.

HISTORY: New 1961, p. 431, Act 236, Eff. Jan. 1, 1963.

600.755 Jurisdiction over chattels irrespective of ownership.

Sec. 755. The courts of record of this state shall have jurisdiction over chattels situated within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of the state.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.761 Jurisdiction over documents irrespective of ownership.

Sec. 761. The courts of record of this state shall have jurisdiction over documents which are within the state whether or not the persons owning or claiming interests therein are subject to the jurisdiction of the courts of the state.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.765 Jurisdiction over corporate shares irrespective of ownership.

Sec. 765. The courts of record of this state shall have jurisdiction

(1) over the shares in a corporation incorporated in the state (subject to the limitations in the uniform stock transfer act),

(2) over share certificates which are located within the territory of the state,

(3) over shares in a corporation represented by share certificates located within the state if the law of the state of incorporation embodies the share in the share certificates, whether or not the persons owning or claiming an interest in the shares or share certificates are subject to the jurisdiction of the courts of the state.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.771 Jurisdiction over obligations irrespective of creditor.

Sec. 771. The courts of record of this state shall have jurisdiction over obligations owed by persons who are subject to the judicial jurisdiction of the state whether or not the persons to whom the obligations are owed are subject to the jurisdiction of the state.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.775 Jurisdiction over status.

Sec. 775. The judicial jurisdiction over status granted to the courts of record of this state by the state's constitution, laws, and court rules may be exercised:

(1) to the extent permitted by the constitution of the United States, except as limited by the constitution, court rules, and laws of this state, and

(2) in the manner permitted by the court rules and laws of this state.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

CHAPTER 9.

ATTORNEYS AND COUNSELORS

600.901 State bar; membership; public body corporate.

Sec. 901. The state bar of Michigan is a public body corporate, the membership of which consists of all persons who are now and hereafter licensed to practice law in this state. The members of the state bar of Michigan are officers of the courts of this state, and have the exclusive right to designate themselves as "attorneys and counselors," or "attorneys at law," or "lawyers." No person is authorized to practice law in this state unless he complies with the requirements of the supreme court with regard thereto.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.904 State bar; regulation by supreme court.

Sec. 904. The supreme court has the power to provide for the organization, government, and membership of the state bar of Michigan, and to adopt rules and regulations concerning the conduct and activities of the state bar of Michigan and its members, the schedule of membership dues therein, the discipline, suspension, and disbarment of its members for misconduct, and the investigation and examination of applicants for admission to the bar.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.907 State bar; subpoena, administration of oaths.

Sec. 907. The state bar of Michigan has the power of subpoena, and the authority to take testimony under oath, which may be exercised by its officers, boards and committees for the purpose of aiding in cases of discipline, suspension, and disbarment of its members, and in cases of applicants for admission to the bar, under such regulations and restrictions as the supreme court may prescribe. The persons exercising the power granted by this section have the power to administer the necessary oaths.

HISTORY: New 1961, p. 432, Act 236, Eff. Jan. 1, 1963.

600.910 Admission to bar; discipline; venue.

Sec. 910. The supreme court and each circuit court has jurisdiction to admit to the bar of this state, persons who possess the required qualifications, to disbar or suspend members of the bar for misconduct, and to reinstate licenses to practice law. All such matters and proceedings are declared to be civil in nature, and the venue thereof is subject to regulation by the supreme court.

HISTORY: New 1961, p. 433, Act 236, Eff. Jan. 1, 1963.

600.913 Admission to bar; certificate, copies.

Sec. 913. It is the duty of the clerk of the supreme court and of each circuit court, when a person is admitted to the bar by such court, to administer to such person the oath prescribed by the supreme court for members of the bar, and upon payment of the sum of \$2.00 to issue to such person a certificate of his admission, and to keep a record of such admission in the roll of attorneys and the journal of such court, and to transmit promptly to the clerk of the supreme court and to the state bar of Michigan without charge certified copies of the orders of admission. When a member of the bar is suspended or disbarred, or is held in contempt, and when a person is reinstated as a

member of the bar, it is the duty of the clerk of the court so doing to transmit to the clerk of the supreme court and to the state bar of Michigan without charge certified copies of such orders.

HISTORY: New 1961, p. 433, Act 236, Eff. Jan. 1, 1963.

600.916 Unauthorized practice of law.

Sec. 916. It is unlawful for any person to practice law, or to engage in the law business, or in any manner whatsoever to lead others to believe that he is authorized to practice law or to engage in the law business, or in any manner whatsoever to represent or designate himself as an attorney and counselor, attorney at law, or lawyer, unless the person so doing is regularly licensed and authorized to practice law in this state. Any person who violates the provisions of this section is guilty of contempt of the supreme court and of the circuit court of the county in which the violation occurred, and upon conviction is punishable as provided by law. This section does not apply to a person who is duly licensed and authorized to practice law in another state while temporarily in this state and engaged in a particular matter.

HISTORY: New 1961, p. 433, Act 236, Eff. Jan. 1, 1963.

600.919 Fees; solicitation.

Sec. 919. (1) The measure of the compensation of members of the bar is left to the express or implied agreement of the parties subject to the regulation of the supreme court.

(2) Any agreement for such compensation, or for reimbursement of any expenses, incident to the prosecution or defense of any claim by any party is wholly void if such professional employment was solicited by the member of the bar, or by any other person acting on his behalf or at his request, unless the services of such member of the bar were first requested by such party.

HISTORY: New 1961, p. 433, Act 236, Eff. Jan. 1, 1963.

600.922 Board of law examiners; membership, vacancies, officers.

Sec. 922. There is hereby constituted a board of law examiners consisting of 5 active members of the bar each of whom shall hold office for 5 years and 1 of whom shall be appointed by the governor on nomination by the supreme court on the first day of July in each year. Vacancies on the board shall be filled in like manner for the unexpired term. The president of the board is the member of the board whose term first expires. The board shall elect a secretary annually from its own membership. The clerk of the supreme court ex-officio is the assistant secretary and treasurer of the board. If a vacancy occurs in the office of president, the board may elect a president for the unexpired term from its own membership.

HISTORY: New 1961, p. 433, Act 236, Eff. Jan. 1, 1963.

600.925 Board of law examiners; applicants for admission; rules and regulations.

Sec. 925. The board of law examiners has charge of the investigation and examination of all persons who initially apply for admission to the bar of this state. The board may adopt suitable regulations, subject to approval by the supreme court, concerning the performance of its functions and duties. Regulations adopted pursuant to this section need not be published pursuant to Act No. 88 of the Public Acts of 1943, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, as amended. The board has the power of subpoena, and the authority to administer oaths, and to take testimony under oath, which may be exercised by any member of the board in cases of applicants for admission to the bar.

HISTORY: New 1961, p. 434, Act 236, Eff. Jan. 1, 1963.

600.928 Board of law examiners; meetings, quorum.

Sec. 928. The board of law examiners shall meet at least once in each year at such times and places as the chairman shall determine for the purpose of investigating, examining, hearing, and passing upon the qualifications of applicants for admission to the bar, and to transact such other business as may come before the board. Three members of the board shall constitute a quorum. The action of a majority of the members present at a meeting at which a quorum is present shall be the action of the board.

HISTORY: New 1961, p. 434, Act 236, Eff. Jan. 1, 1963.

600.931 Board of law examiners; expenses, compensation.

Sec. 931. (1) The fees required to be paid by applicants for admission to the bar shall be paid to the board of law examiners, and shall be deposited in the state treasury, and shall constitute a separate fund for the payment of the compensation and expenses of the board of law examiners. Such fees shall not exceed the following amounts: Applicants for examination, \$40.00; applicants for re-examination, \$30.00; applicants for admission without examination, \$75.00.

(2) Each member of the board is entitled to receive as compensation for his services \$25.00 per day for the time actually spent, and in addition thereto his actual and necessary expenses incurred, in the discharge of his duties and in traveling to and from meetings of the board. The vouchers for such compensation and expenses shall be audited and certified by the clerk or the chief justice of the supreme court before payment. The other necessary expenses of the board shall be paid upon certification by the chairman or secretary of the board. The expenses of the board, including the compensation and expenses of its members, shall not exceed the amount received as fees from applicants for admission to the bar.

HISTORY: New 1961, p. 434, Act 236, Eff. Jan. 1, 1963.

600.934 Qualifications for admission to bar.

Sec. 934. No person is qualified for admission to the bar of this state unless he proves to the satisfaction of the board of law examiners that he is a person of good moral character, and is of the age of 21 years, and is a citizen of the United States of America, and a resident of 1 of the states or territories or the District of Columbia thereof, and has the required general education, learning in the law, and fitness and ability to enable him to practice law in the courts of record of this state, and that he intends in good faith to practice or teach law in this state. Additional requirements concerning the qualifications for admission are contained in subsequent sections of this chapter.

HISTORY: New 1961, p. 434, Act 236, Eff. Jan. 1, 1963.

600.937 General education requirements.

Sec. 937. Every applicant for admission to the bar is required to have completed successfully prior to commencement of his legal education at least 2 years of study, consisting of not less than 60 "semester hours" or 90 "quarter hours" of study in courses for which credit towards a collegiate degree is given, either in an accredited college authorized under the laws of the state in which the college is located to grant collegiate degrees, or in a junior college or other school from which students who have successfully completed such 2 years of study are accepted as regular third-year students by any accredited college in this state that is authorized by law to grant collegiate degrees.

HISTORY: New 1961, p. 434, Act 236, Eff. Jan. 1, 1963.

600.940 Legal education requirements; military service.

Sec. 940. (1) Every applicant for examination is required to be a graduate from a reputable and qualified law school duly incorporated under the laws of this state or another state or territory, or the District of Columbia, of the United States of America.

(2) If an applicant is called into or volunteers for the armed forces of the United States of America, and has completed successfully 2 ½ years of the course of study as a full-time student, or 3 ½ years of the course of study as a part-time student, in any such law school, the board of law examiners, in its discretion may allow such applicant to be examined for the bar prior to such graduation, but shall withhold certification until after his graduation.

HISTORY: New 1961, p. 435, Act 236, Eff. Jan. 1, 1963.

600.943 Examination of schools and colleges.

Sec. 943. The board of law examiners has the authority to examine, or to cause to be examined, any school, college, junior college, or law school for the purpose of determining whether the standards of education and training required for admission to the bar are being maintained, and to exclude from the bar examination any person who was a student therein at the time any such educational institution is found to have been disqualified or of questionable reputation. The board of law examiners may exclude from the bar examination any person who was a student in any such educational institution if such educational institution refuses to allow the examination.

HISTORY: New 1961, p. 435, Act 236, Eff. Jan. 1, 1963.

600.946 Foreign attorneys; admission to bar, qualifications, extension of term.

Sec. 946. Any person who is duly licensed to practice law in the court of last resort of any other state or territory or the District of Columbia, of the United States of America, and who applies for admission to the bar of this state without examination, is required to prove to the satisfaction of the board of law examiners that:

(1) He is in good standing at the bar of such other state, territory, or district, and has the qualifications as to moral character, citizenship, age, general education, fitness and ability required for admission to the bar of this state; and

(2) He intends in good faith either to maintain an office in this state for the practice of law, and to practice actively in this state, or to engage in the teaching of law as a full-time instructor in a reputable and qualified law school duly incorporated under the laws of this state; and

(3) His principal business or occupation for at least 3 of the 5 years immediately preceding his application has been either the active practice of law in such other state, territory, or district or the teaching of law as a full-time instructor in a reputable and qualified law school duly incorporated under the laws of this or some other state or territory, or the District of Columbia, of the United States of America, or that period of active service, full-time as distinguished from active duty for training and reserve duty, in the armed forces of the United States, during which the applicant was assigned to and discharged the duties of a judge advocate, legal specialist or legal officer by any other designation, shall be considered as the practice of law for the purposes of this section, which assignment and the inclusive dates thereof shall be certified to by the judge advocate general or comparable officer of the armed forces concerned or by the principal assistant to whom this certification may be delegated; or any combination of periods of practice thereof. The supreme court may, in its discretion, on special

motion and for good cause shown, increase said 5-year period. Any period of active service in the armed forces of the United States not meeting the requirements of duty in the armed forces as herein stated may be excluded from the 5-year period above prescribed and the period extended accordingly.

HISTORY: New 1961, p. 435, Act 236, Eff. Jan. 1, 1963;—Am. 1967, p. 148, Act 118, Eff. Nov. 2.

600.949 Law enforcement officers; aid in investigations.

Sec. 949. It is the duty of all state, county, and city law enforcement officers to aid the state bar of Michigan and the board of law examiners in any investigation of the conduct of members of the bar, and the character and fitness of persons who apply for admission or reinstatement to the bar, and to furnish all available information about any such individual.

HISTORY: New 1961, p. 435, Act 236, Eff. Jan. 1, 1963.

CHAPTER 10.

CIRCUIT COURT COMMISSIONERS

600.1001 Circuit court commissioners; election, term, number.

Sec. 1001. (1) There shall be elected in accordance with the election laws of this state, 1 circuit court commissioner, in each of the organized counties, who shall enter upon the discharge of his official duties on the first day of January succeeding his election, and shall hold his office 4 years except as follows:

(a) In each county of this state wherein any census taken by the authority of this state, or of the United States, shows a population of 20,000 or more, except where otherwise provided by local act, there shall be elected in accordance with the election laws of this state, 2 circuit court commissioners who shall enter upon the discharge of their official duties on the first day of January succeeding their election and who shall hold office for 4 years.

(b) In each county of this state wherein a census taken by the authority of this state, or of the United States, shows a population of 750,000 or more, there shall be elected, in accordance with the election laws of this state, 4 circuit court commissioners who shall enter upon the discharge of their official duties on the first day of January succeeding their election and who shall hold office for a period of 6 years. In the case of counties showing by proper census a population of 750,000 for the first time, such commissioners shall be elected in the next general election succeeding such census and every 6 years thereafter.

HISTORY: New 1961, p. 435, Act 236, Eff. Jan. 1, 1963.

600.1004 Circuit court commissioners; presiding commissioner.

Sec. 1004. In any county having more than 2 circuit court commissioners, the circuit court commissioners shall designate one of their number as presiding commissioner who shall serve as such for 1 year and who shall not be eligible to serve as presiding commissioner again until the other commissioners in that county have so served.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1007 Circuit court commissioner; designation of successors.

Sec. 1007. It shall be the duty of the board of county canvassers in any county having 2 or more circuit court commissioners to designate which of the persons so elected shall succeed to the office theretofore held by each circuit court commissioner. If such designation is not made prior to the first of January following their election, it may be made by the circuit judge or judges of the judicial circuit of which such county constitutes the whole or a part.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1010 Circuit court commissioner; continuance in office of present incumbents.

Sec. 1010. Circuit court commissioners heretofore elected or appointed, and now in office, shall continue to perform the duties of their respective offices, as provided by law, during the remainder of the term for which they were elected or appointed. The term of office of all incumbent circuit court commissioners ending at any time prior to December 31, 1968, is extended to December 31, 1968, unless sooner terminated by an act of the legislature.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 42, Act 25, Imd. Eff. Apr. 22.

600.1013 Circuit court commissioner; qualifications.

Sec. 1013. No person may be elected a circuit court commissioner unless he is at the time an attorney at law.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1016 Circuit court commissioner; oath of office.

Sec. 1016. Every circuit court commissioner shall take and subscribe to the oath of office prescribed by the constitution of this state before he enters upon his duties and file it with the county clerk of his county.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1019 Circuit court commissioner; bond, approval, renewal.

Sec. 1019. Every circuit court commissioner, before entering upon his duties of his office, shall execute a bond to the people of the state, with a sufficient surety or sureties to be approved by the circuit judge or the clerk of his county, conditioned on the faithful performance of the duties required of him by law, in the penal sum of not less than \$3,000.00, the amount to be prescribed in the discretion of the circuit judge or county clerk. The bond, when approved, shall be filed with the county clerk. Any circuit court commissioner shall renew his bond whenever required to do so by the circuit judge of his county.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1022 Circuit court commissioner; powers, limitation.

Sec. 1022. Circuit court commissioners, after they have qualified in accordance with the law, shall each be authorized and required to perform all of the duties, and execute every act, power and trust, which a judge of the circuit court may perform and execute out of court, according to the rules and practice of the court, and pursuant to the provisions of any statute or rules of the supreme court in all civil cases except as otherwise provided. When any power is given by statute in express terms to a circuit judge or judges without naming circuit court commissioners in the statute, the commissioner shall not be authorized to exercise the power.

HISTORY: New 1961, p. 436, Act 236, Eff. Jan. 1, 1963.

600.1025 Circuit court commissioner; contempt of court.

Sec. 1025. In any judicial proceeding before him the circuit court commissioner has the power of a justice of the peace, to punish for contempt of court.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1028 Circuit court commissioner; limitations of powers; stay of proceedings, subsequent application.

Sec. 1028. Whenever the supreme court or a circuit court of the state has made an order in reference to a matter, such order shall not be suspended or in any manner affected by an order granted by a circuit court commissioner. A circuit court commissioner is not authorized to grant any order to stay proceedings before judgment in any cause in which a verdict has been rendered. If an application for an order has been made to any justice of the supreme court, a judge of a circuit court, or circuit court

commissioner, and the order refused in whole or in part, or granted conditionally or on terms, no subsequent application in reference to this matter, in the same state of the proceedings, shall be made to any other circuit judge or any circuit court commissioner. Every person making subsequent application contrary to this provision with knowledge of the previous application and refusal shall be liable to punishment by fine or imprisonment for contempt.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1031 Circuit court commissioner; practice by law partners.

Sec. 1031. No circuit court commissioner having a law partner in whose name the copartnership is carried on is competent to perform any act authorized by law in any suit or proceedings in which such partner is in any way interested.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1034 Circuit court commissioner; masters in chancery.

Sec. 1034. Circuit court commissioners within their respective counties shall be competent to discharge all the duties formerly performed by masters in chancery of this state and such other duties as shall be imposed upon them by the several circuit courts according to law. They shall be amenable to the circuit courts within their jurisdiction and under the orders of such courts.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1037 Circuit court commissioner; injunction masters; endorsement of refusals.

Sec. 1037. Circuit court commissioners shall be authorized and empowered to perform within the county in which they reside all the duties formerly performed by injunction masters under the restrictions and regulations of the supreme court. In the exercise of these powers one commissioner shall not interfere with matters pending before another commissioner. A refusal to grant any order or injunction shall be endorsed upon the complaint or application.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1040 Circuit court commissioner; transfer of records; completion of business; records of county clerk.

Sec. 1040. Every circuit court commissioner, except as otherwise herein provided, is entitled to all of the records and files pertaining to the office of his predecessor and to suits or proceedings pending and undetermined before such predecessor, and is authorized to hear, try, and determine and dispose of any undetermined suit or proceeding and fully to conclude the same and to enforce his determination in the same manner and by the like process as if such suit or proceeding had originally been commenced before him. He has the power to issue all proper and suitable process for enforcing any judgment or determination of his predecessor or predecessors. Circuit court commissioners in counties having fewer than 150,000 population shall, on or before May 1 of each year, turn over to the county clerk of his county all records and files pertaining to suits or proceedings finally determined in the preceding calendar year. The county clerk shall retain an index and keep these records as part of his files in his office.

HISTORY: New 1961, p. 437, Act 236, Eff. Jan. 1, 1963.

600.1043 Circuit court commissioner; completion of sales.

Sec. 1043. In all cases where a circuit court commissioner has advertised real estate for sale under, and by virtue of, any judgment or order of any court of this state and his term of office expires before the sale is consummated, it is competent and lawful for him to proceed to complete the sale and report thereof and do all things necessary

to perfect the same as if his term of office had not expired and for this purpose his power and authority shall continue until all such business is fully closed.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1046 Circuit court commissioner; absence or disqualification, procedure.

Sec. 1046. Whenever any process has been issued by, or any matter has been referred to, any circuit court commissioner and the commissioner is absent or otherwise disqualified from acting therein, it is lawful for any other circuit court commissioner or any other officer having authority to perform the like duties in the same county to assume jurisdiction thereof, to proceed therein, and to hear, try, and determine the matter and to make all orders, certificates, reports, and returns and to take and approve all bonds, recognizances, and to make and issue all further papers or process therein with like effect in all respects as if the original process had been issued by, or the matter had originally been referred to, him. He may in his discretion adjourn the matter from time to time and on the adjourned day he may proceed therein or the circuit court commissioner who issued the process, or to whom the said matter was referred, if not then disqualified, may assume jurisdiction of the matter and proceed in all respects therein as if the adjournment or adjournments had been made by him.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1049 Circuit court commissioner; completion of sale, deputized clerk.

Sec. 1049. Whenever any circuit court commissioner has advertised property for sale pursuant to a judgment of court and on the day when the sale is advertised to take place, or to which it has been adjourned, the commissioner is absent from his office or is incapacitated or otherwise disqualified from acting, any other circuit court commissioner in the county, or from an adjoining county if there is none in the county who is qualified, may proceed and make the sale and thereafter make and execute the deed or deeds to the property sold and report the same to the proper court and may proceed in all respects as if he had originally advertised the property for sale or may adjourn the sale from time to time and publish notices of adjournment in his own name and make sale on the adjourned day. If the commissioner who advertised the property for sale is present on the adjourned day and competent to proceed therewith, he shall be entitled at his election to do so. In all such cases, proof shall be made by affidavit and form a part of the proceedings as to the absence, incapacity, or disqualification of the circuit court commissioner for whom another commissioner is acting. If the commissioner who is absent, incapacitated or disqualified has a clerk, the clerk is hereby deputized as a special commissioner and has all of the powers prescribed herein for other commissioners.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1052 Circuit court commissioner; action in adjoining counties.

Sec. 1052. (1) Duties required by law to be performed by a circuit court commissioner of a county in which there is no commissioner who is legally qualified to act, may be performed by any circuit court commissioner not disqualified of an adjoining county. If the duties pertain to a matter or cause pending in any circuit court, the duties may be performed by a commissioner specially appointed by the judge of the court for the purpose.

(2) Before any circuit court commissioner of an adjoining county performs any of the duties prescribed in this section, proof shall be made and presented to him by affi-

davit that there is no circuit court commissioner of the proper county competent and qualified to discharge such duties and stating the grounds of disqualification. Such proof shall in all cases accompany the acts and form a part of the proceedings of the commissioner discharging the duties.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1055 Circuit court commissioner; suspension by circuit judge.

Sec. 1055. Notwithstanding the provisions of the state election law, any circuit court commissioner may be suspended by the circuit judge of his county from the exercise of the powers and duties of his office in cases of misconduct therein, after due notice and full opportunity of making his defense is given him. The circuit judge shall immediately report the suspension with reason therefor to the governor.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1058 Circuit court commissioner; vacancies.

Sec. 1058. Vacancies in the office of circuit court commissioner shall be filled in accordance with the election laws of the state.

HISTORY: New 1961, p. 438, Act 236, Eff. Jan. 1, 1963.

600.1061 Circuit court commissioner; protection of infants and mental incompetents.

Sec. 1061. In all cases or proceedings before a circuit court commissioner where either party is an infant or mentally incompetent, the protections provided for such persons in Michigan court rules shall be applied by the circuit court commissioner to such persons.

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1064 Circuit court commissioner; signature of clerk on process and papers.

Sec. 1064. The clerks or regularly appointed deputy clerks of the circuit court commissioners may sign all summonses, subpoenas, citations, dockets, and process for the collection of costs, and are hereby authorized to sign the name of the circuit court commissioner upon all summonses, subpoenas, citations, dockets, and process for the collection of costs, and when so signed they have the same force and effect as if signed by the circuit court commissioner. Such documents and papers are to be signed by the clerk, clerks, or deputies, in the following manner:

.....
Circuit Court Commissioner
By
Clerk or Deputy Clerk

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1066 Circuit court commissioner; number of bailiffs.

Sec. 1066. In any county now or hereafter having a population of 400,000 and not more than 600,000 or having a population of 1,000,000 or more, each circuit court commissioner shall be entitled to appoint 2 bailiffs. Where a circuit court commissioner may now appoint 3 bailiffs, vacancies shall not be filled until the number of bailiffs for each commissioner is reduced to 2.

In any county now or hereafter having a population of 400,000 and not more than 600,000 each circuit court commissioner may appoint 1 special bailiff.

HISTORY: Add. 1962, p. 113, Act 124, Eff. Mar. 28, 1963;—Am. 1963, p. 236, Act 172, Eff. Sep. 6;—Am. 1964, p. 142, Act 149, Eff. Aug. 28.

600.1067 Circuit court commissioner; salary.

Sec. 1067. The board of supervisors of any county may prescribe the amount and the manner of payment of the salary of a circuit court commissioner and his clerks, unless otherwise provided for by law.

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1071 Circuit court commissioner; service of process.

Sec. 1071. All process, summons and writs issued by the several circuit court commissioners operating under the provisions of any general statute, local or special act heretofore enacted in any county having, or which may hereafter have, a population of 400,000 and not more than 600,000 or having a population of 1,000,000 or over, shall be served and executed by bailiffs, and by no others.

HISTORY: Add. 1962, p. 123, Act 130, Eff. Mar. 28, 1963;—Am. 1963, p. 236, Act 172, Eff. Sep. 6.

600.1072 Circuit court commissioner; application for appointment as bailiff.

Sec. 1072. The circuit court commissioners of every such county shall hold a meeting for the purpose of prescribing forms for applications by persons desiring to be appointed as bailiffs, and for making such rules and regulations as to the qualifications and selection of bailiffs as may be desired, not inconsistent with the provisions of this act. Such applications shall contain the name and address of the applicant; the period in which the applicant has been a duly qualified resident of the county; whether or not the applicant has been removed from the office of sheriff, deputy sheriff, constable or bailiff for cause.

HISTORY: Add. 1962, p. 123, Act 130, Eff. Mar. 28, 1963.

600.1073 Circuit court commissioner; bailiffs, eligibility, number, vacancies.

Sec. 1073. Any person who has been a duly qualified resident and elector of the county for a period of at least 5 years, and who is not a bailiff of any other court, and shall not have been removed from the office of sheriff, deputy sheriff, constable or bailiff for cause, shall be eligible to be appointed as a bailiff. Persons desiring to be appointed as bailiffs shall make application therefor to the presiding circuit court commissioner. Each circuit court commissioner in the county shall be entitled to appoint 2 bailiffs from persons making applications for such appointment who are qualified for such appointment under the provisions of this act. In cases where 3 bailiffs have been appointed vacancies shall not be filled until only 2 bailiffs for each commissioner are serving. Each bailiff shall hold office until resignation or removal from office for any of the causes and in the manner hereinafter provided. In the case of a vacancy in the position of bailiff, the circuit court commissioner who appointed such bailiff, or his successor in office, shall appoint a bailiff to fill such vacancy. Persons appointed to fill vacancies shall possess the qualifications of bailiffs, as hereinbefore provided. Such appointments and any revocations thereof shall be in writing, attested by the presiding circuit court commissioner and filed with such commissioner.

HISTORY: Add. 1962, p. 123, Act 130, Eff. Mar. 28, 1963.

600.1074 Circuit court commissioner; bailiffs, oath, bond, powers, office, badge, card, arms.

Sec. 1074. Before entering upon his duties, each bailiff shall take and subscribe an appropriate oath of office in form to be prescribed by the presiding circuit court commissioner, and shall make and file, together with said oath, a surety bond in the amount of not less than \$2,000.00 with a surety company. The premium thereon shall be paid by the bailiff. Such bond and oath shall be filed with the presiding circuit court commissioner prior to the issuance of the card evidencing the appointment of such bailiff. The bailiff shall possess only the powers necessary in the service and execution of process issued by the circuit court commissioners of the county. Suitable and

adequate office space may be provided for the bailiffs by the board of county auditors, together with such services, equipment, and supplies as in the judgment of the board of county auditors may be deemed necessary. The bailiff shall be authorized to wear an appropriate badge of office furnished at the expense of the county. Such badge shall at all times remain the property of the county and shall be surrendered to the presiding circuit court commissioner only upon the death of the bailiff, or upon removal or suspension of the bailiff by the commissioners after the bailiff has been found guilty of misfeasance or malfeasance in office. The presiding circuit court commissioner shall issue to each bailiff a card signed by said commissioner stating that such person has been duly appointed and is vested with all powers conferred upon him by law, upon which card there shall appear also a clear photograph of such person to be furnished by himself. Each bailiff shall, while in office and in the exercise of his duties as such, be authorized to bear arms.

HISTORY: Add. 1962, p. 123, Act 130, Eff. Mar. 28, 1963.

600.1075 Circuit court commissioner; bailiffs, service of process, writs of restitution, rotation of process; fees.

Sec. 1075. All process issued to the circuit court commissioners of the county by any litigant shall be rotated among the bailiffs. Writs of restitution shall be issued to the bailiff to whom the summons in each case was issued. The circuit court commissioners shall make such rules and regulations as shall be necessary to provide for such rotation of process. Such bailiffs shall promptly serve, or cause to be served, and execute all process, summons, writs and orders delivered to them as herein provided, in the manner provided by law for service and execution of process and writs. The bailiffs shall be entitled to receive such fees for said service and execution of process as constables are allowed by law. Such fees as are not fixed by law shall be determined and fixed by the commissioners by rules and regulations governing such fees and services.

HISTORY: Add. 1962, p. 124, Act 130, Eff. Mar. 28, 1963.

600.1076 Circuit court commissioner; records of appointments and removals; hearing, appeal.

Sec. 1076. The circuit court commissioners shall meet on call of the presiding circuit court commissioner or any 2 commissioners for any purpose connected with the administration of this act. A vote of a majority of the commissioners-elect shall validate any action taken by them. The presiding circuit court commissioner shall keep records of appointments and removals of bailiffs and of rules, regulations and actions of the commissioners. He shall deliver to his successor presiding circuit court commissioner all such records. The circuit court commissioners shall hold a hearing on the matter of removal of any bailiff for misfeasance or malfeasance, and they shall have the power to enter an order removing, suspending or imposing other disciplinary action upon such bailiff: Provided, That any bailiff aggrieved by any order of the commissioners may appeal from such order to the circuit court of the county on all questions of law and facts, and may further appeal to the supreme court of the state of Michigan.

HISTORY: Add. 1962, p. 124, Act 130, Eff. Mar. 28, 1963.

600.1077 Bailiffs as peace officers.

Sec. 1077. Bailiffs shall be considered peace officers only for the purpose of receiving compensation provided by Act No. 329 of the Public Acts of 1937, as amended, being sections 419.101 to 419.104 of the Compiled Laws of 1948.

HISTORY: Add. 1962, p. 124, Act 130, Eff. Mar. 28, 1963.

CHAPTER 11.

COURT STENOGRAPHERS

600.1101 Court stenographers; number.

Sec. 1101. Each circuit court in this state shall have as many court stenographers as it has judges.

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1104 Court stenographers; appointment, oath of office; appointment in more than one circuit.

Sec. 1104. Every stenographer shall be appointed by the governor after having first been recommended by the judge or judges of the court to which he is appointed and he is an officer of that court. Before entering upon the duties of his office he shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. No person may be appointed a stenographer for more than 1 judicial circuit unless he personally performs the duties of stenographer in each of the circuits for which he has been appointed.

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1105 Court stenographers; term, suspension.

Sec. 1105. Every stenographer shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which he is appointed. In the case of such suspension, the stenographer shall cease to hold the office of stenographer unless by order of the court his suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension the office shall become vacant.

HISTORY: New 1961, p. 439, Act 236, Eff. Jan. 1, 1963.

600.1106 Court stenographers; vacancies, temporary absence, salary.

Sec. 1106. In case of a vacancy in the office of the stenographer from any cause of a permanent nature, the appointment shall be made in accordance with section 1104, after notice has been given the governor of the vacancy by the presiding judge of the circuit or the court administrator. In case of a temporary absence of the stenographer, the stenographer shall appoint some competent person who has been approved by the judge to act as a stenographer pro tempore and who shall be paid by the stenographer in whose place he acts. If the temporary absence of the stenographer is due to illness, the stenographer pro tempore shall be paid out of the county treasury, such sum as may be approved by the county board of supervisors or in counties having a board of auditors by said board. In no event, however, shall such payment exceed payment for 30 calendar days in any one calendar year.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1107 Court stenographers; additional stenographers.

Sec. 1107. Every stenographer may appoint 1 or more assistants who have first been approved by the circuit judge or judges and who shall qualify as stenographers as prescribed in this statute. The assistant or additional stenographer shall have the power to act in the place of the stenographer and shall be paid by the stenographer. The stenographer or circuit judge shall have the power to revoke the appointment at any time. Whenever the judge of any circuit court in this state deems it necessary for the dispatch of business of such court he may authorize the stenographer thereof to employ 1 or more temporary assistants who shall receive compensation to be paid by the county, after the judge of the court certifies to the reasonableness thereof.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1111 Court stenographers; duties, supervision.

Sec. 1111. The stenographer shall perform the duties assigned by the rules of the supreme court, and by the court to which he is appointed, under the supervision of a judge of the court to which he is appointed.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1114 Court stenographers; salary, payment by counties.

Sec. 1114. The stenographer of each circuit shall receive as compensation for his services such salary as is specified in this chapter payable in monthly installments out of the treasuries of the counties composing the circuit of which he is the stenographer upon the order of the clerk of the court or board of county auditors who are hereby authorized and required to draw such orders and the county treasurer shall pay the same upon presentation.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1115 Court stenographers; apportionment of salary in multi-county circuits.

Sec. 1115. In every circuit composed of more than 1 county, unless some other method of apportionment is prescribed in this act to make up the salary of the stenographer, each board of supervisors in the circuit shall appropriate annually such portion of the amount of the salary as shall be assigned to it by the circuit judge in proportion to the number of civil actions commenced in the circuit courts for such counties respectively during the preceding year. It shall be the duty of the circuit judge of each circuit composed of more than 1 county on the first day of January of each year or as soon thereafter as possible, to apportion the amount of such salary to be paid by each county in his circuit on the basis aforesaid and to notify the clerk of each county in the circuit of the proportion to be paid by such county. In case there is but 1 county in the circuit the salary of the stenographer shall be paid out of the treasury of this county in the manner prescribed in section 1114.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1116 Court stenographers; membership in retirement or social security plan.

Sec. 1116. All stenographers shall be eligible for membership in and benefits of the retirement or the social security plan by the county or any one of the counties which pays a portion of his salary.

HISTORY: New 1961, p. 440, Act 236, Eff. Jan. 1, 1963.

600.1121 Salary; first circuit.

Sec. 1121. In the first circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1122 Salary; second circuit.

Sec. 1122. In the second circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1123 Salary; third circuit.

Sec. 1123. In the third circuit, each stenographer shall be paid an annual salary of \$11,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1124 Salary; fourth circuit.

Sec. 1124. In the fourth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1125 Salary; fifth circuit.

Sec. 1125. In the fifth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1126 Salary; sixth circuit.

Sec. 1126. In the sixth circuit, the stenographer of each division shall be paid an annual salary of \$11,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 514, Act 304, Eff. Jan. 1, 1967.

600.1127 Salary; seventh circuit.

Sec. 1127. In the seventh circuit, the stenographer of each division shall be paid an annual salary of \$11,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1128 Salary; eighth circuit.

Sec. 1128. In the eighth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1129 Salary; ninth circuit.

Sec. 1129. In the ninth circuit, the stenographer of each division shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1130 Salary; tenth circuit.

Sec. 1130. In the tenth circuit, the stenographer of each division shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1131 Salary; eleventh circuit.

Sec. 1131. In the eleventh circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1132 Salary; twelfth circuit.

Sec. 1132. In the twelfth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1133 Salary; thirteenth circuit.

Sec. 1133. In the thirteenth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1134 Salary; fourteenth circuit.

Sec. 1134. In the fourteenth circuit, each stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1135 Salary; fifteenth circuit.

Sec. 1135. In the fifteenth circuit, each stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 441, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1136 Salary; sixteenth circuit.

Sec. 1136. In the sixteenth circuit, each stenographer shall be paid an annual salary of \$11,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1137 Salary; seventeenth circuit.

Sec. 1137. In the seventeenth circuit, the stenographer of each division shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1138 Salary; eighteenth circuit.

Sec. 1138. In the eighteenth circuit, each stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1139 Salary; nineteenth circuit.

Sec. 1139. In the nineteenth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1140 Salary; twentieth circuit.

Sec. 1140. In the twentieth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1141 Salary; twenty-first circuit.

Sec. 1141. In the twenty-first circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 515, Act 304, Eff. Jan. 1, 1967.

600.1142 Salary; twenty-second circuit.

Sec. 1142. In the twenty-second circuit, each stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1143 Salary; twenty-third circuit.

Sec. 1143. In the twenty-third circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1144 Salary; twenty-fourth circuit.

Sec. 1144. In the twenty-fourth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1145 Salary; twenty-fifth circuit.

Sec. 1145. In the twenty-fifth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1146 Salary; twenty-sixth circuit.

Sec. 1146. In the twenty-sixth circuit, the stenographer shall be paid an annual salary of \$9,000.00, apportioned as follows: by the county of Alpena, \$4,590.00 per annum; by the county of Presque Isle, \$2,700.00 per annum; and by the county of Montmorency, \$1,710.00 per annum.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1147 Salary; twenty-seventh circuit.

Sec. 1147. In the twenty-seventh circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1148 Salary; twenty-eighth circuit.

Sec. 1148. In the twenty-eighth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1149 Salary; twenty-ninth circuit.

Sec. 1149. In the twenty-ninth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 442, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1150 Salary; thirtieth circuit.

Sec. 1150. In the thirtieth circuit, the stenographer of each division shall be paid an annual salary of \$11,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1151 Salary; thirty-first circuit.

Sec. 1151. In the thirty-first circuit, each stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1152 Salary; thirty-second circuit.

Sec. 1152. In the thirty-second circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1153 Salary; thirty-third circuit.

Sec. 1153. In the thirty-third circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1154 Salary; thirty-fourth circuit.

Sec. 1154. In the thirty-fourth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1155 Salary; thirty-fifth circuit.

Sec. 1155. In the thirty-fifth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 516, Act 304, Eff. Jan. 1, 1967.

600.1156 Salary; thirty-sixth circuit.

Sec. 1156. In the thirty-sixth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1157 Salary; thirty-seventh circuit.

Sec. 1157. In the thirty-seventh circuit, the stenographer of each division shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1158 Salary; thirty-eighth circuit.

Sec. 1158. In the thirty-eighth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1159 Salary; thirty-ninth circuit.

Sec. 1159. In the thirty-ninth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1160 Salary; fortieth circuit.

Sec. 1160. In the fortieth circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1161 Salary; forty-first circuit.

Sec. 1161. In the forty-first circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1162 Salary; forty-second circuit.

Sec. 1162. In the forty-second circuit, the stenographer shall be paid an annual salary of \$9,000.00.

HISTORY: Add. 1966, p. 517, Act 304, Eff. Jan. 1, 1967.

600.1165 Statement of transcript, fees and additional compensation; filing with court administrator.

Sec. 1165. Each circuit court stenographer on or before January 15 of each year shall file with the court administrator a statement of all transcript and other fees received from any source and additional compensation allowed by the board of supervisors during the preceding calendar year. Failure to file such report and to furnish such additional information as required by the court administrator shall result in the suspension of all salaries or compensation provided for in this act until the report is filed.

HISTORY: New 1961, p. 443, Act 236, Eff. Jan. 1, 1963.

600.1168 Supplemental salaries.

Sec. 1168. The board of supervisors of the counties in any judicial circuit may appropriate annually from the general fund additional amounts to supplement the salary of any stenographer.

HISTORY: New 1961, p. 444, Act 236, Eff. Jan. 1, 1963.

600.1171 Expenses.

Sec. 1171. The stenographers shall be entitled to receive in addition to the salary provided for in this act the necessary and actual expenses incurred in attending court in the counties other than the county in which the stenographer resides. Upon filing with the clerk of the county in which the stenographer has attended a sworn statement that the money was expended by the stenographer and that such expenditures were necessary in the performance of his service in that county, the clerk shall draw an order for payment and the treasurer of the county shall pay the ordered sum to the person entitled thereto on the presentation of an order for payment properly drawn by the clerk. If the stenographer does not reside within the circuit to which he is appointed he shall be considered for the purpose of this section to reside in the county where the presiding circuit judge of such circuit resides.

HISTORY: New 1961, p. 444, Act 236, Eff. Jan. 1, 1963.

600.1175 Wayne and Kent counties; offices for stenographers.

Sec. 1175. In the counties of Wayne and Kent, the county auditor shall provide a suitable office for the use of the stenographers contiguous to the office of the clerk of the county.

HISTORY: New 1961, p. 444, Act 236, Eff. Jan. 1, 1963.

600.1179 Assignment of stenographers.

Sec. 1179. Upon the request of the judge to which the stenographer is assigned the court administrator may assign a stenographer to a circuit other than the circuit to which the stenographer was appointed. Such stenographer shall continue to receive his salary from the circuit to which he was appointed. If the salary listed in this chapter for the circuit visited is higher than the regular salary of such stenographer, the circuit visited shall pay the difference to such stenographer.

HISTORY: New 1961, p. 444, Act 236, Eff. Jan. 1, 1963.

CHAPTER 12.

JURORS

600.1201-600.1239 Repealed. 1968, p. 594, Act 326, Eff. Nov. 15.

Sections related to drawing and summoning of jurors.

JURY COMMISSIONERS

600.1241-600.1250 Repealed. 1968, p. 594, Act 326, Eff. Nov. 15.

Sections related to jury commissioners.

UPPER PENINSULA

600.1255-600.1260 Repealed. 1968, p. 594, Act 326, Eff. Nov. 15.

Sections related to jurors; Upper Peninsula.

WAYNE COUNTY

600.1265-600.1297 Repealed. 1968, p. 594, Act 326, Eff. Nov. 15.

Sections related to jury commissioners and jurors for Wayne county.

CHAPTER 13.

JURORS

600.1301 Jury board; appointment, qualifications, terms; existing boards, vacancies.

Sec. 1301. (1) In counties having a population of less than 2,000,000 the jury board shall consist of 3 qualified electors of the county appointed by the governor on recommendation of the circuit judges of the judicial circuit in which the county is situated, not more than 2 of whom shall be members of the same political party. The first appointment of members of the jury board shall be for terms of 2, 4 and 6 years. Thereafter appointments shall be for 6-year terms.

(2) In counties having a population of 2,000,000 or more the jury board shall consist of 7 qualified electors of the county appointed for 6-year terms by the governor on recommendation of the circuit judges of the judicial circuit in which the county is situated, not more than 4 of whom shall be members of the same political party. The executive secretary and stenographer shall receive such compensation as is fixed by the board of supervisors.

(3) In a county now having an appointive board or commission for the selection of jurors the members thereof shall serve as members of the board created under this section until a vacancy is created by expiration of term or otherwise. A new appointment or an appointment to fill vacancies shall be made under this section. If the number of board members is less than previously, appointments to fill vacancies shall not be made until the authorized number is reached. The board of supervisors may prescribe the procedure for the orderly transition of duties.

HISTORY: Add. 1968, p. 586, Act 326, Eff. Nov. 15;—Am. 1969, p. 735, Act 326, Eff. Sep. 1.

600.1301a Scope of chapter.

Sec. 1301a. This chapter shall govern the selection of juries in the following courts:

- (a) Circuit courts.
- (b) Probate courts.
- (c) District courts.
- (d) Common pleas court of Detroit.

HISTORY: Add. 1969, p. 735, Act 326, Eff. Sep. 1.

600.1302 Officers of jury board; compensation; quorum.

Sec. 1302. Annually the board shall elect from its members a president and secretary. The members of the board shall be paid an annual salary in an amount fixed by the board of supervisors or in lieu thereof be paid an amount fixed by the board of supervisors not to exceed \$25.00 for each day of service. A majority of the board constitutes a quorum.

HISTORY: Add. 1968, p. 586, Act 326, Eff. Nov. 15.

600.1303 Assistants to jury board; compensation.

Sec. 1303. The board of supervisors may authorize assistants to the jury board and fix their salaries.

HISTORY: Add. 1968, p. 586, Act 326, Eff. Nov. 15.

600.1303a Jury board; oath, filing.

Sec. 1303a. Before members of a jury board enter upon their duties, they shall take a constitutional oath of office before the presiding circuit judge and file it with the county clerk.

HISTORY: Add. 1969, p. 735, Act 326, Eff. Sep. 1.

600.1304 Jurors; use of voters' lists.

Sec. 1304. The jury board shall select from the current voter registration lists or books the names of persons as herein provided to serve as jurors.

HISTORY: Add. 1968, p. 586, Act 326, Eff. Nov. 15.

600.1305 Jury board; meetings; records, use as evidence.

Sec. 1305. The jury board shall meet annually in the month of May at the court house. The presiding circuit judge shall fix the time and place of the annual meeting and may direct the board to meet at other times and places. The board may meet at other times and places necessary to carry out its duties. The secretary of the board shall keep a record of the proceedings of the board in a book to be provided for that purpose and the members of the board shall sign the record, attested by the secretary, which record shall then be evidence in all courts and places of the proceedings of the board.

HISTORY: Add. 1968, p. 586, Act 326, Eff. Nov. 15.

600.1306 Jurors; qualifications.

Sec. 1306. (1) To qualify, jurors shall:

- (a) Be electors in the county for which they are selected, and in the case of district courts in districts of the second and third class, be residents of the district.
- (b) Be conversant with the English language.
- (c) Be in possession of their natural faculties, not infirm or decrepit and otherwise free from all legal exceptions.
- (d) Not have claimed exemption if so entitled.
- (e) Not have served, pursuant to the provisions of this chapter, as a petit or grand juror, in a court of record or a district court [sic] during the preceding 1 year.

(2) A juror need not be a taxpayer and it is not necessary that his name appear on an assessment roll.

(3) For the purposes of this chapter a person shall have served as a juror if he has been sworn by the judge for a petit or grand jury in a court of record or district court.

HISTORY: Add. 1968, p. 587, Act 326, Eff. Nov. 15;—Am. 1969, p. 735, Act 326, Eff. Sep. 1.

600.1307 Jurors; persons prohibited.

Sec. 1307. (1) The following persons are prohibited from jury service and the jury board shall strike their names from the qualified jurors list:

- (a) State elected and appointed officers but not employees.
- (b) County officers and employees.
- (c) Persons employed by any police agency of the state of Michigan or any political subdivision thereof.
- (d) Attorneys and counselors at law.
- (e) Persons convicted of any felony whose record has not been expunged by any court of record and persons against whom a felony charge is pending.
- (f) Persons who have made to the jury board directly or indirectly any request to be selected and returned as a juror.

(2) The following persons may claim exemption and shall be excused on request from service as jurors: all persons more than 70 years of age and any allopathic or osteopathic physician licensed to practice in this state.

HISTORY: Add. 1968, p. 587, Act 326, Eff. Nov. 15;—Am. 1969, p. 736, Act 326, Eff. Sep. 1.

600.1308 Jurors; estimate of number needed.

Sec. 1308. On or before each May 1 the presiding judge of each court of record and district court in the county shall estimate the number of jurors that will be needed by their courts for a 1-year period beginning the following September. This estimate shall be entered on the journal of the court and a copy thereof shall be certified by the clerk of the court and delivered to the board. In making the estimate the judge shall consider the number of slips then in the board box which may be available for the period for which the estimate is made.

HISTORY: Add. 1968, p. 587, Act 326, Eff. Nov. 15;—Am. 1969, p. 736, Act 326, Eff. Sep. 1.

600.1309 Jurors; list of those who have served.

Sec. 1309. The board shall secure from the clerk of each court of record and district court in the county, and each clerk shall provide, a list of persons who have served as jurors, pursuant to the provisions of this chapter, in their courts during the preceding 1 year.

HISTORY: Add. 1968, p. 587, Act 326, Eff. Nov. 15;—Am. 1969, p. 736, Act 326, Eff. Sep. 1.

600.1310 Voter registration lists; procuring; alternatives.

Sec. 1310. (1) The township or city clerk shall annually between April 15 and May 1 deliver to and file with the county clerk a full, current and accurate copy of the voter registration cards containing the names and addresses of the registered voters. In lieu of a copy of the registration card a full, current and accurate list of those registered together with the current addresses shown on the card may be filed.

(2) The board shall secure from the county clerk, and the county clerk shall provide, copies of the current voter registration cards or the current voter registration lists for each precinct in the county. The board shall treat the cards and lists as 1 list, with voters grouped either by precinct or by city, township or village as they may be provided.

(3) The board, in lieu of receiving a list from the county clerk of current registered voters, may, if electronic or mechanical devices are used by the township, city or village clerks, order such clerks to provide only the names and addresses selected by applying the key number and starting number designated by the board.

HISTORY: Add. 1968, p. 587, Act 326, Eff. Nov. 15;—Am. 1969, p. 736, Act 326, Eff. Sep. 1.

600.1311 Jurors; key number, determination.

Sec. 1311. The board shall arrive at a key number as follows:

(a) Add the number of jurors the judge has estimated will be needed to the number that experience has shown will be eliminated because of disqualification or exemption. Example: If the judge estimates 100 jurors will be needed and the board has found that to select finally 100 jurors, 50 persons will usually be found to be exempt or disqualified, including those who have moved from the county or died, the board shall add 50 to the 100.

(b) Divide the number of names on the voter registration lists by the result, obtaining the nearest integral quotient. Example: If there are 50,000 names on the voter registration list, divide 50,000 by 150.

(c) The result is the key number for the period for which jurors are to be selected. Example: 50,000 divided by 150 equals 333-1/3, so 333 would be the key number in the example.

HISTORY: Add. 1968, p. 588, Act 328, Eff. Nov. 15.

600.1312 First jury list; compilation.

Sec. 1312. (1) The board shall apply the key number uniformly to the names on the voter registration list and compile a list or card index, to be known as the first jury list, which shall include every name and only such names as the application of the key number has designated. The board shall do this as follows:

(a) Arrange the various voter registration lists into 1 list. The order in which the lists are arranged or the fact that some lists are by precincts and some lists are alphabetized is not relevant.

(b) Select by a random method a starting number between 0 and the key number.

(c) Count down the voter registration list the number of names to reach the starting number. That name shall be placed on the first jury list.

(d) Continue from that name counting down the list, beginning to count again with the number 1, until the key number is reached. That name shall be placed on the first jury list.

(e) Repeat the process provided in paragraph (d) until the whole voter registration list has been counted and the names placed on the first jury list.

(f) The board shall then remove from the first jury list the name of any person who its records show served, pursuant to the provisions of this chapter, as a petit or grand juror in any court of record or district court in the county at any time in the preceding 1 year.

(2) The board may use electronic and mechanical devices in carrying out its duties under this section.

HISTORY: Add. 1968, p. 588, Act 328, Eff. Nov. 15;—Am. 1969, p. 736, Act 326, Eff. Sep. 1.

600.1313 Juror qualifications questionnaire; contents, completion.

Sec. 1313. The board shall supply a juror qualifications questionnaire to persons on the first jury list. This questionnaire shall contain blanks for the information the board desires, concerning qualifications for, and exemptions from, jury service. Persons on the first jury list are required to return the questionnaire fully answered to the jury board within 10 days after it is received.

HISTORY: Add. 1968, p. 588, Act 328, Eff. Nov. 15.

600.1314 Excusal of exempt persons; investigations.

Sec. 1314. On the basis of answers to the juror qualifications questionnaires the board may excuse from service persons on the first jury list who claim exemption and give satisfactory proof of such right, and all persons who are not qualified for jury serv-

ice. The board may investigate the accuracy of the answers to the questionnaires and may call upon all law enforcement agencies for assistance in the investigation.

HISTORY: Add. 1968, p. 588, Act 326, Eff. Nov. 15.

600.1315 Juror qualifications questionnaire; retention; confidentiality.

Sec. 1315. The juror qualifications questionnaires shall be kept on file by the board for a period of 3 years but the presiding circuit judge may order them to be kept on file for a longer period. The answers to the qualifications questionnaires shall not be disclosed except that the presiding circuit judge may order that access be given to the questionnaires and the answers.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1316 Jurors; appearance before board; notice; evening sessions.

Sec. 1316. The presiding circuit judge, or the board, may require any person on the first jury list to appear before a board member at a specified time, for the purpose of testifying under oath or affirmation concerning his qualification to serve as a juror, in addition to completing the questionnaire. Notice shall be given, personally or by mail, to a person required to appear not less than 7 days before he is to appear before the board. The board shall hold evening sessions as necessary for the examination of prospective jurors who are unable to attend at other times.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1317 Jurors; personal attendance, excused.

Sec. 1317. The board may dispense with the personal attendance of a person notified to appear before the board, when another person cognizant of facts which will qualify or disqualify the person from service, or which prevent him from appearing is produced and testifies in his stead, or when a board member has personal knowledge of facts, and enters them in his report on that person's qualifications.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1318 Jurors; oaths, administration.

Sec. 1318. A board member may administer an oath or affirmation in relation to the examination of any matter embraced in this act.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1319 Record of persons examined.

Sec. 1319. The board shall keep a record of the board member's report on each person examined, and a record showing the qualifications to serve as a juror of each person on the first jury list and whether or not he is a freeholder.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1320 Preliminary screening of prospective jurors; excused persons.

Sec. 1320. (1) The board shall make a preliminary screening of the qualifications and exemptions of prospective jurors and shall not include in the second jury list the names of persons it finds not qualified or exempt; but the court may decide upon the qualifications and exemptions of prospective jurors upon a written application and satisfactory legal proof at any time after the jurors attend court.

(2) If a prospective juror without legal disqualification or exemption shall apply to the board to be excused from jury service, the jury board may, with the written approval of the presiding circuit judge, exclude his name from the second jury list when it appears that the interests of the public or of the prospective juror will be materially injured by his attendance, or the health of the juror or that of a member of his family requires his absence from court.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15;—Am. 1969, p. 737, Act 326, Eff. Sep. 1.

600.1321 Second jury list; board box, contents, construction, sealing; jurisdiction of district board.

Sec. 1321. (1) The names of those persons on the first jury list whom the board accepts as persons qualified for and not exempt from jury service shall be compiled into a list or card index to be known as the second jury list. The board shall write the names and addresses of the persons thus selected, and whether or not the records of the board show them to be freeholders, on separate slips of paper of the same size and appearance as nearly as may be. The board shall fold up each slip of paper in the same manner so as to conceal the name thereon and shall deposit it at the times herein provided, in a box, to be called and labeled the board box. The form and construction of the board box shall be approved by the chairman or president, and may from time to time be changed with his approval. Immediately after preparing the slips the board shall seal the second jury list. The list shall remain sealed until otherwise ordered by the presiding circuit judge.

(2) The board shall make an additional list consisting of the names on the second jury list segregated by the geographical area of the jurisdiction of each district court. If there are not sufficient names on such segregated list for any district court, the board shall apply again the key number to that district only and obtain as many additional jurors as needed for such district.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15;—Am. 1969, p. 737, Act 326, Eff. Sep. 1.

600.1322 Juror slips; depositing, withdrawal, record.

Sec. 1322. The first deposit of slips shall take place as soon as the slips are prepared. Slips drawn under previous statutes shall first be removed. Subsequent deposits shall be made when the supply of slips in the board box is exhausted. An earlier deposit may be ordered by the presiding circuit judge. The board shall keep a record of the number of slips deposited, and the number withdrawn, and shall inform the presiding circuit judge of the number of slips remaining in the board box on request, without opening the box. Nothing herein shall affect the validity of a panel of jurors which was drawn for a term of court before the first deposit of slips as provided herein.

HISTORY: Add. 1968, p. 589, Act 326, Eff. Nov. 15.

600.1323 Slips not deposited in box; sealing.

Sec. 1323. If the slips are not to be immediately deposited in the board box, they shall be sealed up by the board and remain in the custody of the board to be deposited when the previous supply of slips in the board box is exhausted or when ordered by the presiding circuit judge.

HISTORY: Add. 1968, p. 590, Act 326, Eff. Nov. 15.

600.1324 Jurors; drawing; number, time; contents; district courts.

Sec. 1324. (1) From time to time the presiding judge of each court of record and district court in the county shall order the board to draw jurors for jury service. Each such order shall contain the following information:

- (a) A time limit within which the drawing shall be completed.
- (b) The number of jurors to be drawn for a panel.
- (c) The number of panels to be drawn.
- (d) The court or courts in which each panel shall serve.
- (e) The period of service of each panel, subject to the provisions of section 1343.

(2) Upon the order of the presiding circuit judge, jury panels or parts of jury panels drawn for any court in the county may be used for jury selection in any court of record or in the district court, if jurors on the panel or part of a panel selected for such use are otherwise eligible to serve as jurors in the particular court.

(3) If a city located in more than 1 county is placed entirely within a single district of the district court pursuant to the provisions of chapter 81, the supreme court by rule shall specify the procedure for compiling the second jury list for that district court so as to include names and addresses of residents from the parts of the counties which comprise such district.

HISTORY: Add 1968, p. 590, Act 326, Eff. Nov. 15;—Am. 1968, p. 686, Act 354, Eff. Nov. 15;—Am. 1969, p. 737, Act 326, Eff. Sep. 1.

600.1325 Repealed. 1969, p. 739, Act 326, Eff. Sep. 1.

Section required presiding judge to notify board as to number of jurors required.

600.1326 Grand jurors; drawing, number.

Sec. 1326. If a grand jury is ordered by the court, or required by statute, the board shall draw the names of 23 persons to serve as grand jurors. The names shall be drawn in the same manner and from the same source as petit jurors.

HISTORY: Add. 1968, p. 590, Act 326, Eff. Nov. 15.

600.1327 Jurors; drawing, time, notice; witnesses.

Sec. 1327. A drawing of jurors shall take place in public within the time limit fixed by the presiding circuit judge and at a time and place designated by the board. At the time and place appointed, the clerk or his deputy, and a judge or an elected official, other than the clerk, as designated by the presiding judge shall attend to witness and assist in the drawing of jurors.

HISTORY: Add. 1968, p. 590, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1328 Jurors; drawing, procedure.

Sec. 1328. The board shall proceed in the drawing as hereinafter provided. An employee of the board, or a board member, shall shake or turn the board box to fairly mix the slips of paper deposited therein without exposing them. The employee or board member, in the presence of the officer or officers attending, without seeing the names on the slips, shall then draw publicly from the box the names of as many jurors as were ordered by the judge. An attending officer or board member or an employee of the board shall keep a minute of the drawing, in which he shall enter the name written on every slip of paper drawn before any other slip is drawn. If the name of a person is drawn who is not qualified to serve as a juror to the knowledge of any member of the board, an entry of this fact shall be made on the minute of the drawing, the slip of paper containing his name shall be destroyed, and another slip then drawn in place of that destroyed. The minutes of the drawing shall be signed by the board member and the attending officers and filed in the office of the board. The signature shall constitute a certificate that the minutes are correct and that all provisions of law have been complied with.

HISTORY: Add. 1968, p. 590, Act 326, Eff. Nov. 15.

600.1329 Drawing of jurors; legality; challenges, grounds.

Sec. 1329. (1) The legality or regularity of the drawing shall not be questioned if the minutes of the drawing are properly signed. If the name of any person not qualified to serve as a juror is included in the names drawn, this fact shall not be a ground of challenge to the array, but only a ground of personal challenge to the person shown to be so disqualified.

(2) If the jurors were drawn in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that the person who drew them was a party or interested in the cause, or was counsel or attorney for, or related to, either party therein.

(3) If the jurors were drawn in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that they were summoned by the sheriff who was a party, or interested in the cause, or related to either party

therein, unless it is alleged in the challenge and satisfactorily shown that some of the jurors drawn were not summoned, and that this omission was intentional.

HISTORY: Add. 1968, p. 590, Act 326, Eff. Nov. 15.

600.1330 Board box; closing, custody.

Sec. 1330. When the drawing is finished, the board box shall be closed and sealed in the presence of the officers. All slips drawn out of the board box, unless destroyed as provided in this chapter, shall be delivered to the clerk of the court for which the jurors were drawn. The board box shall be kept in the custody of the board at all times, and shall not be opened nor the seal be broken until another drawing, unless ordered by the court.

HISTORY: Add. 1968, p. 591, Act 326, Eff. Nov. 15.

600.1331 Lists of jurors; delivery to clerk.

Sec. 1331. The board shall deliver to the clerk lists containing the names and addresses of the jurors drawn.

HISTORY: Add. 1968, p. 591, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1332 Jurors; summons for service; method; record; evidence.

Sec. 1332. The clerk or sheriff shall summon jurors for court attendance at such times and in such manner as directed by the presiding judge or by the judge to whom the action in which jurors are being called for service is assigned. For a juror's first required court appearance, service shall be by a written notice addressed to him at his place of residence as shown by the records of the board, which notice may be by ordinary mail or by personal service. For subsequent service notice may be in any manner directed by the judge. The officer giving notice to jurors shall keep a record thereof and shall make a return if directed by the court. Such return shall be presumptive evidence of the fact of service.

HISTORY: Add. 1968, p. 591, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1333 Jurors; excuse or postponement of services, application.

Sec. 1333. A person who is notified to attend as a juror may apply to the presiding judge of the court to be excused or have his term of service postponed on any ground herein provided. He may apply in person or by a person capable of making the necessary proof of his claim. An entry of the action of the presiding judge upon the application and of the reason therefor shall be made on the records of the court.

HISTORY: Add. 1968, p. 591, Act 326, Eff. Nov. 15.

600.1334 Jurors; temporary excuse; duty to report.

Sec. 1334. (1) The presiding judge may excuse any juror or jurors from attendance without pay for any portion of the term. The presiding judge shall excuse jurors from attendance on days when it is not expected that they will be required. The presiding judge may postpone the service of a juror to a later term of court if the juror has not been called for voir dire examination in any action.

(2) The judge presiding at the trial of an action may excuse jurors from attendance at such trial for cause.

HISTORY: Add. 1968, p. 591, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1335 Jurors; excuse by court, grounds.

Sec. 1335. The presiding judge of the court to which a person is returned as a juror may excuse him from serving when it appears that the interests of the public or of the individual juror will be materially injured by his attendance, or the health of the juror or that of a member of his family requires his absence from court.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15.

600.1336 Jurors; excess, discharge, effect.

Sec. 1336. If the presiding judge finds that the number of jurors in attendance is greater than that needed, he may order the panel or any part thereof discharged for the balance of its term or excused until a day certain therein. Any juror discharged, but not excused, under this section shall be deemed to have served his term of service but shall receive compensation only for the time of his actual service on the panel.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15.

600.1337 Jurors; unqualified or exempt, discharge.

Sec. 1337. When the court finds that a person in attendance upon the court as a juror is not qualified to serve as a juror, or is exempt and claims an exemption, the court shall discharge him from further attendance and service as a juror.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15.

600.1338 Jurors; excused, destruction of slip.

Sec. 1338. (1) When any person is excused from serving on the ground that he is exempt by law from serving on juries, or not qualified to serve as a juror, the clerk of the court shall destroy the slip containing the name of that person.

(2) The slip containing the name of any person whose time of service is postponed shall not be returned to the board box.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15.

600.1339 Jurors; service postponed, disposition.

Sec. 1339. The presiding judge shall report to the board the names of all jurors whose service has been postponed to a subsequent time, and the names shall be placed upon the list of jurors drawn for that time. No more names shall be drawn from the board box than are sufficient to make up the number ordered by adding the names of the jurors so postponed to the names then drawn.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1340 Report of court clerk.

Sec. 1340. The clerk of the court, within 10 days after the close of each term for which jurors have been drawn, shall deliver to the board his certificate specifying distinctly and in detail as follows:

(a) The name and residence of each juror who was excused or discharged by the court, with the reason therefor.

(b) The name and residence of each person notified who did not attend or serve.

(c) The name and residence of each person punished for contempt as provided in this chapter.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15.

600.1341 Additional jurors; procedure.

Sec. 1341. The presiding judge of a court may order additional jurors drawn by the board for service during the period of service of a jury panel or a part thereof. A judge of a court of record or district court may order additional jurors drawn by the board for immediate service in a particular case. The order shall specify the number to be drawn, and the time and place of drawing. If additional jurors are needed for immediate service in a particular case any member of the jury board may conduct the drawing if witnessed by the clerk or his deputy and by the judge ordering the drawing. Jurors whose names are so drawn shall be given notice to attend court in such manner as the court directs. Additional jurors so drawn shall become members of the panel then serving unless otherwise directed by the presiding judge.

HISTORY: Add. 1968, p. 592, Act 326, Eff. Nov. 15;—Am. 1969, p. 738, Act 326, Eff. Sep. 1.

600.1342 Jurors; new list; court order.

Sec. 1342. If the board fails to meet and return the second jury list at the time prescribed, or if any list of jurors becomes exhausted or declared illegal, the presiding circuit judge may order the board to meet and make a new list of jurors.

HISTORY: Add. 1968, p. 582, Act 326, Eff. Nov. 15.

600.1343 Jurors; term of service.

Sec. 1343. The term of service of petit jurors shall be determined by local court rule but shall not exceed the term of court, unless at the end of this period a juror is serving in connection with an unfinished case, in which event he shall continue to serve, in that case only, until the case in which he is serving is finished. Once commenced, the term of service shall be continuous except as provided in sections 1334 to 1336.

HISTORY: Add. 1968, p. 583, Act 326, Eff. Nov. 15;—Am. 1969, p. 739, Act 326, Eff. Sep. 1.

600.1344 Jurors; compensation; false certificate of attendance.

Sec. 1344. (1) Jurors shall be paid mileage at the rate of 10 cents per mile for their traveling expenses from their residence to the place of holding court and return for each day or half day of actual attendance at sessions of the court. They shall also be compensated at the rate of \$15.00 per day and \$7.50 per half day respectively of actual attendance at the court.

(2) A clerk or deputy clerk of the court who fraudulently issues a certificate of attendance of a juror on which the juror receives pay, except as allowed by law, is guilty of a misdemeanor and on conviction shall be punished by imprisonment in the county jail for not more than 6 months or by a fine not exceeding \$500.00, or by both.

HISTORY: Add. 1968, p. 583, Act 326, Eff. Nov. 15;—Am. 1969, p. 739, Act 326, Eff. Sep. 1.

600.1345 Attempts to influence board; report.

Sec. 1345. A board member shall report to the prosecuting attorney and the presiding circuit judge the name of any person who in any manner seeks by request, hint or suggestion to influence the board or its members in the selection of any juror.

HISTORY: Add. 1968, p. 583, Act 326, Eff. Nov. 15.

600.1346 Acts punishable as contempts.

Sec. 1346. The following acts are punishable by the circuit court as contempts of court:

- (a) Failing to answer the questionnaire provided for in section 1313.
- (b) Failing to appear before the board or a member thereof, without being excused at the time and place notified to appear.
- (c) Refusing to take an oath or affirmation.
- (d) Refusing to answer questions pertaining to his qualifications as a juror, when asked by a member of the board.
- (e) Failing to attend court, without being excused, at the time specified in the notice, or from day to day, when summoned as a juror.
- (f) Giving a false certificate, or making a false representation, or refusing to give information which he can give affecting the liability or qualification of a person other than himself to serve as a juror.
- (g) Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person, firm or corporation for the purpose of enabling himself or another person to evade service or to be wrongfully discharged, exempted or excused from service as a juror.
- (h) Tampering unlawfully in any manner with a jury list, the board box, the jury box or the slips.
- (i) Wilfully doing or omitting to do an act with the design to subvert the purpose of this act.

(j) Wilfully omitting to put on the jury list the name of a person qualified and liable for jury duty.

(k) Wilfully omitting to prepare or file a list or slip.

(l) Doing, or omitting to do, an act with the design to prevent the name of a person qualified and liable to serve as a juror from being placed in the board box or jury box, or from being drawn for service as a juror.

(m) Wilfully placing the name of a person upon a list, or preparing a slip with the name of a person thereon or placing a slip in the jury box with the name of a person thereon, who is not qualified as a juror.

HISTORY: Add. 1968, p. 593, Act 328, Eff. Nov. 15.

600.1347 Jurors; bribery; penalty; embracery, civil liability.

Sec. 1347. (1) A person drawn or summoned as a juror who takes anything to give his verdict or receives any gift or gratuity from any party to an action for the trial of which he has been drawn or summoned is liable to the party aggrieved for actual damages sustained plus 10 times the amount or value of the thing which he has taken, in addition to any criminal punishment to which he may be subject by law.

(2) An embracer who procures a person drawn or summoned as a juror to take gain or profit contrary to the provisions of subsection (1) is liable to the aggrieved party for the actual damages sustained plus 10 times the amount or value of the thing which was taken.

HISTORY: Add. 1968, p. 594, Act 328, Eff. Nov. 15.

600.1348 Jurors; threat to discharge by employer, penalty.

Sec. 1348. An employer or his agent, who threatens to discharge or who discharges or causes to be discharged from employment a person because that person is summoned for jury duty, serves on a jury, or has served on a jury, is guilty of a misdemeanor, and may also be punished for contempt of court.

HISTORY: Add. 1968, p. 594, Act 328, Eff. Nov. 15.

600.1349 Jurors; nonliability for verdict; exception.

Sec. 1349. No juror may be subject to an action, civil or criminal, on account of any verdict except for corrupt conduct in rendering such verdict in the cases prescribed by law.

HISTORY: Add. 1968, p. 594, Act 328, Eff. Nov. 15.

600.1350 Condemnation and grade separation cases.

Sec. 1350. Juries for condemnation cases and grade separation damage cases in the circuit courts of this state may upon order of the court be selected and impaneled from the freeholders summoned to serve as petit jurors at that term of the court having jurisdiction over such proceedings, in the same manner as petit juries are selected and impaneled in civil cases in the circuit court, in lieu of being selected and impaneled in the manner prescribed by the provisions of the statute under which the proceedings were instituted. Only jurors indicated to be freeholders shall be called and sworn in the selection and impaneling of condemnation and grade separation juries.

HISTORY: Add. 1968, p. 594, Act 328, Eff. Nov. 15.

600.1351 Repealed. 1970, p. 373, Act 118, Imd. Eff. Jul. 23.

Section provided that in civil cases by 12 jurors, verdict shall be received when 10 jurors agree.

600.1352 Jury of 6 in civil cases; verdict.

Sec. 1352. In civil cases, trial shall be by a jury of 6. A verdict shall be received when 5 jurors agree.

HISTORY: Add. 1968, p. 594, Act 328, Eff. Nov. 15;—Am. 1970, p. 373, Act 118, Imd. Eff. Jul. 23.

600.1353 Court rules.

Sec. 1353. The judges of each circuit court may establish rules, not inconsistent with the provisions herein, necessary to carry out these provisions and to insure the proper conduct of the work of the board members. The judges of each circuit court may provide by rule that the terms of jury service herein provided need not commence at the same time for all members of a panel.

HISTORY: Add. 1988, p. 594, Act 326, Eff. Nov. 15.

600.1354 Noncompliance; effect; objection.

Sec. 1354. Failure to comply with the provisions of this chapter shall not be grounds for a continuance nor shall it affect the validity of a jury verdict unless the party requesting the continuance or claiming invalidity has made timely objection and unless the party demonstrates actual prejudice to his cause and unless the noncompliance is substantial. An objection made at the day of a scheduled trial shall not be considered timely unless the objection, with the exercise of reasonable diligence, could not have been made at an earlier time.

HISTORY: Add. 1988, p. 739, Act 326, Eff. Sept. 1.

CHAPTER 14.

GENERAL PROVISIONS

600.1401 Seal unnecessary on bonds, deeds and contracts.

Sec. 1401. No bond, deed of conveyance or other contract heretofore or hereafter executed in writing, signed by any party, his agent or attorney, is invalid for want of a seal or scroll annexed thereto by such party.

HISTORY: New 1961, p. 458, Act 236, Eff. Jan. 1, 1963.

600.1403 Nonage as defense; availability.

Sec. 1403. Whenever, in any suit brought for the recovery of goods, wares, merchandise or chattels, or for the value thereof, or for the balance remaining due thereon, or upon any note or promise for the recovery of a loan of money, against any person who pleads as a defense to such suit that he was under age of 21 years at the time of purchase or loan thereof, such defense shall not be available, nor shall such person upon attaining majority be permitted to disaffirm the contract of purchase or loan thereof, nor recover any money paid thereon, if:

(1) it appears upon the trial of the suit that the person against whom such action is brought wilfully represented his age to be over 21 years to the seller or his assignee of such goods, wares, merchandise or chattels for the purpose of securing the same, or securing the loan of money, knowing the same to be false and that the seller had no actual knowledge of the actual age of such minor; and

(2) the representation was made in writing in a separate instrument containing only the statement of age, date of signing and the signature, or the representation is admitted in open court.

HISTORY: New 1961, p. 458, Act 236, Eff. Jan. 1, 1963.

600.1404 Educational loans; definitions; minors, enforceability.

Sec. 1404. (1) As used in this section:

(a) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(b) "Educational institution" means a university, college, community college, junior college, high school or technical, vocational or professional school, wherever located, approved or accredited by the state department of education for the purposes of this

section, or by the appropriate official, department or agency of the state in which the institution is located.

(c) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

(2) Any written obligation signed by a minor 18 or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution if prior to the making of the educational loan, an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

HISTORY: Add. 1970, p. 360, Act 107, Imd. Eff. Jul. 23.

600.1405 Rights of third party beneficiaries.

Sec. 1405. Any person for whose benefit a promise is made by way of contract, as hereinafter defined, has the same right to enforce said promise that he would have had if the said promise had been made directly to him as the promisee.

Same; contracts included.

(1) A promise shall be construed to have been made for the benefit of a person whenever the promisor of said promise has undertaken to give or to do or refrain from doing something directly to or for said person.

Same; time promise becomes legally binding, exceptions.

(2) (a) The rights of a person for whose benefit a promise has been made, as defined in (1), shall be deemed to have become vested, subject always to such express or implied conditions, limitations, or infirmities of the contract to which the rights of the promisee or the promise are subject, without any act or knowledge on his part, the moment the promise becomes legally binding on the promisor, unless there is some stipulation, agreement or understanding in the contract to the contrary.

(b) If such person is not in being or ascertainable at the time the promise becomes legally binding on the promisor then his rights shall become vested the moment he comes into being or becomes ascertainable if the promise has not been discharged by agreement between the promisor and the promisee in the meantime.

(c) If the promisee is indebted or otherwise obligated to the person for whose benefit the promise was made and the promise in question is intended when performed to discharge that debt or obligation, then the promisor and the promisee may, by mutual agreement, divest said person of his rights, if this is done without intent to hinder, delay or defraud said person in the collection or enforcement of the said debt or other obligation which the promisee owes him and before he has taken any legal steps to enforce said promise made for his benefit.

Same; promisee's rights.

(3) Nothing herein contained shall be held to abridge, impair or destroy the rights which the promisee of a promise made for the benefit of another person would otherwise have as a result of such promise.

Same; retroactive construction of section.

(4) The provisions of this section shall be construed to be applicable to contracts made prior to its enactment as well as to those made subsequent thereto, unless such construction is held to be unconstitutional, in which case they shall be held to be applicable only to contracts made subsequent to its enactment.

HISTORY: New 1961, p. 458, Act 236, Eff. Jan. 1, 1963.

600.1410 Legal impediment to marriage as bar to action.

Sec. 1410. If 2 persons have lived together as husband and wife, and a legal impediment existed to the marriage of either of the persons, their issue and the person that

entered the relation in the good faith belief that the marriage was lawful are entitled to the same damages in a civil action as though no such impediment existed, when the other of such persons or their issue is injured or dies as a result of the negligent act or omission of another.

HISTORY: New 1961, p. 459, Act 236, Eff. Jan. 1, 1963.

600.1412 Eastern Orthodox faith; recognition as major faith.

Sec. 1412. (1) The Eastern Orthodox faith is hereby recognized as a major faith in this state.

(2) In all forms and official papers of the government of this state and of local units of government within this state, which refer to the major faiths, the Eastern Orthodox faith shall be included as 1 of the major religious faiths in this state.

HISTORY: New 1961, p. 459, Act 236, Eff. Jan. 1, 1963.

600.1414 Style of process.

Sec. 1414. The style of process from courts of record shall be: "In the Name of the People of the State of Michigan."

HISTORY: New 1961, p. 459, Act 236, Eff. Jan. 1, 1963.

600.1416 Courts of record; seals.

Sec. 1416. (1) The following courts are courts of record and possess seals:

- (a) the supreme court,
- (b) the several circuit courts,
- (c) the several probate courts,
- (d) the recorder's court of Detroit,
- (e) the superior court of Grand Rapids,
- (f) the court of claims, and
- (g) any other courts the legislature designates as courts of record.

(2) Whenever the seal of any court becomes unusable the court shall have that seal destroyed.

(3) Whenever the seal of any court is lost or destroyed that court shall have a duplicate made which then shall become the seal of that court.

(4) The expense of a new seal for any circuit court, or court of probate, shall be paid by the county in which such courts are held; and the expense of new seals for other courts shall be paid from the state treasury.

HISTORY: New 1961, p. 459, Act 236, Eff. Jan. 1, 1963.

600.1418 Courts of record; discontinuance, vacancy, new commission.

Sec. 1418. No court of record shall discontinue any matter before it because of a vacancy in the office of any or all of its judges nor because of any judge being issued a new commission. Judges assigned temporarily or persons appointed in any new commissions, have power to continue, hear, determine and sign all matters that their respective predecessors could have continued, heard, determined, and signed.

HISTORY: New 1961, p. 459, Act 236, Eff. Jan. 1, 1963.

600.1420 Courts; sittings to be public, exceptions.

Sec. 1420. The sittings of every court within this state shall be public except that a court may, for good cause shown, exclude from the courtroom other witnesses in the case when they are not testifying and may, in actions involving scandal or immorality, exclude all minors from the courtroom unless the minor is a party or witness. This section shall not apply to cases involving national security.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1422 Judicial officers; fees.

Sec. 1422. Except in those situations where fees are expressly authorized by law, no

judge, commissioner, or other judicial officer shall demand or receive any fee or compensation for giving advice in any matter or suit pending before him or which he has reason to believe will be brought before him for his decision, or for drafting or preparing any papers or other proceedings relating to any such suit or matter.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1425 Sunday court.

Sec. 1425. Courts shall not transact any business on Sunday unless it is for the purpose of instructing or discharging a jury, or of receiving a verdict, or for a pressing matter; but this section shall not prevent the exercise of the jurisdiction of any court or judge when it is necessary.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1427 Writs, process and records; use of English, paper, abbreviations.

Sec. 1427. All writs, process, proceedings and records in any court within this state, shall be in the English language (except that the proper and known names of process, and technical words, may be expressed in the language heretofore and now commonly used), and shall be made out on paper, in a fair, legible character, in words at length, and not abbreviated; but such abbreviations as are now commonly used in the English language may be used, and numbers may be expressed by Arabic figures, or Roman numerals, in the customary manner.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1430 Appearance in court by attorney or in person; exception.

Sec. 1430. Every person of full age and sound mind, may prosecute or defend civil actions in any court by an attorney, or may, at his election, prosecute or defend civil actions in person. No person shall be permitted to prosecute or defend any civil action in person, when he has an attorney in such case.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1432 Oath; mode of administration.

Sec. 1432. The usual mode of administering oaths now practiced in this state, by the person who swears holding up the right hand, shall be observed in all cases in which an oath may be administered by law except in the cases herein otherwise provided. The oath should commence, "You do solemnly swear or affirm".

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1434 Opposition to oath; affirmation.

Sec. 1434. Every person conscientiously opposed to taking an oath may, instead of swearing, solemnly and sincerely affirm, under the pains and penalties of perjury.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1436 Witness; competency as affected by religion.

Sec. 1436. No person may be deemed incompetent as a witness, in any court, matter or proceeding, on account of his opinions on the subject of religion. No witness may be questioned in relation to his opinions on religion, either before or after he is sworn.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1438 Oath by mental incompetent.

Sec. 1438. (1) Whenever any pleading is required to be verified by the party, or accompanied by the affidavit of the party, or whenever any other oath is required in order that the party may sue or be sued, and the party is, or is alleged to be, mentally incompetent, such incompetency shall not bar the administration of the oath or affirmation for the purpose of allowing the incompetent party to sue or be sued.

(2) Instead of, or in addition to, the verification or affidavit by the party, the guardian, guardian ad litem, or next friend may make the verification or affidavit, and may do so on information and belief.

(3) This section does not affect the competency of the witness to testify, nor does it affect the civil or criminal liability of the party for his statements under oath.

HISTORY: New 1961, p. 460, Act 236, Eff. Jan. 1, 1963.

600.1440 Oaths or affidavits; persons to administer.

Sec. 1440. (1) Whenever any oath or affidavit is or may be required or authorized by law in any cause, matter or proceeding, except oaths to witnesses and jurors in the trial of a cause, and such other oaths as are or may be required by law to be taken before particular officers, the same may be taken before any justice, judge or clerk of any court of record, circuit court commissioner, notary public, or justice of the peace.

Members or dependents, civilian employees or dependents, of armed forces.

(2) If the person making the oath, affidavit or an affirmation is serving in or with the armed forces of the United States, or is a civilian employee of the armed forces, or is a dependent of a person serving in or with the armed forces or of a civilian employee thereof, whether serving in or outside of the territorial limits of the United States, such oath or affirmation may be administered by any commissioned officer in active service of the armed forces of the United States.

Certificate of administering officer.

(3) The oath or instrument sworn to or affirmed is not rendered invalid by the failure to state therein the place wherein the oath or affirmation was taken. No authentication of the officer's authority to administer the oath or affirmation is required, but the officer administering the same shall indorse thereon and attach thereto a certificate containing, in addition to the requisite or appropriate contents of such certificate, a statement to the effect that the affiant or affirmant is known or satisfactorily proven to such officer to be serving in or with the armed forces of the United States and that the officer so certifying is at the date of his or her certificate a commissioned officer in active service of the armed forces and shall set forth his or her rank and the command to which he or she is attached and any instrument so sworn to or affirmed has the same force and effect as it would have had if sworn to before any of the officers now authorized by law to administer oaths and affirmations.

Form of acknowledgment for military officer.

(4) In cases where the acknowledgment is taken before a military officer the certificate shall be substantially in the following form:

On this the day of, 19...., before me,, the undersigned officer personally appeared known to me (or satisfactorily proven) to be serving in or with the armed forces of the United States (or to be a civilian employee of the armed forces, or a dependent of a person serving in or with the armed forces or of a civilian employee thereof) and to be the person whose name is subscribed to the foregoing and made oath that he or she knows the contents thereof and the same is true of his own knowledge except as to matter stated therein to be on information and belief, and as to those matters he or she believes it to be true, and the undersigned certifies that he or she is at the date of this certificate a commissioned officer of the rank stated below and is in the armed forces of the United States.

.....
Signature of officer

.....
Rank of officer and command to which attached

HISTORY: New 1961, p. 461, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 7, Act 1, Eff. Aug. 28.

600.1442 Oaths or affidavits; court appointee; stipulation.

Sec. 1442. Oaths, affidavits and depositions, in any cause, matter or proceeding in

any court of record, may also be taken before any person appointed by the court for that purpose or before any person upon whom the parties agree by stipulation in writing or on the record.

HISTORY: New 1961, p. 461, Act 236, Eff. Jan. 1, 1963.

600.1445 Physical examination of person ordered by court; board or commission, attorney.

Sec. 1445. (1) Whenever in any proceedings before any court, board or commission, or other public body or officer, an order is made by such court, board or commission, or other public body or officer, requiring and commanding that a person shall submit to a physical examination, the order shall also provide that the attorney for such person may be present at such physical examination if the party to such examination desires that an attorney representing him be present.

Fees, mileage.

(2) The order may also recite and provide that the party to be examined shall, at least 3 days prior to the date set for said examination, be paid a fee of \$2.00 per diem for the day ordered for attendance, and that such party also be paid a mileage fee at the rate of 10 cents per mile in going to the place at attendance, to be estimated from the residence of such party. The court, board or commission, or other public body or officer, may in its order determine the fees and mileage fees to be paid, and when so fixed, such determination shall be conclusive.

Written report, findings, inspection of diagnostic aids.

(3) A correct copy of any written report and findings rendered by the examining physician relative to the condition of such person shall be delivered forthwith to such person or his attorney. X-rays, cardiograms, and like diagnostic aids shall be made available for inspection by such person or other person designated by him, upon reasonable notice.

Supreme court rules.

(4) Notwithstanding any provision of this section, the rules of the supreme court shall govern in appropriate cases.

HISTORY: New 1961, p. 462, Act 236, Eff. Jan. 1, 1963.

600.1450 Judicial meetings; court administration.

Sec. 1450. The court administrator, under the supervision and direction of the supreme court, shall call an annual statewide meeting of the circuit judges and the judges of the recorder's court of the city of Detroit and an annual statewide meeting of the probate judges of the state, and such additional statewide and regional meetings of such judges, or any number of them, as he may at the direction of the supreme court, from time to time determine, for the purpose of studying the organization, rules, methods of procedure and practice of the judicial system of this state, the problems of administration confronting the courts and the judicial system in general and making recommendations for the modification or amelioration of existing conditions, for harmonizing and improving laws or for amendments to the rules and statutes relating to practice and procedure in the judicial system of the state.

HISTORY: New 1961, p. 462, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 647, Act 238, Imd. Eff. Jan. 1, 1971.

600.1451 Judicial meetings; presiding officer, secretary.

Sec. 1451. The chief justice of the supreme court, or such person as shall be designated by him, shall preside over such meetings, and the court administrator of the supreme court or his deputy shall act as secretary therefor.

HISTORY: New 1961, p. 462, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 647, Act 238, Imd. Eff. Jan. 1, 1971.

600.1452 Judicial meetings; expenses of attendance, payment.

Sec. 1452. The judges shall attend such meetings when and as directed by the court

administrator. Each justice of the supreme court, judges of the court of appeals, the circuit judges, judges of the recorder's court of the city of Detroit, the probate judges, and the court administrator who shall be in attendance at such meetings shall be reimbursed from the state treasury, upon the warrant of the state treasurer, for their actual and necessary expenses incurred in attending such meetings.

HISTORY: New 1961, p. 462, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 647, Act 238, Imd. Eff. Jan. 1, 1971.

600.1455 Courts of record; powers.

Sec. 1455. The courts of record of this state have the power:

(1) To issue process of subpoena, requiring the attendance of any witness in accordance with court rules, to testify in any matter or cause pending or triable in such courts;

(2) To administer oaths to witnesses in any such matter or cause, and in all other cases where it may be necessary in the exercise of the powers and duties of such courts;

(3) To devise and make such new orders as may be necessary to carry into effect the powers and jurisdiction possessed by them.

HISTORY: New 1961, p. 463, Act 236, Eff. Jan. 1, 1963.

600.1461 Newspaper; definition; publication of notices.

Sec. 1461. (1) The term "newspaper" as used in the revised judicature act of 1961 shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years,

(b) has been established, published, and circulated at not less than weekly intervals without interruption for at least 1 year in the county where the court is situated. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or military service of the publisher for a period of not to exceed 2 years, and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term "news and editorial content" for the purpose of this section means any printed matter other than advertising.

(2) If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this section is qualified to publish notice of actions commenced therein.

HISTORY: New 1961, p. 463, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 436, Act 246, Eff. Sep. 6.

600.1465 Funds deposited with county officer unavailable for payment; appropriation for restitution.

Sec. 1465. (1) Whenever any funds shall be deposited with or paid to, or which heretofore have been deposited with or paid to any court, county officer, or the clerk or employee of such court or county officer by virtue of a judgment, decree or order of any court of record or division thereof in this state, or pursuant to any statute of this state, and for any reason such funds shall have become unavailable for payment, the board of supervisors of the county concerned may appropriate such sums of money as are required to make restitution to the lawful owner of such funds.

Audit of claims, allowance, limitation of actions.

(2) Claims for moneys by the lawful owner shall be audited as provided by law; and no claim shall be allowed unless filed within 6 years from the date when the right to payment or repayment of such funds arose.

County's right of action.

(3) Upon payment by the county it shall have a right of action for the recovery of such money paid, against the person or persons responsible for such funds being unavailable for payment.

HISTORY: New 1961, p. 463, Act 236, Eff. Jan. 1, 1963.

600.1471 Research law clerks.

Sec. 1471. (1) The circuit courts and superior court may employ law clerks for the court or for each judge of such courts.

(2) Each law clerk shall be a resident of the state of Michigan and

(a) A member of the state bar of Michigan, or

(b) A graduate of a reputable and qualified law school.

(3) The compensation of the law clerks shall be fixed by the judges of the court within the sum appropriated therefor by the legislative body or bodies of the governmental unit or units, other than the state of Michigan, which pays the compensation of such judges. In case 2 or more governmental units contribute to the compensation of such judges, the salary of the law clerk shall be paid by the unit, other than the state of Michigan, which contributes the greater portion of such salaries, unless the legislative bodies of the respective units elect to share in paying the compensation of such law clerk.

(4) The period of employment of the law clerks shall be 1 year, subject to renewal for a like period. The court may discharge a law clerk during any given period.

(5) The law clerk shall conduct legal research and prepare memoranda thereof under the direction of the judges of the court and under the general supervisory control of the presiding or executive judge of the court. The court may prescribe other duties by local rule.

HISTORY: New 1961, p. 463, Act 236, Eff. Jan. 1, 1963.

600.1475 Collection on judgment; restitution on reversal, interest.

Sec. 1475. In case any amount is collected on any judgment or decree, if such judgment or decree be afterward reversed the court shall award restitution of the amount so collected, with interest from the time of collection.

HISTORY: New 1961, p. 464, Act 236, Eff. Jan. 1, 1963.

600.1481 Judicial assistant; appointment, eligibility, duties, compensation.

Sec. 1481. (1) In every state court of record in Michigan inferior to the supreme court which now has, and in any such court which may hereafter have, 10 or more judges, such judges may appoint an attorney to serve as judicial assistant to their court, who shall subscribe a constitutional oath of office administered by the presiding judge of the court and file same with the secretary of state, whereupon the governor shall issue to such judicial assistant an official certificate of appointment under seal. Such appointee shall be an attorney in good standing, licensed to practice in all courts of the state of Michigan and in the United States supreme court; such officer shall have at least 5 years of active practice, including appellate experience, and preferably shall have had prior experience in government service in a legal capacity.

(2) The judicial assistant, acting under the direction of the judges, shall confer with the judges upon pending matters of procedure and substantive law; conduct legal research, analyze briefs submitted and referred to the judicial assistant for comment and recommendation; study pending legislation and current decisions for their possible impact on court problems, and keep the judges and court officers advised thereon; recommend remedial legislation and draft same, and draft legislation suggested or requested by judges or court officials; act as official legal advisor to all departments of the court; represent the court, the judges or court officers in court matters arising out of their official duties in situations wherein the prosecuting attorney or attorney gen-

eral has conflicting interest or responsibilities, or is otherwise disqualified; including court matters of original, as well as appellate jurisdiction affecting the court; and act as amicus curiae in appellate matters of interest to the court.

(3) The compensation of the judicial assistant shall be fixed by the recommending judges within the sum appropriated therefor by the legislative body of the governmental unit, other than the state of Michigan, which pays the compensation of such judges. In case 2 or more governmental units contribute to the compensation of such judges, the salary of the judicial assistant shall be paid by the unit, other than the state of Michigan, which contributes the greater portion of such salaries, unless the legislative bodies of the respective units elect to share in paying the compensation of such judicial assistant.

(4) The term of office of the judicial assistant shall be coextensive with the term of the recommending judges, subject to reappointments for like terms. The assistant shall be a public officer. The judicial assistant shall not be subject to civil service regulation, nor to compulsory retirement. Removal during any given term shall be by the governor upon recommendation by the judges of the court.

HISTORY: New 1961, p. 464, Act 236, Eff. Jan. 1, 1963.

CHAPTER 15.

TIME AND PLACE OF HOLDING CIRCUIT COURTS

600.1501 Terms of court; continuance; adjournment.

Sec. 1501. (1) There shall be at least 4 terms of court annually in every county, held at the times designated by the judge or judges of the circuit. The court in its discretion may hold special or adjourned terms.

(2) All causes, matters, and proceedings pending at any court term which is not held because of the absence of the circuit judge are continued until the next term. All persons bound by recognizance or otherwise to appear during such court term shall appear at the next term, and all such recognizances shall continue in force and be as binding and obligatory on the parties thereto as if no failure of a term had occurred, unless a new recognizance, approved according to law, is entered for such appearance.

(3) Whenever the judge of any circuit or superior court fails to attend a court session, the court shall stand adjourned until a judge authorized to hold court is in attendance. The judge authorized to hold court has full power to hear, try, and determine all causes, matters, and proceedings lawfully brought before him within the jurisdiction of the court. Notwithstanding any formal adjournment, the courts shall on all regular dates be deemed to be in actual session from the first day of any term until the first day of the next succeeding term. Judges of circuit courts may hold court for each other.

HISTORY: New 1961, p. 465, Act 236, Eff. Jan. 1, 1963.

600.1511 Terms of court; Ingham county circuit court; place of sitting.

Sec. 1511. (1) Regular terms of the circuit court for the county of Ingham in the thirtieth judicial circuit may be designated and held both in the city of Lansing and at the county seat of Ingham county in each calendar year, and special or adjourned terms of the court may be designated or ordered and held at either the county seat of the county of Ingham or the city of Lansing. Any hearings, trials or proceedings of the circuit court of the thirtieth judicial circuit may be held at either the county seat of Ingham county or the city of Lansing.

(2) The common council of the city of Lansing, or the citizens thereof, shall furnish and provide, free of expense to Ingham county, a suitable place for holding court within the city, and transacting the business thereof, and a suitable and sufficient jail for the incarceration of prisoners during the sittings of the circuit court in Lansing.

(3) A deputy clerk shall be appointed by the county clerk of Ingham county, as provided by law, who shall attend upon each session of the court held in the city of Lansing, and shall maintain an office at the city of Lansing in the place appointed for holding court.

(4) There shall be furnished by the secretary of state to the deputy clerk to be used by him in his official capacity and for the use of the court at Lansing, 1 copy of the compiled laws of the state of Michigan, and 1 copy each of the public and local acts of the state of Michigan as published.

HISTORY: New 1961, p. 465, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 140, Act 49, Imd. Eff. Jan. 1, 1971.

600.1513 Terms of court; Calhoun county.

Sec. 1513. (1) Two of the regular terms of the circuit court for the thirty-seventh judicial circuit shall be held each year within the city of Battle Creek, and 2 of the regular terms shall be held within the city of Marshall, the county seat of Calhoun county.

(2) The terms of court to be held at the city of Battle Creek shall be respectively alternated with the terms of the court to be held at the city of Marshall. The judge of the circuit court shall designate in writing which of the regular terms thereof shall be held within the city of Battle Creek, and shall transmit the designation to the clerk of Calhoun county.

(3) The circuit court may adjourn any session of the court while sitting at one place, and continue the court at the other place of holding court.

(4) The common council of the city of Battle Creek, or the citizens thereof, shall furnish and provide, free of expense to Calhoun county, a suitable place for holding court within the city of Battle Creek and transacting the business thereof, and a suitable and sufficient jail for the incarceration of prisoners during the sittings of the circuit court, and a fireproof safe or vault within which to keep the files and records of the court.

(5) At each term of the circuit court designated to be held in the city of Battle Creek, the county clerk of Calhoun county shall deposit in the building designated for the holding of the court, under the direction of the circuit judge, all of the records and files in all cases noticed for trial or hearing at such term on or before the first day of the term and when such term is finished, such records and files shall be returned to the office of the county clerk.

HISTORY: New 1961, p. 465, Act 236, Eff. Jan. 1, 1963.

600.1515 Terms of court; Berrien county.

Sec. 1515. (1) Any hearings, trials or proceedings of the circuit court of the second judicial circuit may be held either at the county seat of the county in St. Joseph or in the city of Niles in the county, if the city of Niles shall furnish and provide, free of expense to the county, a suitable place for holding court within the city of Niles and transacting business thereof, as well as a suitable jail for the incarceration of prisoners during the sitting of the court and a fireproof safe or vault for record keeping.

(2) The county clerk of Berrien county shall deposit in the building designated for the holding of the court in the city of Niles, at the time directed by the circuit judge, all the records and files in all cases, causes or proceedings, noticed for trial or hearing by the circuit judge at the city of Niles, and when such case, cause or proceeding is finished, such records and files shall be returned to the office of the county clerk.

HISTORY: New 1961, p. 466, Act 236, Eff. Jan. 1, 1963.

600.1521 Terms of court; special terms in other counties of circuit; triable issues.

Sec. 1521. Every term in any county is a special term for every other county in the same circuit. At any term in any county which is by law a special term for any other county or counties, all business may be done arising in such other county or counties, which might be done at a term in the county where the business arose, except the trial of issues of fact by a jury in cases other than those arising in actions of quo warranto

and mandamus, and excepting also the trial of issues of fact in actions made local by law and arising in some county other than the one in which such special term is held. All orders, judgments, findings, proofs, testimony and other proceedings had or made at any such special term, being authenticated by the clerk of such court, shall be filed and entered of record in the office of the clerk of the circuit court in the county where the action or proceeding shall be pending; and no entries need be made in the office of the clerk of the circuit court of any other county.

HISTORY: New 1961, p. 466, Act 236, Eff. Jan. 1, 1963.

600.1522 Terms of court; special terms, transfer of files and papers.

Sec. 1522. For the purpose of the trial or hearing of any action or proceeding at any special term the clerk of the court shall, at the request of either of the parties, transmit all the papers on file in such action or proceeding, under his official certificate, certifying the same to be all the original files and papers therein on file in his office. Such papers, so certified, shall be enclosed by such clerk in an envelope, sealed by him, directed to the clerk of the circuit court of the county where such special term is to be or is being held, and may be transmitted by mail or by the hand of any person selected by such clerk; and after the trial or hearing of such action or proceeding the clerk last above named shall in like manner remit the same to the clerk of the court in which such action or proceeding is pending; but before any clerk shall be obliged to transmit any such papers he shall be paid all necessary postage, and the clerk remitting same shall also be paid his fees in such action or proceeding.

HISTORY: New 1961, p. 466, Act 236, Eff. Jan. 1, 1963.

600.1531 Alternative time and place of court; notice.

Sec. 1531. Whenever good cause therefor exists, the judge or judges of the circuit may designate a temporary alternative time and place in the same county for holding court. The designation shall be by written order, signed by the judge or judges making the designation, and disseminated to provide reasonable notice. The order shall state the manner in which such notice is to be disseminated.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963.

CHAPTER 16.

VENUE

600.1601 Venue.

Sec. 1601. The provisions of this chapter relate to venue and are not jurisdictional.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963.

600.1605 Venue; real actions, replevin.

Sec. 1605. The county in which the subject of action, or any part thereof, is situated, is a proper county in which to commence and try the following actions:

- (a) the recovery of real property, or of an estate or interests therein, or for the determination in any form of such right or interest;
- (b) the partition of real property;
- (c) the foreclosure of all liens or mortgages on real property; and
- (d) the recovery of tangible personal property.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963.

600.1611 Venue; action on probate bond.

Sec. 1611. The county in which a probate bond is filed is a proper county in which to commence and try actions upon the bond.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963.

600.1615 Venue; actions against governmental units.

Sec. 1615. Any county in which any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, exercises or may exercise its governmental authority is the proper county in which to commence and try actions against such governmental units, except that if the cause of action arose in the county of the principal office of such governmental unit, that county is the proper county in which to commence and try actions against such governmental units.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963.

600.1621 Venue; county where defendant is established or located.

Sec. 1621. Except for the actions listed in sections 1605, 1611 and 1615, the county in which any defendant is established or located, or if no defendant is established or located in the state, the county in which the plaintiff is established, is a proper county in which to commence and try an action.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963;—Am. 1969, p. 759, Act 333, Imd. Eff. Nov. 4.

600.1625 Venue; established, definition.

Sec. 1625. For purposes of all matters pertaining to venue:

(a) A person is established in any county in which he has a dwelling place but not at his transient or temporary lodging.

(b) Both domestic and foreign corporations are established in any county in which the corporation (i) has its principal place of business or (ii) has its registered office.

(c) Partnerships, limited partnerships, partnership associations, and unincorporated voluntary associations, composed of residents, nonresidents, or both, are established in any county in which they have their principal place of business.

(d) Fiduciaries appointed by court order, including but not limited to executors, administrators, trustees and receivers, are established in the county of their appointment, as well as the county of their dwelling place.

(e) Persons, domestic and foreign corporations, and partnerships, limited partnerships, partnership associations, and unincorporated voluntary associations, composed of residents, nonresidents or both, are located in any county in which they (i) have a place of business if a plaintiff is established therein or (ii) are doing business if a plaintiff is established therein.

HISTORY: New 1961, p. 467, Act 236, Eff. Jan. 1, 1963;—Am. 1969, p. 759, Act 333, Imd. Eff. Nov. 4.

600.1627 Venue; county where cause of action arose; surety of public officer.

Sec. 1627. Except for actions founded on contract and for the actions listed in sections 1605, 1611 and 1615, the county in which all or a part of the cause of action arose is a proper county in which to commence and try the action. Suits against the surety of a public officer or his appointees shall not be excepted from the application of this section.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1631 Venue; action by attorney general; other actions.

Sec. 1631. The county in which the seat of state government is located is a proper county in which to commence and try the following actions:

(a) when the action is commenced by the attorney general in the name of the state or of the people of the state for the use and benefit thereof;

(b) when venue cannot be laid under any other of the venue provisions.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1635 Venue; transportation lines, plaintiff's residence.

Sec. 1635. Notwithstanding the provisions of sections 1621 and 1627 actions against any individual or company owning, operating or leasing a street railway or line of railroad or motor bus or truck route, for the transportation of passengers or freight in this state, shall be commenced either in the county where the cause of action arose or in the county of the plaintiff's residence, if the line or route of such individual or company traverses either the county where the cause of action arose or the county of the plaintiff's residence. If such line or route does not traverse in either such county, then suits against such individual or company may be started in any county in which such individual or company has its principal place of business or owns, operates or leases a line or route.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1641 Venue; joinder of causes of action, separation.

Sec. 1641. Where causes of action are joined, whether properly or not, the venue may be laid in any county in which either cause of action, if sued upon separately, could have been commenced and tried, subject to separation and change pursuant to and subject to the conditions imposed by court rules.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1645 Improper venue; judgment.

Sec. 1645. No order, judgment, or decree shall be void or voidable solely on the ground that there was improper venue.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1651 Improper venue; change of venue, conditions; jurisdiction of transferee court.

Sec. 1651. An action brought in a county not designated as a proper county may nevertheless be tried therein, unless a defendant moves for a change of venue within the time and in the manner provided by court rule, in which case the court shall transfer the action to a proper county on such conditions relative to expense and costs as may be provided by court rule. The court of the county to which the transfer is made shall thereupon have full jurisdiction of the action as though the action had been originally commenced therein.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1655 Venue; change, conditions, expense of trial.

Sec. 1655. On such grounds and conditions as may be provided by court rule, the venue of any civil action brought in a proper county may be changed to any other county, and the action there tried. The court of the county to which the transfer is made shall thereupon have full jurisdiction of the action as though the action had been originally commenced therein. In every such case all expenses of the trial which would be chargeable to the county in which the action originated had the action been tried therein, as determined by the circuit judge of the county to which the action has been transferred, shall be a charge upon the county in which the action originated.

HISTORY: New 1961, p. 468, Act 236, Eff. Jan. 1, 1963.

600.1659 Transfer of judgments in action affecting real or tangible personal property.

Sec. 1659. When a civil action affecting the title to or possession of real or tangible personal property has been tried in a county other than the county in which all of the real or tangible personal property is situated, the clerk of the court, after final judgment therein, must certify under his seal of office and transmit a copy of the judgment to the corresponding court of any county in which real or tangible personal property affected by the action is situated. The clerk of the court receiving the copy must file and record the judgment in the records of the court, briefly designating it as a judgment transferred from (naming the court).

HISTORY: New 1961, p. 469, Act 236, Eff. Jan. 1, 1963.

CHAPTER 17.
CONTEMPTS**600.1701 Acts punishable for contempt.**

Sec. 1701. Supreme court, circuit courts, and all other courts of record, have power to punish by fine or imprisonment, or both, persons guilty of any neglect or violation of duty or misconduct in the following cases:

(1) Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority;

(2) Any breach of the peace, noise, or disturbance directly tending to interrupt its proceedings;

(3) All attorneys, counselors, clerks, registers, sheriffs, coroners, and all other persons in any manner duly elected or appointed to perform any judicial or ministerial services, for any misbehavior in their office or trust, or for any willful neglect or violation of duty, for disobedience of any process of the court, or any lawful order of the court, or any lawful order of a judge of the court or of any officer authorized to perform the duties of the judge;

(4) Parties to actions for putting in fictitious bail or sureties or for any deceit or abuse of the process or proceedings of the court;

(5) Parties to actions, attorneys, counselors, and all other persons for the nonpayment of any sum of money which the court has ordered to be paid, in cases where by law execution cannot be awarded for the collection of the sum, or the disobedience of or refusal to comply with any order of the court for the payment of temporary or permanent alimony or support money or costs made in any action for divorce or separate maintenance, or any other disobedience to any lawful order, decree, or process of the court;

(6) All persons for assuming to be and acting as officers, attorneys, or counselors of any court without authority; for rescuing any property or persons which are in the custody of an officer by virtue of process issued from that court; for unlawfully detaining any witness or party to an action while he is going to, remaining at, or returning from the court where the action is pending for trial, or for any other unlawful interference with or resistance to the process or proceedings in any action;

(7) All persons who are duly subpoenaed to appear before or attend:

(a) as a witness in any court in this state, or

(b) any officer of a court of record who is empowered to receive evidence, or

(c) any commissioner appointed by any court of record to take testimony, or

(d) any referees or auditors appointed according to the law to hear any cause or matter, or

(e) any notary public or other person before whom any affidavit or deposition is to be taken for refusal or neglect to obey the subpoena, or to attend, or to be sworn, or when sworn to answer any legal and proper interrogatory;

(8) Persons summoned as jurors in any court, for improperly conversing with any party to an action which is to be tried in that court, or with any other person in regard to merits of the action, or for receiving communications from any party to the action or any other person in relation to the merits of the action without immediately disclosing the communications to the court;

(9) All inferior magistrates, officers, and tribunals for disobedience of any lawful order or process of a superior court, or for proceeding in any cause or matter contrary to law after the cause or matter has been removed from their jurisdiction;

(10) The publication of a false or grossly inaccurate report of its proceedings, but no

court shall punish as a contempt the publication of true, full, and fair reports of any trial, argument, proceedings, or decision had in the court;

(11) All other cases where attachments and proceedings as for contempts have been usually adopted and practiced in courts of record to enforce the civil remedies of any parties or to protect the rights of any party.

HISTORY: New 1961, p. 469, Act 236, Eff. Jan. 1, 1963.

600.1711 Summary punishment; hearing.

Sec. 1711. (1) When any contempt is committed in the immediate view and presence of the court, the court may punish it summarily by fine, or imprisonment, or both.

(2) When any contempt is committed other than in the immediate view and presence of the court, the court may punish it by fine or imprisonment, or both, after proof of the facts charged has been made by affidavit or other method and opportunity has been given to defend.

HISTORY: New 1961, p. 470, Act 236, Eff. Jan. 1, 1963.

600.1715 Punishment; termination.

Sec. 1715. (1) Punishments for contempt may be by fine, which shall in no case exceed the sum of \$250.00, or by imprisonment, which except in those cases where the commitment is for the omission to perform an act or duty which is still within the power of the party to perform shall not exceed 30 days, or both, in the discretion of the court.

(2) When the contempt consists of the omission to perform some act or duty which is still within the power of the party to perform, his imprisonment shall be terminated when he performs the act or duty or no longer has the power to perform the act or duty which shall be specified in the order of commitment and pays the fine and the costs and expenses of the proceedings which shall be specified in the order of commitment.

HISTORY: New 1961, p. 470, Act 236, Eff. Jan. 1, 1963.

600.1721 Payment of damages; effect.

Sec. 1721. If the alleged misconduct has caused an actual loss or injury to any person the court shall order the defendant to pay such person a sufficient sum to indemnify him, in addition to the other penalties which are imposed upon the defendant. The payment and acceptance of this sum is an absolute bar to any action by the aggrieved party to recover damages for the loss or injury.

HISTORY: New 1961, p. 470, Act 236, Eff. Jan. 1, 1963.

600.1725 Witnesses; refusal to testify, penalty.

Sec. 1725. If any witness attending pursuant to a subpoena, or brought before any court, judge, officer, commissioner, or before any person before whom depositions may be taken, refuses without reasonable cause

(1) to be examined, or

(2) to answer any legal and pertinent question, or

(3) to subscribe his deposition after it has been reduced to writing, the officer issuing the subpoena shall commit him, by warrant, to the common jail of the county in which he resides. He shall remain there until he submits to be examined, or to answer, or to subscribe his deposition, as the case may be, or until he is discharged according to law.

HISTORY: New 1961, p. 470, Act 236, Eff. Jan. 1, 1963.

600.1731 Publication as to court of record; hearing by judge of another court.

Sec. 1731. In proceedings for contempt arising out of the publication of any news, information, or comment concerning a court of record, except the supreme court, or any judge of that court the defendant has the right to have the proceedings heard by the judge of another court of record.

HISTORY: New 1961, p. 470, Act 236, Eff. Jan. 1, 1963.

600.1735 Arrest on bench warrant; duties of sheriff.

Sec. 1735. Upon arresting any defendant, on a bench warrant, to answer for any alleged misconduct, the sheriff shall keep such person in his actual custody, and shall bring him personally before the court issuing the warrant, and shall keep and detain him in his custody, until such court orders otherwise, or until the defendant is entitled to be discharged on bond.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1741 Arrest on bench warrant; illness of arrested person.

Sec. 1741. Whenever an officer is required to keep any person arrested upon a bench warrant in actual custody, and to bring him personally before any court, the inability, from sickness or otherwise, of such person to attend such court personally, is a sufficient excuse for not bringing him before such court.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1745 Indictment for contemptuous conduct; sentence.

Sec. 1745. Persons proceeded against according to the provisions of this chapter, shall also be liable to indictment for the same misconduct, if it be an indictable offense; but the court before which a conviction shall be had on such indictment shall take into consideration the punishment before inflicted, in imposing sentence.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

CHAPTER 18.

PROCESS AND ARRESTS

600.1801 Process; service and return; service on sheriff or deputies.

Sec. 1801. (1) When any process or order, issued by any court of record, or any complaint or other paper, is delivered to any sheriff, under-sheriff or deputy to serve, such officer shall serve the same with all convenient speed, and shall return the same with his certificate endorsed thereon, of the time and manner of such service, either to the office of the clerk of the court in which such suit or proceeding is pending, or to the attorney whose name is endorsed on the process, order, complaint or paper.

(2) In any action where an under-sheriff or deputy sheriff is a party, any process may be served on such under-sheriff or deputy sheriff, by the sheriff in person, or by any under-sheriff or deputy sheriff who is not a party to such action.

(3) When the sheriff is a party or interested in any suit, any coroner within his county may serve and execute any process, order, or any other paper in the cause, and has the same powers, and is subject to the same liabilities as sheriffs in similar cases.

(4) If the sheriff is a party in interest in any suit, service of process not requiring arrest or seizure of property may be made upon him by any person of suitable age and discretion.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1805 Process; expiration or vacancy in office of sheriff, effect.

Sec. 1805. Sheriffs, under-sheriffs, and deputy sheriffs, may execute all process in their hands at the expiration of the term for which such sheriffs were elected, the execution of which having been begun by him, and shall make due returns thereof in their

own name. In case of a vacancy in the office of sheriff, every deputy in office under him may execute any writ or process in his hands or in the hands of such sheriff, at the time such vacancy happened, and has the same authority, and is under the same obligation to serve and execute and return the same, as if such sheriff had continued in office.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1809 Process; amendment of return.

Sec. 1809. All returns made by any sheriff or other officer, or by any court or subordinate tribunal, to any court, may be amended in matter of form by the court to which such returns are made, in their discretion, both before and after judgment.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1811 Process; appointment of substitute server.

Sec. 1811. (1) The judge of any circuit court of this state may in any suit or proceeding commenced or pending therein, on the application of any party thereto, appoint some disinterested person to serve any process or other papers, or to do any act therein which the sheriff by law might do in the cause, if the sheriff and coroners of the county are parties, or interested or incapacitated to act.

(2) The appointment shall be in writing, signed by the judge, and filed in the cause. The person so appointed has the same power conferred upon him, and shall proceed in the same manner prescribed for the sheriff in the performance of like duties. The fees payable to such person shall be the same as those payable to sheriffs by virtue of the provisions of law in that behalf for like services.

(3) The judge may, in his discretion, require the person so appointed, before acting under said appointment, to give a bond to the people of this state in such penal sum, and with such surety or sureties as the judge may approve, conditioned for the faithful performance and execution by such person of his duties in such case, without fraud, deceit or oppression, and for the payment of all moneys that may come into his hands by virtue of such appointment.

(4) The person so appointed is deemed a coroner of the county, and is liable in all respects to all the provisions of law respecting sheriffs, so far as the same may be applicable.

HISTORY: New 1961, p. 471, Act 236, Eff. Jan. 1, 1963.

600.1815 Capias ad respondendum; abolishment.

Sec. 1815. The writ of capias ad respondendum is abolished and no civil actions shall be started by arrest.

HISTORY: New 1961, p. 472, Act 236, Eff. Jan. 1, 1963.

600.1821 Arrest; exemptions.

Sec. 1821. (1) No officer of the senate or house of representatives is liable to arrest on civil process while in actual attendance upon the duties of his office.

(2) No female shall be imprisoned on any process in any civil action.

(3) No minor under 16 years of age shall be imprisoned on any process in any civil action.

(4) All parties, attorneys, and subpoenaed witnesses are exempt from arrest on civil process while going to, attending, and returning from the places they are required to attend.

(5) No person while he is within this state pursuant to any subpoena issued to compel his appearance in any criminal proceeding pending in this state shall be arrested or detained upon any criminal charge for any offense committed prior to his entry into this state pursuant to the subpoena.

(6) No person passing through this state while going to another state in obedience to a summons to attend and testify in a criminal proceeding in that state or while returning from that state shall be arrested, by either civil or criminal arrest, for any matter which arose before his entry into this state in obedience to that summons.

(7) No officer of any of the several courts of record, including jurors, shall be arrested on any civil process while going to, attending, or returning from any actual sitting of the court of which he is an officer. In other cases these officers are liable to arrest and may be held to bail in the same manner as other persons.

(8) Every civil arrest made contrary to the above provisions (1) through (7) is void and a contempt of court. The court or officer before whom any witness is subpoenaed to attend and every justice of the supreme court and every circuit judge has authority to discharge any person arrested contrary to those provisions (1) through (7).

(9) Every person making or procuring a civil arrest contrary to the above provisions (1) through (7) is guilty of contempt of court and is liable to the person arrested in double the amount of damages which a jury finds that he has sustained and also is liable in an action at the suit of any injured person for the loss, hindrance, and damage the injured person has sustained in consequence of the arrest. The officer or person causing the arrest shall not be guilty of contempt nor liable for damages if the person exempt from arrest has failed to mention that he is exempt or, after mentioning that he is exempt, refused the officer's request to sign an affidavit swearing that at the time of his arrest he was either:

(a) an officer of the senate or house of representatives in actual attendance upon the duties of his office, or

(b) a female, or

(c) a minor under 16 years of age, or

(d) a party, attorney, or subpoenaed witness going to, attending, or returning from a place he was required to attend, or

(e) a person who was passing through this state while going to or returning from another state to which he had been summoned to attend and testify in a criminal prosecution, or

(f) an officer of a court of record going to, attending, or returning from an actual sitting of the court.

Any civil arrest made contrary to the above provisions (1) through (7) is void.

HISTORY: New 1961, p. 472, Act 236, Eff. Jan. 1, 1963.

600.1825 Arrest; privileged persons.

Sec. 1825. (1) Every elector is privileged from arrest while going to, attending, and returning from elections in all cases except for treason, felony, or breach of the peace.

(2) Senators and representatives are privileged from arrest during sessions of the legislature and for 15 days next before the commencement and after the end of each session.

(3) All officers, warrant officers, and enlisted personnel who are in the actual service of this state or the United States are privileged from arrest and imprisonment during the time of their actual service except for treason, felony, or breach of the peace.

HISTORY: New 1961, p. 473, Act 236, Eff. Jan. 1, 1963.

600.1831 Civil process; exemptions.

Sec. 1831. (1) Civil process shall not be served on any elector entitled to vote at any election during the day that election is held; but upon sufficient cause being shown by affidavit to the satisfaction of a judge of any circuit, that judge may make any restraining order or authorize the issuance and service or execution of any writ on any election day, as on other days.

(2) Civil process shall not be served or executed on Sunday; but upon sufficient cause being shown by affidavit to the satisfaction of a judge of any circuit, that judge may make any restraining order or authorize the issuance of and service or execution of any writ on Sunday, as on other days.

(3) Civil process shall not be served on any senator or representative during sessions of the legislature and for 15 days next before the commencement and after the end of each session.

HISTORY: New 1961, p. 473, Act 236, Eff. Jan. 1, 1963.

600.1835 Civil process; privileged persons.

Sec. 1835. All persons going to, attending, or returning from, any court proceedings in any action in which their presence is needed are privileged from service of process if service could not have been made on them had they not gone to, attended, or returned from the proceedings.

(2) Any person brought into this state by or after waiver of extradition based on a criminal charge is privileged against the service of personal process in civil actions arising out of the same facts as the criminal proceedings which he is returned to answer until he has been convicted in the criminal proceeding, or, if acquitted, until he has a reasonable opportunity to return to the state from which he came.

HISTORY: New 1961, p. 473, Act 236, Eff. Jan. 1, 1963.

600.1841 Civil process; service on Great Lakes or border waters.

Sec. 1841. Civil process which may be served by law anywhere in the state may be served upon any of the waters of the Great Lakes on border waters lying within the state. Any civil process which is required to be served within any county may also be served upon any of the waters of the Great Lakes or border waters which adjoin that county and are included in an extension of the boundary lines of that county to be boundary lines of the state. In any county where the boundary lines are not capable of extension because irregular, process issued from that county may be served on the waters of the Great Lakes at any point within 10 miles of the shore line of that county.

HISTORY: New 1961, p. 473, Act 236, Eff. Jan. 1, 1963.

600.1845 Confinement in jail; liability for release, penalty.

Sec. 1845. (1) All prisoners committed to any jail upon process for contempt or committed for misconduct in the cases prescribed by law, shall be actually confined and detained within the jail until they are discharged from the jail by due course of law or are removed to some other jail or place of confinement in the cases provided by law.

(2) If any sheriff or keeper of a jail permits or suffers any prisoner so committed to jail to go or be at large out of his prison, except by virtue of writ of habeas corpus or order of court or as otherwise provided by the law, he is liable for the damages sustained to the party aggrieved. And he is also guilty of a misdemeanor.

HISTORY: New 1961, p. 474, Act 236, Eff. Jan. 1, 1963.

600.1851 Repealed. 1967, p. 242, Act 178, Eff. Nov. 2.

Section related to uniform foreign depositions act.

600.1852 Service of foreign process; order.

Sec. 1852. (1) Any court of record of this state as provided in subsection (2) may order service upon any person who is domiciled or can be found within this state of any document issued in connection with a proceeding in a tribunal outside this state. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside this state and shall direct the manner of service. Service in connection with a proceeding in a tribunal outside this state may be made within this state without an order of court. Service under this section does not, of it-

self, require the recognition or enforcement of an order, judgment or decree rendered outside this state.

(2) Any court of record of this state may order a person who is domiciled or is found within this state to give his testimony or statement or to produce documents or other things for use in a proceeding in a tribunal outside this state. The order may be made upon the application of any interested person or in response to a letter rogatory and may prescribe the practice and procedure, which may be wholly or in part the practice and procedure of the tribunal outside this state, for taking the testimony or statement or producing the documents or other things. The order shall be issued upon petition to a court of record in the county in which the deponent resides or is employed or transacts his business in person or is found for a subpoena to compel the giving of testimony by him. The court may hear and act upon the petition with or without notice as the court directs. To the extent that the order does not prescribe otherwise, the practice and procedure shall be in accordance with that of the court of this state issuing the order. The order may direct that the testimony or statement be given, or document or other thing produced, before a person appointed by the court. The person appointed shall have power to administer any necessary oath. A person within this state may voluntarily give his testimony or statement or produce documents or other things for use in a proceeding before a tribunal outside this state.

HISTORY: Add. 1967, p. 240, Act 178, Eff. Nov. 2.

600.1855 Service of process; public bodies, duties of officers.

Sec. 1855. Service of process on municipal and public corporations and other public bodies shall be made as prescribed by rule of the supreme court. The officer upon whom such service is made shall inform the public body of such service at or before its next meeting. The council, board, commission, corporation, or other public body may appear and answer or plead in such proceedings in such manner as it may direct.

HISTORY: New 1961, p. 474, Act 236, Eff. Jan. 1, 1963.

600.1861 Service of process; by service on public officer, copy to nongovernmental defendant.

Sec. 1861. When service is made on a non-governmental defendant by service on a public officer, the officer or his deputy shall forthwith forward by registered mail, postage prepaid, a copy of the summons and complaint, directed to the secretary or corresponding officer of the defendant, or other appropriate person.

HISTORY: New 1961, p. 474, Act 236, Eff. Jan. 1, 1963.

CHAPTER 19.

COMMENCEMENT OF ACTION AND SERVICE OF PROCESS

600.1901 Civil action; commencement; filing of complaint.

Sec. 1901. A civil action is commenced by filing a complaint with the court.

HISTORY: New 1961, p. 474, Act 236, Eff. Jan. 1, 1963.

600.1905 Civil action; issuance of summons; duplicate summons.

Sec. 1905. (1) Upon the filing of the complaint the clerk shall forthwith issue summons. Separate summons may issue against any defendant. Duplicate summons may be issued from time to time with like effect as the original summons.

Form of summons; contents.

(2) The form of all summons shall be "In the name of the people of the state of Michigan." The summons shall be under the seal of the court, contain the name of the court, the names of the parties and name of the county clerk, be directed to the defendant or defendants, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the de-

defendant to answer or take such other action as may be permitted by law, and shall notify him that in case of his failure to do so judgment will be rendered against him for the relief demanded in the complaint.

Amendment of process or proof of service.

(3) At any time and upon such terms as it deems just, the court may in its discretion allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

HISTORY: New 1961, p. 474, Act 236, Eff. Jan. 1, 1963.

600.1908 Process; persons to make service.

Sec. 1908. (1) Process in civil actions may be served by any person of suitable age and discretion who is not a party nor an officer of a corporate party.

(2) If service of process is to be made in the manner prescribed by section 1912, on a person in a governmental institution, hospital, or home, the service of process shall be made by the person in charge of such institution or by some member of his staff.

HISTORY: New 1961, p. 475, Act 236, Eff. Jan. 1, 1963.

600.1910 Process; proof of service, failure to make.

Sec. 1910. (1) Proof of service shall be made by

(a) written acknowledgment of receipt of a summons and a copy of the complaint, dated and signed by the person authorized under this act to receive them or

(b) a certificate, stating the facts of service if service is made within the state of Michigan by

(i) a sheriff;

(ii) a deputy sheriff, coroner, bailiff, constable or a deputy of such officers if such officers held office in a county in which the court issuing the process is held, or

(c) an affidavit, stating the facts of service, if service is made by any other person, and indicating his official capacity, if any.

(2) Failure to make proof of service does not affect the validity of the service.

HISTORY: New 1961, p. 475, Act 236, Eff. Jan. 1, 1963.

600.1912 Process; personal service on individual.

Sec. 1912. Service of process may be made upon an individual by leaving a summons and a copy of the complaint with the defendant personally.

HISTORY: New 1961, p. 475, Act 236, Eff. Jan. 1, 1963.

600.1913 Process; substituted service.

Sec. 1913. (1) Service of process may be made,

(a) upon an individual nonresident defendant having any of the contacts, ties or relations with this state as specified in chapter 7 of this act, by service of a summons and a copy of the complaint upon such agent, employee, representative, salesman or servant of the defendant as may be found within the state, and by sending a summons and a copy of the complaint by registered mail addressed to the defendant at his last known address.

(b) upon an infant defendant, by leaving a summons and a copy of the complaint with a person having the care and control of him with whom he resides, or with his legal guardian, or

(c) upon a defendant who has been judicially declared incompetent and for whom a guardian has been appointed and is acting, by leaving a summons and a copy of the complaint with the guardian.

(2) If the individual defendant is in a state institution a copy of the complaint shall also be mailed to the attorney general.

HISTORY: New 1961, p. 475, Act 236, Eff. Jan. 1, 1963.

600.1917 Process; service on partnership or limited partnership.

Sec. 1917. Service of process upon a partnership or limited partnership may be made by

(1) leaving a summons and a copy of the complaint with any general partner personally, or

(2) leaving a summons and a copy of the complaint with a person in charge of a partnership office or business establishment at such office or place of business and sending a summons and a copy of the complaint by registered mail, addressed to any general partner at his usual place of abode or last known address.

HISTORY: New 1961, p. 475, Act 236, Eff. Jan. 1, 1963.

600.1918 Civil action; service of process on person doing business under assumed name.

Sec. 1918. Process issued from any court of record against an individual doing business under an assumed name may be served upon the individual, or by leaving the process during regular office or business hours at the office or place of business of the individual with any person in charge thereof.

HISTORY: Add. 1962, p. 399, Act 187, Imd. Eff. May 24.

600.1920 Process; service on corporation, insurers.

Sec. 1920. Service of process upon a corporation, whether domestic or foreign, may be made by

(1) leaving a summons and a copy of the complaint with any officer or the resident agent, or

(2) leaving a summons and a copy of the complaint with any director, trustee, or person in charge of any office or business establishment and sending a summons and a copy of the complaint by registered mail, addressed to the principal office of the corporation, or

(3) leaving a summons and a copy of the complaint with any of the persons who may have been the last presiding officer, president, cashier, secretary, or treasurer, in the case of any corporation which may have ceased to do business by failing to keep up its organization by the appointment of officers or otherwise, or whose term of existence may have expired by limitation, or

(4) mailing a summons and a copy of the complaint by registered mail to the corporation or an appropriate corporation officer and to the Michigan corporation and securities commission if:

(a) the corporation has failed to appoint and maintain a resident agent or to file a certificate of such appointment as by law required; or

(b) the corporation has failed to keep up its organization by the appointment of officers or otherwise, or the term of whose existence has expired by limitation.

In all cases in which an insurer is a defendant, service shall not be made by leaving a summons and a copy of the complaint with a resident agent; and in cases in which a defendant is a foreign insurer, 2 summonses and a copy of the complaint shall be delivered to or mailed to the office of the commissioner of insurance by registered mail.

HISTORY: New 1961, p. 476, Act 236, Eff. Jan. 1, 1963.

600.1923 Process; service on partnership association or unincorporated voluntary association.

Sec. 1923. Service of process upon a partnership association or unincorporated voluntary association may be made by leaving a summons and a copy of the complaint

with any officer, director, trustee, agent, or person in charge of an office or business establishment, and sending a summons and a copy of the complaint by registered mail, addressed to any office of the partnership association or unincorporated voluntary association. If no office can be found, a summons and a copy of the complaint shall be mailed by registered mail to a member of such association other than the person with whom a summons and complaint was left.

HISTORY: New 1961, p. 476, Act 236, Eff. Jan. 1, 1963.

600.1925 Process; service on public, municipal or governmental corporation, boards, or bodies.

Sec. 1925. Service of process upon public, municipal, quasi-municipal, or governmental corporations, unincorporated boards, or public bodies, may be made by leaving a summons and a copy of the complaint with

- (1) the chairman of the board of supervisors or the county clerk, in the case of counties;
- (2) the mayor, city clerk, or city attorney, in the case of cities;
- (3) the president or village clerk, or in their absence with any of the trustees, in the case of villages;
- (4) the supervisor or township clerk, in the case of townships;
- (5) the president, secretary, or treasurer, in the case of school districts;
- (6) the president or secretary, in the case of the state board of education;
- (7) the president, secretary, or other member of the governing body, in the case of any corporate body or unincorporated board, now or hereafter having charge or control of any state institution;
- (8) the president, chairman, secretary, manager, or clerk, in the case of any other public body organized or existing under the constitution or any law of this state, when by statute no other method of service is specially provided.

The service of process may be made on any officer having substantially the same duties as those named or described irrespective of their titles. In any case, service may be made by leaving a summons and a copy of the complaint with a person in charge of the office of any of the above-described officers upon whom service may be made and sending by registered mail a summons and a copy of the complaint addressed to such officer at his office.

HISTORY: New 1961, p. 476, Act 236, Eff. Jan. 1, 1963.

600.1930 Process; service on individual's agent or public officer.

Sec. 1930. Service of process upon any defendant may be made by leaving a summons and a copy of the complaint with an agent authorized by written appointment or by law to receive service of process. Whenever, pursuant to statute, service of process is to be made on a nongovernmental defendant by service on a public officer, the service on the public officer may be made by registered mail addressed to his office.

HISTORY: New 1961, p. 477, Act 236, Eff. Jan. 1, 1963.

600.1940 Process; personal jurisdiction not required; service of process.

Sec. 1940. In all civil actions in which personal jurisdiction over a defendant is not required, the court may order the defendant to answer or take such other action as may be permitted by law. The order shall be made after the plaintiff, his attorney, or an agent having knowledge of the facts files an affidavit dated not more than 10 days prior thereto showing 1 or more of the following facts:

- (1) the defendant resides outside the state;
- (2) the whereabouts of the defendant and his residence are unknown;
- (3) a summons has been returned showing that service of process cannot be made in the county where the action is pending.

Every such affidavit shall state either the defendant's address, the defendant's last known address, or that no address of the defendant is known.

HISTORY: New 1961, p. 477, Act 236, Eff. Jan. 1, 1963.

600.1945 Process; order for substituted service, contents, unknown defendants.

Sec. 1945. The order shall contain the name of the court, the names of the parties, directions as to where and when to answer or take such other action as may be permitted by law, a statement describing the nature of the proceedings, and a statement as to the effect of failure to take the indicated steps. If the names of some or all of the defendants are unknown, the order shall describe the relationship of the unknown defendants to the matter to be litigated in the best way possible, as for example, unknown claimant, unknown owners, unknown heirs, devisees, legatees, or assigns of a named person.

HISTORY: New 1961, p. 477, Act 236, Eff. Jan. 1, 1963.

600.1947 Notice of pendency of action; publication.

Sec. 1947. The defendant may be notified of the pendency of the action and his obligation thereto by:

(1) publishing a copy of the order in a newspaper at least once each week for 4 consecutive weeks or for such further time as the court may require, and

(2) mailing on or before the date of the second publication a copy of the order to the defendant at his address which the plaintiff knows or should by diligent inquiry be expected to know. When the address of any defendant is not known and cannot be ascertained upon diligent inquiry, a copy of the order shall be mailed to the defendant at his last known address. If the plaintiff does not know, and cannot ascertain, upon diligent inquiry, the present or last known address of the defendant, mailing a copy of the order is not required.

Publication is not necessary if a copy of the order has been served upon the defendant in person or by registered mail at least 20 days before the time prescribed for the answer of such defendant, and in case of service by registered mail an official return receipt signed by the defendant is attached to the affidavit of service.

HISTORY: New 1961, p. 477, Act 236, Eff. Jan. 1, 1963.

600.1950 Newspaper; definition.

Sec. 1950. (1) The term "newspaper" is limited to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and has been established, published, and circulated at not less than weekly intervals without interruption for at least 1 year in the county where the court is situated.

(2) If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this section is qualified to publish notice of actions commenced therein.

HISTORY: New 1961, p. 477, Act 236, Eff. Jan. 1, 1963.

600.1951 Mailing of service; manner.

Sec. 1951. Mailing under section 1947 shall be accomplished by complying with the following:

(1) Enclosing a copy of the order as above described in a sealed envelope with first class postage fully prepaid addressed to the defendant at the address hereinbefore required, on which envelope there is listed a return address to which it can be returned in case delivery cannot be made.

(2) Depositing the envelope and contents in the United States government mail.

HISTORY: New 1961, p. 478, Act 236, Eff. Jan. 1, 1963.

600.1955 Substituted service; proof.

Sec. 1955. Service of process made pursuant to sections 1940 to 1960 shall be proved as follows:

- (1) If made by publication, by an affidavit of the publisher or his agent
 - (a) stating facts establishing the qualification of the newspaper in which the order was published,
 - (b) setting out a copy of the published order,
 - (c) stating the dates on which it was published.
- (2) If made by mailing, by an affidavit of 1 or more persons who are not parties to the litigation
 - (a) setting out a copy of the order mailed,
 - (b) stating facts to establish that such order was sealed in an envelope addressed to the defendant, setting out the name of the defendant and the address to which it was sent,
 - (c) stating facts to establish where and when the envelope was deposited in the United States government mail,
 - (d) stating the amount of postage placed on the envelope and that this was sufficient as required by postal regulations to permit first class passage of the envelope,
 - (e) stating the facts to establish the return address on the envelope.
- (3) Whenever mailing is not required under section 1947, an affidavit by the plaintiff or his attorney or the agent of either having knowledge of the facts shall be filed within 10 days after the date of the second publication of a copy of the order. The affidavit shall set forth facts justifying the failure to mail and shall include a showing of diligent inquiry. The person to whom an envelope, mailed under section 1947, is returned shall report to the court by affidavit the fact of the return together with the returned envelope.

HISTORY: New 1961, p. 478, Act 236, Eff. Jan. 1, 1963.

600.1960 Substituted service; jurisdiction on defendant's interest.

Sec. 1960. Service of process pursuant to sections 1940 to 1960 does not give personal jurisdiction over the person of the defendant but is a reasonable means of notice to the defendant to subject the appropriate interest of the defendant in the matters described in chapter 7 of this act to the jurisdiction of the court.

HISTORY: New 1961, p. 478, Act 236, Eff. Jan. 1, 1963.

600.1965 Pleading; service of papers; default, effect.

Sec. 1965. (1) Unless otherwise specifically provided by this act, any party who has filed a pleading or motion shall be served with every written paper subsequently filed in the action, including a default if one has been entered against him.

(2) After a default has been served, further service of such papers need not be made upon the party against whom the default has been taken, except that

(a) further service upon him shall be made if he has filed an appearance or a demand therefor in writing, and

(b) subsequent pleadings asserting new and additional claims for relief against him shall be served in the same manner provided for service of summons and complaint.

(3) Whenever an attorney appears in behalf of a person who has not received a copy of the complaint, a copy of the complaint shall be delivered to him on his request.

(4) All papers filed on behalf of any defendant shall be served on all other defendants who are not in default.

HISTORY: New 1961, p. 478, Act 236, Eff. Jan. 1, 1963.

600.1968 Service of papers; attorneys; contempt.

Sec. 1968. (1) Except for the original service of the complaint and summons, service required or permitted to be made upon a party represented by an attorney shall be made upon the attorney, unless service upon the party is ordered by the court.

(2) If 2 or more attorneys represent the same party or parties, service of papers upon any one of such attorneys is sufficient. If 1 attorney appears for several parties, he is entitled to only 1 copy of any paper served upon him.

(3) Whenever a party prosecutes or defends his action in person, service of papers shall be made upon him in the manner provided in section 1970.

(4) When proceedings for contempt for disobeying any order of the court are initiated, the notice or order shall be personally delivered to such party, unless otherwise specially ordered by the court.

HISTORY: New 1961, p. 479, Act 236, Eff. Jan. 1, 1963.

600.1970 Service of papers; delivery to attorney, party; mailing.

Sec. 1970. Service upon the attorney shall be made by delivering a copy to him or by mailing a copy to him at his last known business address or, if he has no business address, then to his last known residence address. Service upon a party shall be made by delivering a copy to him or by mailing a copy to him at his address as stated in his pleadings.

(1) Delivery of a copy to an attorney means:

- (a) handing it to the attorney personally; or
- (b) leaving it at his office with his clerk or with some person in charge or, if no one is in charge or present, by leaving it in some conspicuous place therein; or
- (c) if the office is closed or the attorney has no office, by leaving it at his usual place of abode with some person of suitable age and discretion residing therein.

(2) Delivery of a copy to a party means:

- (a) handing it to the party personally; or
- (b) leaving it at his usual place of abode with some person of suitable age and discretion residing therein.

(3) Mailing of a copy means enclosing it in a sealed envelope with first class postage fully prepaid addressed to the person to be served and depositing the envelope and its contents in the United States government mail. Service by mailing is complete upon mailing.

HISTORY: New 1961, p. 479, Act 236, Eff. Jan. 1, 1963.

600.1971 Service of papers; proof of service, filing.

Sec. 1971. Except as otherwise provided by sections 1912 to 1960, proof of service of all papers required or permitted to be served may be by written acknowledgment of service, by affidavit of the person making service, or by any other proof satisfactory to the court. Proof of such service shall be filed at or prior to the time of hearing.

HISTORY: New 1961, p. 479, Act 236, Eff. Jan. 1, 1963.

600.1972 Service of papers; inability to make, direction of court.

Sec. 1972. Whenever service of papers subsequent to the original complaint cannot reasonably be made because of lack of an attorney of record or the inability to find a

party or for any other reason, the court in which the action is pending, for cause shown on ex parte application, may direct in what manner and upon whom service may be made.

HISTORY: New 1961, p. 479, Act 236, Eff. Jan. 1, 1963.

600.1973 Service of papers; numerous parties.

Sec. 1973. In any action in which there are unusually large numbers of parties on the same side, the court upon motion or of its own initiative may order that service of their pleadings and replies thereto need not be made as between them, and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense in such pleadings shall be deemed to be denied or avoided by the parties not served, and that the filing of any such pleading and service thereof upon an adverse party constitutes due notice of it to all parties. A copy of every such order shall be served upon all parties in such manner and form as the court directs.

HISTORY: New 1961, p. 479, Act 236, Eff. Jan. 1, 1963.

600.1974 Filing with court; definition.

Sec. 1974. The filing of pleadings and other papers with the court shall be made by filing them with the office of the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk of the court.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

CHAPTER 20.
PARTIES

600.2001 Married women; actions by and against.

Sec. 2001. Actions may be brought by and against a married woman as if she were unmarried.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2005 Married women; tort, action against both spouses.

Sec. 2005. No suit may be brought against husband and wife, jointly, or against the husband alone, for any tort of the wife, unless such tort was committed under such circumstances as to render them both liable.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2011 Indians; judicial rights and privileges.

Sec. 2011. All Indians are capable of suing and being sued in any of the courts of this state in like manner and with the same effect as other inhabitants thereof, and are entitled to the same judicial rights and privileges.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2021 Foreign corporations; actions based on forbidden acts.

Sec. 2021. When, by the laws of this state, any act is forbidden to be done by any corporation, or by any association of individuals, without express authority by law, and such act was done by a foreign corporation, the foreign corporation shall not maintain any action founded upon such act, or upon any liability or obligation, express or implied, arising out of, or made or entered into in consideration of such act.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2031 Counties; actions by or against.

Sec. 2031. Whenever any controversy or cause of action exists between any of the counties of this state, or between any county and any individual or individuals, such proceedings may be had for the purpose of trying and finally settling such controversy, and the same shall be conducted in like manner, and the judgment therein shall have the like effect, as in other suits or proceedings between individuals and corporations.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2041 Real party in interest; actions on official or personal bonds; taxpayer's suit.

Sec. 2041. Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action was brought, and further

(1) an action upon the bond of any public officer required to give bond to the people of this state may be brought in the name of the person to whom the right thereon accrues; and

(2) an action upon any bond, contract, or undertaking lawfully made with an officer of this state or any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be brought in the name of the state or any such unit for whose benefit the contract was made; and

(3) an action to prevent the illegal expenditure of state funds or to test the constitutionality of a statute relating thereto may be brought in the name of a domestic non-profit corporation organized for civic, protective, or improvement purposes, or in the names of at least 5 residents of this state who own property assessed for direct taxation by the county wherein they reside.

HISTORY: New 1961, p. 480, Act 236, Eff. Jan. 1, 1963.

600.2045 Guardian ad litem for unborn persons.

Sec. 2045. (1) If in an action or proceeding, other than in probate court, it appears that a person not in being may become entitled to a property interest, real or personal, legal or equitable, involved in or affected by the action or proceeding, and the interest of the unborn person is not or cannot otherwise properly be represented and protected, the court, upon its own motion, or upon the motion of any party, may appoint a suitable person to appear and act as guardian ad litem of the unborn person. The guardian ad litem is authorized to engage counsel and do whatever is necessary to defend and protect the interest of the unborn person. A judgment or order made after the appointment shall be conclusive upon the unborn person for whom a guardian was appointed.

(2) The guardian ad litem may be removed by the court which appointed him, without notice, when it appears to the court to be for the best interests of the ward. The guardian ad litem may be allowed reasonable compensation by the court appointing him, to be paid and taxed as a cost of the proceedings as directed by the court.

HISTORY: Add. 1968, p. 497, Act 292, Eff. Nov. 15.

600.2051 Capacity to sue or be sued; assumed name.

Sec. 2051. (1) Any natural person may sue or be sued in his own name. A person conducting a business under a name subject to certification pursuant to the assumed name statute may be sued in such name in an action arising out of the conduct of such business.

Same; partnerships, unincorporated voluntary associations.

(2) A partnership, partnership association, or any unincorporated voluntary association having a distinguishing name may sue or be sued in its partnership or association name, or in the names of any of its members designated as such or both.

Same; corporations.

(3) A corporation, either domestic or foreign, may sue or be sued in its corporate name, except as otherwise provided by statute.

Same; state, governmental units, officers.

(4) Actions to which this state or any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision is a party may be brought by or against such party in its own name, or in the official capacity of an officer authorized to sue or be sued in its behalf, except that an officer of the state or any such unit shall be sued in his official capacity for the purpose of enforcing the performance by him of an official duty. Whenever any officer sues or is sued in his official capacity, he may be described as a party by his official title and not by name, subject to the discretion of the court, upon its own motion or that of any party, to require his name to be added.

HISTORY: New 1961, p. 481, Act 236, Eff. Jan. 1, 1963.

CHAPTER 21.

EVIDENCE

600.2101 Nonjury cases; admission of evidence; separate record; appeal.

Sec. 2101. In all cases tried without a jury, the court shall rule upon all objections to the competency, relevancy or materiality of testimony, or evidence offered; and in all cases where the court is of the opinion that any testimony offered is incompetent, irrelevant, or immaterial, the same shall be excluded from the record. If the testimony so offered and excluded is brief, the court may in its discretion permit the same to be taken down by the stenographer separate and apart from the testimony received in the case; and in case of appeal, such excluded testimony may be returned to the appellate court under the certificate of the trial court. Where such excluded testimony is not taken and returned to the supreme court on appeal, if upon the hearing of such appeal, the supreme court shall be of the opinion that any such testimony is competent and material, it may order the same to be taken by deposition or under a reference, and returned to said court.

HISTORY: New 1961, p. 481, Act 236, Eff. Jan. 1, 1963.

600.2102 Affidavit taken in other state or country; authentication.

Sec. 2102. In cases where by law the affidavit of any person residing in another state of the United States, or in any foreign country, is required, or may be received in judicial proceedings in this state, to entitle the same to be read, it must be authenticated as follows:

(1) It must be certified by the consul general, deputy consul general, or some consul or deputy consul of the United States resident in such foreign country, to have been taken and subscribed before him, specifying the time and place where taken and have the consular seal attached; or

(2) It must be certified by some judge of a court having a seal to have been taken and subscribed before him, specifying the time and place where taken;

(3) The genuineness of the signature of such judge, the existence of the court and the fact that such judge is a member thereof, must be certified by the clerk of the court under the seal thereof;

(4) If such affidavit be taken in any other of the United States or in any territory thereof, it may be taken before a commissioner duly appointed and commissioned by

the governor of this state to take affidavits therein, or before any notary public or justice of the peace authorized by the laws of such state to administer oaths therein. The signature of such notary public or justice of the peace, and the fact that at the time of the taking of such affidavit the person before whom the same was taken was such notary public or justice of the peace, shall be certified by the clerk of any court of record in the county where such affidavit shall be taken, under the seal of said court.

HISTORY: New 1961, p. 481, Act 236, Eff. Jan. 1, 1963.

600.2103 Judicial records of other states or countries; use as evidence, authentication.

Sec. 2103. The records and judicial proceedings of any court in the several states and territories of the United States and of any foreign country shall be admitted in evidence in the courts of this state upon being authenticated by the attestation of the clerk of such court with the seal of such court annexed, or of the officer in whose custody such records are legally kept with the seal of his office annexed.

HISTORY: New 1961, p. 482, Act 236, Eff. Jan. 1, 1963.

600.2104 Judicial records of foreign countries; copies as evidence.

Sec. 2104. Copies of such records and proceedings in the courts of a foreign country, may also be admitted in evidence upon due proof:

- (1) That the copy offered has been compared by the witness with the original, and is an exact copy of the whole of such original;
- (2) That such original was in the custody of the clerk of the court or other officer legally having charge of the same; and
- (3) That such copy is duly attested by a seal, which shall be proved to be the seal of the court in which such record or proceeding shall be.

HISTORY: New 1961, p. 482, Act 236, Eff. Jan. 1, 1963.

600.2105 Judicial records of foreign countries; proof by common law methods.

Sec. 2105. Sections 2103 and 2104 shall not prevent the proof of any record or judicial proceedings of the courts of any foreign country, according to the rules of the common law, in any other manner than that herein directed.

HISTORY: New 1961, p. 482, Act 236, Eff. Jan. 1, 1963.

600.2106 Court order, judgment or decree of court of record; certified copy as evidence.

Sec. 2106. A copy of any order, judgment or decree, of any court of record in this state, duly authenticated by the certificate of the judge, clerk or register of such court, under the seal thereof, shall be admissible in evidence in any court in this state, and shall be prima facie evidence of the jurisdiction of said court over the parties to such proceedings and of all facts recited therein, and of the regularity of all proceedings prior to, and including the making of such order, judgment or decree.

HISTORY: New 1961, p. 482, Act 236, Eff. Jan. 1, 1963.

600.2107 Public records; certified transcript as evidence.

Sec. 2107. Copies of all papers, records, entries and documents, required or permitted by law to be filed by any public officer in his office, or to be entered or recorded therein and duly filed, entered or recorded according to law, certified by such officer to be a true transcript compared by him with the original in his office, shall be evidence in all courts and proceedings, in like manner as the original would be if produced.

HISTORY: New 1961, p. 482, Act 236, Eff. Jan. 1, 1963.

600.2108 Secretary of state; certificate of nonexistence of record.

Sec. 2108. Whenever the secretary of state charged with the legal custody of any paper, document or record shall certify that he has made diligent examination in his office for such paper, document or record and no such paper, document or record exists, such certificate shall be prima facie evidence of the facts so certified, in all causes, matters and proceedings in the same manner and with the like effect as if such officer had personally testified to the same in the court, or before the officer before whom such cause, matter or proceeding may be pending.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2109 Recorded conveyance and instruments; certified copies.

Sec. 2109. All conveyances and other instruments authorized by law to be filed or recorded, and which shall be acknowledged or proved according to law, and if the same shall have been filed or recorded, the record, or a transcript of the record, or a copy of the instrument on file certified by the officer in whose office the same may have been filed or recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent testimony.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2110 Recorded conveyances and instruments; record in county other than situs; certified copies.

Sec. 2110. The record of deeds or other instruments affecting the title to lands in this state heretofore recorded in counties in any state other than the county in which the lands described therein are located, or a certified copy thereof, shall be deemed prima facie evidence of the execution and delivery of such instrument, and as such shall be received in all courts in this state, and such certified copy may be recorded in the county in which such land is situated, with like effect as the original deed or other instrument.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2111 Certificate of lost paper as evidence of loss.

Sec. 2111. Whenever any officer to whom the legal custody of any paper, document or record shall belong, shall certify that he has made diligent examination in his office for such paper, document or record, and that it cannot be found, such certificate shall be presumptive evidence of the facts so certified, in all causes, matters and proceedings in the same manner and with the like effect as if such officer had personally testified to the same in the court, or before the officer before whom such cause, matter or proceeding may be pending.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2112 Certificates of justices of the peace of other states as evidence.

Sec. 2112. The official certificate of any justice of the peace within any other state of the United States, of the proceedings and judgment in any case before him as such justice, with the certificate of the clerk of any court of record in the county or district in which such justice has executed his office, attested by his official seal, setting forth that the signature to the certificate of the justice is genuine, and that he was such justice at the date of such proceedings and judgment, shall be sufficient evidence of such proceedings and judgment.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2113 Constitution, laws and resolutions; official publication as evidence.

Sec. 2113. The printed copies of the constitution, laws and resolutions of this state, whether of a public or private nature, which shall be published under the authority of

the government, shall be admitted as sufficient evidence thereof in all courts, and in all proceedings within this state.

HISTORY: New 1961, p. 483, Act 236, Eff. Jan. 1, 1963.

600.2114 Repealed. 1967, p. 242, Act 178, Eff. Nov. 2.

Section stated conditions under which printed copies of constitution, laws, and resolutions of any other of the United States, of territory thereof, or of any foreign state were admissible as prima facie evidence thereof and authorized Michigan courts to take judicial notice of them.

600.2114a Issues of foreign law; notice; evidence; duties of court; review on appeal.

Sec. 2114a. A party who intends to raise an issue concerning the law of any jurisdiction or governmental unit thereof outside this state shall give notice in his pleadings or other reasonable written notice. In determining the law of any jurisdiction or governmental unit thereof outside this state, the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the rules of evidence. The court, not jury, shall determine the law of any governmental unit outside this state. Its determination is subject to review on appeal as a ruling on a question of law.

HISTORY: Add. 1967, p. 241, Act 178, Eff. Nov. 2.

600.2115 Repealed. 1967, p. 242, Act 178, Eff. Nov. 2.

Section stated conditions under which printed books or pamphlets would be admissible as prima facie evidence of session or other statutes of any of the United States, of territories thereof or of any foreign jurisdiction.

600.2116 Municipal ordinances and regulations as evidence.

Sec. 2116. All laws, bylaws, regulations, resolutions and ordinances of the common council or of the board of trustees of any incorporated city or village or the township board of any township in this state may be read in evidence in all courts of justice and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a record thereof, kept by the clerk or recorder of such city, village or township, or from a printed copy thereof, purporting to have been published by authority of the common council, board of trustees or township board, in a newspaper published in such city or village, or from any volume of ordinances, purporting to have been printed by authority of the common council or board of trustees of such city or village; and such record, certified copy or volume shall be prima facie evidence of the existence and validity of such laws, regulations, resolutions and ordinances, without proof of the enactment, publishing, or any other thing concerning the same.

HISTORY: New 1961, p. 484, Act 236, Eff. Jan. 1, 1963.

600.2117 Device by way of seal as evidence of seal.

Sec. 2117. Any device affixed to any deed or instrument in writing by way of seal, by any person signing the same, executed since the thirty-first day of December, 1827, or hereafter to be executed, shall be received in all courts, and upon all occasions as evidence that the same deed or instrument was duly sealed, and equally valid and effectual, as if the same had been actually sealed; but this section shall not apply to official and corporate seals, in cases where, according to law, an actual sealing may be required.

HISTORY: New 1961, p. 484, Act 236, Eff. Jan. 1, 1963.

600.2118 Repealed. 1967, p. 242, Act 178, Eff. Nov. 2.

Section stated that common law of any other of the United States, of any territory thereof, or of any foreign state could be proved as facts by parol evidence, that books of reports of cases adjudged in their courts could be admitted as evidence of such law, and that courts could take judicial notice thereof just as in case of statutes.

600.2118a Foreign records and laws; evidence; copies; certification.

Sec. 2118a. (1) An official record kept within the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal zone, the trust territory of the Pacific islands or the Ryukyu islands, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof

or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by a judge of a court of record having jurisdiction in the governmental unit in which the record is kept, authenticated by the seal of the court, or by any public officer having a seal of office and having official duties in the governmental unit in which the record is kept, authenticated by the seal of his office.

(2) A foreign official record, or an entry therein, when admissible, for any purpose, may be evidenced by an official publication or copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position of the attesting person, or of any foreign official whose certificate of genuineness of signature and official position either relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court, for good cause shown, may admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification.

(3) The statutes, codes, written laws, executive acts or legislative or judicial proceedings of any domestic or foreign jurisdiction or governmental unit thereof may also be evidenced by any publication proved to be commonly accepted as proof thereof in the tribunals having jurisdiction in that governmental unit.

(4) A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in this act in the case of a domestic record, or complying with the requirements of this act for a summary in the case of a record in a foreign country, is admissible as evidence that the records contain no such record or entry.

(5) The proof of official records of entry or lack of entry therein may be made by any other method authorized by law.

HISTORY: Add. 1967, p. 241, Act 178, Eff. Nov. 2.

600.2119 Judgment; record of certified copy as evidence.

Sec. 2119. Whenever any certified copy of a judgment or decree shall have been, or shall be recorded in any register of deeds' office, such record may be read in evidence in all courts of this state, with like force and effect as such certified copy.

HISTORY: New 1961, p. 484, Act 236, Eff. Jan. 1, 1963.

600.2120 Justice court proceedings; proof by docket or transcript.

Sec. 2120. The original entry of any judgment or other proceeding, or a transcript from the docket of any justice of the peace of any judgment had before him; of the proceedings in the cause previous to judgment, of the execution issued thereon, if any, and the return to such execution, if any, when certified by the justice having control of such docket, shall be evidence in all courts to prove the facts stated in such originals or in such transcripts.

HISTORY: New 1961, p. 484, Act 236, Eff. Jan. 1, 1963.

600.2121 Justice court proceedings; proof by oath, original minutes or copies.

Sec. 2121. The proceedings in any cause or matter, had before a justice, may also be proved by the oath of the justice; and in case of the death or absence of the justice, they may be proved by producing the original minutes of such proceedings, entered in a book kept by such justice, accompanied by proof of his handwriting, or they may be

proved by producing copies of such minutes, sworn to by a competent witness, as having been compared by him with the original entries, with proof that such entries were in the handwriting of the justice.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2122 Certified copies as evidence; United States land office records.

Sec. 2122. Copies of all papers, documents, plats, maps, entries, or records filed, entered, or recorded in any land office of the United States situated in the state of Michigan, certified by the register or receiver of such land office to be a correct transcript compared by him with the original in said land office, shall be evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2123 Certified copies as evidence; records of board of control of Saint Mary's Falls ship canal.

Sec. 2123. Copies of all papers, documents, maps, plats, entries, or records filed with the board of control of the Saint Mary's Falls ship canal, or entered in the records of the proceedings of said board of control, certified by the auditor general of this state to be a true transcript compared by him with the original in the office of said board of control, shall be evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2124 Certified copies as evidence; United States weather record.

Sec. 2124. Any copy of the record of observations in regard to the condition of the weather taken under the direction of the department of agriculture of the United States, or any other federal agency, when certified by the officer in charge thereof at the place where the same is taken and kept, that the same is a true copy of the record on file in said department or agency, may be received in evidence in any civil or criminal cause in any court, and shall be prima facie evidence of the facts and circumstances therein contained and stated.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2125 Proof of publication; notice of application to court or judicial officer.

Sec. 2125. When notice of any application to any court or judicial officer for any proceeding authorized by law, is required by law to be published in 1 or more newspapers, an affidavit of the publisher of any such paper, or of his agent, annexed to a printed copy of such notice taken from the paper in which it was published, and specifying the times when, and the paper in which such notice was published may be filed with the proper officer of the court, or with the judicial officer before whom such proceeding shall be pending, at any time within 6 months after the last day of the publication of such notice.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2126 Proof of publication; notice of sale of real property.

Sec. 2126. When any notice of a sale of real property is required by law to be published in any newspaper, an affidavit of the publisher of such paper, or of his agent, annexed to a printed copy of such notice taken from the paper in which it was published, may be filed at any time within 6 months after the last day of such publication, with the county clerk of the county in which the premises sold are situated, or if such

sale were made in pursuance of the order of any judge of probate or circuit court, such affidavit may be filed with such judge of probate or with a clerk of such circuit court, as the case may be.

HISTORY: New 1961, p. 485, Act 236, Eff. Jan. 1, 1963.

600.2127 Proof of publication; presumptive evidence.

Sec. 2127. The original affidavit so filed pursuant to the 2 last sections 2125 and 2126, and copies thereof duly certified by the officer in whose custody the same shall be, shall be presumptive evidence in all cases, of the facts contained in such affidavits.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2128 Proof of publication; prima facie evidence.

Sec. 2128. The affidavit of the publisher of a public newspaper, published in this state, or the affidavit of his agent, of the publication of any notice or advertisement, which by any law of this state shall be required to be published in such newspaper, shall be entitled to be read in all courts of justice in this state, and in all proceedings before any officer, body or board in which it shall be deemed necessary to refer thereto, and shall be prima facie evidence of such publication, and of the facts therein stated.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2129 Proof of publication; copy of record of document; certification.

Sec. 2129. (1) Whenever a certified copy of any affidavit, record, document or paper, is declared by law to be evidence, such copy shall be certified by the clerk or officer in whose custody the same is by law required to be, to have been compared by him with the original, and to be a correct transcript therefrom, and of the whole of such original; and if such officer have any official seal by law, such certificate shall be attested by such seal; and if such certificate be given by the clerk of any county, in his official character as such clerk, it shall be attested by the seal of the court of which he is clerk.

Court orders; seal.

(2) But this section shall not be construed to require the affixing of the seal of any court to any certified copy of any rule or order made by such court, or of any paper filed therein, when such copy is used in the same court or before any officer thereof; nor to require the seal of the supreme court to be affixed to a certified copy of any rule or order of that court, when used in any circuit court.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2130 Schedules, classifications and tariffs of rates, fares and charges; copies filed with federal regulatory commission as evidence; presumption.

Sec. 2130. Printed copies of schedules and classifications and tariffs of rates, fares and charges, and supplements thereto, filed with any federal regulatory commission, which show respectively the number assigned to them by such commission which may be stated in abbreviated form, and an effective date, may be received in evidence without certification, and shall be presumed to be correct copies of the original schedules, classifications, tariffs, and supplements on file with such commission.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2131 Written instruments; proof, acknowledgement.

Sec. 2131. Every written instrument, except promissory notes and bills of exchange, and except the last wills of deceased persons, may be proved or acknowledged in the

manner now provided by law, for taking the proof or acknowledgment of conveyances of real estate, and the certificate of the proper officer endorsed thereon, shall entitle such instrument to be received in evidence on the trial of any action, with the same effect, and in the same manner, as if such instrument were a conveyance of real estate.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2132 Marriage certificates and records as evidence.

Sec. 2132. The original certificates and records of marriage made by the minister, justice or other person authorized to solemnize marriages, as prescribed by law, and the record thereof made by the county clerk, or a copy of such record, duly certified by such clerk, shall be received in all courts and places as presumptive evidence of the fact of such marriage.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2133 Marriage license or certificate; record as evidence.

Sec. 2133. The record of any license to marry, or of any marriage certificate, in any county clerk's office, or a certified copy thereof, shall be prima facie evidence in any court or proceedings in this state, with the same force and effect as if the original were produced, both as to the facts therein contained and as to the genuineness of the signatures thereto.

HISTORY: New 1961, p. 486, Act 236, Eff. Jan. 1, 1963.

600.2134 Purchase of public lands; certificates as evidence.

Sec. 2134. Certificates of the purchase of public lands, signed by the receiver, shall be evidence in any court in this state, that the possession of the lands described in said certificate or certificates, is in the person or persons, his, her, or their heirs or assigns, holding said certificate or certificates, as against any person or persons, not having a better title to such land than actual possession.

HISTORY: New 1961, p. 487, Act 236, Eff. Jan. 1, 1963.

600.2135 Breed of horses; evidence.

Sec. 2135. Whenever it becomes necessary to show the breeding of any horse in any action at law or in equity, the same may be shown by Wallace's year book, Wallace's American trotting register, the American Percheron horse breeders' and importers' association, Percheron society of America, the American Percheron horse breeders' association or the Percheron stud book of America; and whenever a horse is registered in any of the registers aforesaid, or with said society or either of said associations, the record of such registration or the society's or association's certificate of such registration under its corporate seal shall be prima facie evidence of the breeding of such horse.

HISTORY: New 1961, p. 487, Act 236, Eff. Jan. 1, 1963.

600.2136 Library book or paper; copy as evidence; fee; false certification.

Sec. 2136. (1) Any copy of the records, books or papers belonging to or in the custody of any public, college or university library, or of any incorporated library society, when accompanied by a sworn statement by the librarian or other officer or person in charge thereof, that the same is a true copy of the original record, book or paper in his custody, shall be admissible as evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

(2) Any photostat copy of the records, books, papers or documents belonging to or in the custody of any public, college or university library, or of any incorporated library society, when accompanied by a sworn statement made by the librarian or other officer or person in charge thereof, stating that the copy is made under his supervision or that of a duly authorized representative, and that nothing has been done to alter or change the original, and that the same is a true photostat copy of the original record,

book, paper, or document in his custody, shall be admissible as evidence in all courts and proceedings in like manner as the original would be if produced.

(3) For making and certifying such copies, a fee of 25 cents, and for making and certifying each photostat copy, a fee of \$1.00, may be charged and a further charge may be made of 10 cents per folio and 50 cents per photostat sheet for copies actually made.

(4) Anyone who shall certify falsely in regard to any of the foregoing copies shall be guilty of a felony and, upon conviction thereof in any court of competent jurisdiction, shall be subject to the same penalties provided by statute for perjury.

HISTORY: New 1961, p. 487, Act 236, Eff. Jan. 1, 1963.

600.2137 Photograph of public records; destruction of originals.

Sec. 2137. (1) Whenever a public officer shall have photographed or microphotographed or filmed all or any part of the records kept by him under this law or any law repealed hereby, in a manner and on film or paper that complies with the minimum standards of quality approved for photographic records by the microfilm laboratory of the department of administration and published in the administrative code, and whenever such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining, and using the same, said officer may cause the original records from which the photographs or microphotographs or films have been made, or any part thereof, to be disposed of or destroyed in accordance with section 13c of Act No. 51 of the Public Acts of the First Extra Session of 1948, being section 18.13c of the Compiled Laws of 1948, and section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Compiled Laws of 1948. No record of any such court shall be disposed of or destroyed until such record shall have been in the custody of such court for at least 6 years.

Probate court records, microphotographing, destruction of originals.

(2) In all counties in which the board of supervisors have made or hereafter do make provisions for the microphotographing of records, the judge of probate may cause the records of the probate court to be microphotographed. He shall cause a copy or a duplicate film to be kept in a building outside of the probate office and shall keep a copy available in the probate office with suitable equipment for displaying such filmed record by projection to not less than its original size or for preparing copies for persons entitled to the same. The judge of probate then may order any record destroyed. Any microphotograph or photo copy thereof shall be admissible as evidence before any court, commission or administrative body the same as the original is now. The original files of estate proceedings shall not be destroyed until 6 years have elapsed from the date of filing of the discharge of the fiduciary or 10 years have elapsed from the filing of the last document, whichever date occurs first.

Photographs or microphotographs as evidence.

(3) Photographs or microphotographs or films of any record photographed or microphotographed or filmed, as provided by this or any other law, shall have the same force and effect as the originals thereof would have had, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

HISTORY: New 1961, p. 487, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 337, Act 244, Eff. Aug. 28.

CITED IN OTHER SECTIONS: The above section is cited in § 750.491.

600.2138 Filed or recorded documents; standard of clarity, accuracy and permanency of copy or reproduction.

Sec. 2138. (1) Whenever any public officer performing duties under this act is required or authorized by law to record, copy, recopy or replace any document, plat, pa-

per, written instrument or book, on file or of record in his office, he may do so by photostatic, photographic, microphotographic, microfilm or other mechanical process which produces a clear, accurate and permanent copy or reproduction of the original document, plat, paper, written instrument or record, in accordance with the latest standards approved for permanent records by the microfilm laboratory of the department of administration and published in the administrative code.

Same; replacement, certification of copy.

(2) In any case where an original document, plat, paper, written instrument, record or book of record, previously filed or of record in the office of such officer is, whether because of the worn or injured condition thereof or for any other reason, copied or replaced by such process, and where such officer is required by law to certify in or on the paper or book replacing the original so copied that the replacement is a true and correct copy of the original, a copy of such certification by such officer, similarly made and produced and included at the end of the replacement, shall be sufficient compliance with such laws.

Same; use of copies and replacements as evidence.

(3) Copies, records, reproductions and replacements, or enlarged reproductions thereof, thus produced under this or any other law, shall be considered as original copies, records, papers or books of record, for all purposes and shall be admissible in evidence in like manner and under the same conditions as original copies, records, papers or books of record, produced or copied in any other manner authorized by law.

Same; transcripts or certified copies.

(4) Transcripts or certified copies of such copies, records, reproductions and replacements, shall be considered as transcripts or certified copies of the originals.

Same; correction, alteration, indorsement or entry of recorded document.

(5) In any case where any record or replacement thereof in the office of any such officer is produced by such process, any correction, alteration, indorsement or entry, required or authorized to be made of or on any instrument or paper or on the record thereof, may be made by filing or inserting copies or recopies produced by the same process, of the pages, page or part of the page, so corrected, altered, or on which such indorsement or entry is made, next to the place wherein the copy or record of such instrument or paper is contained or in such other manner as such officer shall deem advisable or practicable.

HISTORY: New 1961, p. 488, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 338, Act 244, Eff. Aug. 28.

CITED IN OTHER SECTIONS: The above section is cited in § 750.491.

600.2139 Seal; presumptive evidence of consideration.

Sec. 2139. In any action upon a sealed instrument, and where a counterclaim is founded on any sealed instrument, the seal thereof shall only be presumptive evidence of a sufficient consideration, which may be rebutted in the same manner, and to the same extent, as if such instrument were not sealed.

HISTORY: New 1961, p. 489, Act 236, Eff. Jan. 1, 1963.

600.2140 Corporate existence; proof.

Sec. 2140. In any suit or proceeding, civil or criminal hereafter instituted in any of the courts of this state, wherein it shall become material or necessary to prove the incorporation of any company or corporation, or the existence of any joint stock company or association, whether the same be a foreign or domestic corporation, company, or association, evidence that such corporation, company, or association is doing business under a certain name shall be prima facie proof of its due incorporation or existence pursuant to law, and of its name.

HISTORY: New 1961, p. 489, Act 236, Eff. Jan. 1, 1963.

600.2141 Copartnership; proof.

Sec. 2141. In any suit or proceeding hereafter instituted in any of the courts of this state, wherein it shall become material or necessary to prove the copartnership of any firm or association the plaintiffs may cause to be served upon the defendant, with a copy of the complaint filed in the cause, or with the process by which suit is commenced, an affidavit stating that the plaintiffs were the persons comprising such partnership at the time the contract in question was made, or the cause of action accrued; and such affidavit shall be prima facie evidence of such existence of such partnership or association, unless the defendant shall file with his plea an affidavit denying the existence of such partnership or association.

HISTORY: New 1961, p. 489, Act 236, Eff. Jan. 1, 1963.

600.2142 Seal; prima facie proof of lawful execution of instruments by corporations, other firms.

Sec. 2142. Any corporation, joint stock company, or partnership association, limited, may have a common seal which it may alter at pleasure, and such seal affixed to any instrument purporting to be executed by any such corporation, joint stock company or partnership association, limited, foreign or domestic, shall be prima facie proof of the due adoption of said seal, and that it was affixed to said instrument by due authority, and that said instrument was in fact lawfully executed by such corporation, joint stock company or partnership association, limited.

HISTORY: New 1961, p. 489, Act 236, Eff. Jan. 1, 1963.

600.2143 Subscribing witness to instrument need not be called; exception.

Sec. 2143. Whenever upon the trial of any action, civil or criminal, or upon the hearing of any judicial proceedings, a written instrument is offered in evidence, to which there is a subscribing witness, it shall not be necessary to call such subscribing witness, but such instrument may be proved in the same manner as it might be proved if there were no subscribing witness thereto, except in cases of written instruments to the validity of which 1 or more subscribing witnesses are required by law.

HISTORY: New 1961, p. 490, Act 236, Eff. Jan. 1, 1963.

600.2144 Signature or handwriting; proof.

Sec. 2144. Whenever in any suit or proceeding in any of the courts of this state, it shall be necessary or proper to prove the signature or the handwriting of any person, it shall be competent to introduce in evidence for the purpose of comparison, any specimen or specimens of the handwriting or signature of such person, admitted or proved to the satisfaction of the court to be genuine, whether or not the paper on which such handwriting or signature appears is one admissible in evidence or connected with the case or not. If such paper is not one admissible in evidence for some other purpose, or connected with the case, it shall not be admissible in evidence for the purpose of comparison unless it was made before the controversy arose concerning which such suit or proceeding was brought.

HISTORY: New 1961, p. 490, Act 236, Eff. Jan. 1, 1963.

600.2145 Open account or account stated; proof, counterclaim.

Sec. 2145. In all actions brought in any of the courts of this state, to recover the amount due on an open account or upon an account stated, if the plaintiff or someone in his behalf makes an affidavit of the amount due, as near as he can estimate the same, over and above all legal counterclaims and annexes thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant, with a copy of the complaint filed in the cause or with the process by which such action is commenced, such affidavit shall be deemed prima facie evidence of such indebtedness, unless the defendant with his answer, by himself or agent, makes an affidavit and serves a copy thereof on the plaintiff or his attorney, denying the same. If

the defendant in any action gives notice, with his answer of a counterclaim founded upon an open account, or upon an account stated, and annexes to such answer and notice a copy of such account, and an affidavit made by himself or by someone in his behalf, showing the amount or balance claimed by the defendant upon such account, and that such amount or balance is justly owing and due to the defendant, or that he is justly entitled to have such account, or said balance thereof, set off against the claim made by said plaintiff, and serves a copy of such account and affidavit, with a copy of such answer and notice, upon the plaintiff or his attorney, such affidavit shall be deemed prima facie evidence of such counterclaim, and of the plaintiff's liability thereon, unless the plaintiff, or someone in his behalf, within 10 days after such service in causes in the circuit court, and before trial in other cases, makes an affidavit denying such account or some part thereof, and the plaintiff's indebtedness or liability thereon and serves a copy thereof upon the defendant or his attorney, and in case of a denial of part of such counterclaim, the defendant's affidavit shall be deemed to be prima facie evidence of such part of the counterclaim as is not denied by the plaintiff's affidavit. Any affidavit in this section mentioned shall be deemed sufficient if the same is made within 10 days next preceding the issuing of the writ or filing of the complaint or answer.

HISTORY: New 1961, p. 490, Act 236, Eff. Jan. 1, 1963.

600.2146 Record made in regular course of business; surrounding circumstances; lack of entry; photostatic reproduction.

Sec. 2146. Any writing or record whether in the form of an entry in a book or otherwise, made as a memorandum of any act, transaction, occurrence or event shall be admissible in evidence in all trials, hearings and proceedings in any cause or suit in any court, or before any officer, arbitrators, or referees, in proof of said act, transaction, occurrence or event if it was made in the regular course of any business and it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record including lack of personal knowledge by the entrant or maker, may be shown to affect its weight but not its admissibility. The term "business" shall include business, profession, occupation and calling of every kind. The lack of an entry regarding any act, transaction, occurrence or event in any writing or record so proved may be received as evidence that no such act, transaction, occurrence or event did, in fact, take place. Any photostatic or photographic reproduction of any such writing or record shall be admissible in evidence in any such trial, hearing or proceeding by order of the court, made within its discretion, upon motion with notice of not less than 4 days. All circumstances of the making of such photostatic or photographic reproduction may be shown upon such trial, hearing or proceeding to affect the weight but not the admissibility of such evidence.

HISTORY: New 1961, p. 490, Act 236, Eff. Jan. 1, 1963.

600.2147 Record made in regular course of business; use of photographic, photostatic or microphotographic reproduction as evidence.

Sec. 2147. Notwithstanding any law of this state to the contrary, any person, firm, association or corporation may introduce in evidence at any trial or hearing of any kind, before any court, officer, arbiter, referee, board or tribunal, a black and white or colored photographic, photostatic or microphotographic reproduction of any business records of such person or institution prepared or entered in regular course of business, the original of which would be admissible in evidence, including all existing records and including, but not by way of limitation, checks, bills, notes, acceptances and all other types of commercial instruments, pass books, deposit slips and statements furnished to depositors, whether or not such person or institution regularly reproduces as

aforesaid any or all of such business records. Any such reproduction, if accompanied by the certificate of such person or his employee or agent, or by the officer, agent or employee of any such firm, association or corporation who supervised the making of the reproduction to the effect that such reproduction when made was a true, full and complete reproduction of the original, shall be received as evidence at any such trial or hearing with the same force and effect as though the original document were produced: Provided, however, That the court, officer, arbiter, referee, board or tribunal may in its discretion require that the original document be produced in evidence, and may also require the taking of testimony of the person who supervised the making of such reproduction. Such reproduction shall be admissible only if the party offering it shall have delivered a copy of it or so much thereof as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court, officer, arbiter, referee, board or tribunal the adverse party has not been unfairly surprised by the failure to deliver such copy: Provided, however, That no such reproduction need be submitted to the adverse party as herein prescribed unless the original instrument would be required to be so submitted. If necessary, such reproduction may be offered in evidence by the use of a projector or other similar device. All circumstances surrounding the making of any such reproduction may be shown upon any trial, hearing or proceeding for the purpose of affecting the weight but not the admissibility of such evidence.

HISTORY: New 1961, p. 491, Act 236, Eff. Jan. 1, 1963.

600.2148 Preservation of reproduced records of business firms; destruction of originals; use of evidence.

Sec. 2148. (1) Any person, firm or corporation engaged in business may cause any or all records kept by such business to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card or miniature photographic process which correctly and accurately copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and such business may thereafter dispose of the original record.

(2) Any such photographic, photostatic, microfilm, micro-card or miniature photographic copy or reproduction shall be deemed to be an original record for all purposes, and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification, enlargement or certified copy of any such photographic copy or reproduction shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

(3) For purposes of this section, "person" shall mean and include any individual, association, firm, partnership, company or corporation.

HISTORY: New 1961, p. 491, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 339, Act 244, Eff. Aug. 28.

CITED IN OTHER SECTIONS: The above section is cited in § 489.678.

600.2149 Loss of instrument; proof and disproof.

Sec. 2149. Whenever a party to any instrument shall have been permitted to prove by his own oath the loss of any instrument, in order to admit other proof of the contents thereof, the adverse party may also be examined by the court on oath, to disprove such loss, and to account for such instrument.

HISTORY: New 1961, p. 492, Act 236, Eff. Jan. 1, 1963.

600.2150 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Section related to suit founded on lost negotiable bill or note.

600.2151 Admission of member of corporation as evidence.

Sec. 2151. In suits by or against a corporation, the admission of any member thereof not named on the record as a party to such suit shall not be received as evidence

against such corporation, unless such admission was made concerning some transaction in which such member was the authorized agent of such corporation.

HISTORY: New 1961, p. 492, Act 236, Eff. Jan. 1, 1963.

600.2152 Mental competency of testator; presumption.

Sec. 2152. In proceedings for the probate of wills, it shall not be necessary for the proponent in the first instance to introduce any proof to show the competency of the decedent to make a will, but the like presumption of mental competency shall obtain as in other cases.

HISTORY: New 1961, p. 492, Act 236, Eff. Jan. 1, 1963.

600.2153 Public officers; administration of oaths for certain purposes.

Sec. 2153. Whenever any application is made to any public officer or board of officers to do any act in an official capacity, and such officer or board requires information or proof to enable him or them to decide on the propriety of doing such act, such information or proof may be required to be given by affidavit, and such officer or any member of such board, may administer all necessary oaths for that purpose.

HISTORY: New 1961, p. 492, Act 236, Eff. Jan. 1, 1963.

600.2154 Witness; obligation to answer through revealing civil liability; self-incrimination.

Sec. 2154. Any competent witness in a cause shall not be excused from answering a question relevant to the matter in issue, on the ground merely that the answer to such question may establish, or tend to establish, that such witness owes a debt, or is otherwise subject to a civil suit; but this provision shall not be construed to require a witness to give any answer which will have a tendency to accuse himself of any crime or misdemeanor, or to expose him to any penalty or forfeiture, nor in any respect to vary or alter any other rule respecting the examination of witnesses.

HISTORY: New 1961, p. 493, Act 236, Eff. Jan. 1, 1963.

600.2155 Witness; obligation to testify or produce records in anti-trust cases; immunity from prosecution, perjury.

Sec. 2155. No person shall be excused from attending and testifying, or from producing books, papers, contracts, agreements and documents in any cause, suit or proceeding, civil, criminal or otherwise, based upon or growing out of any alleged violation of any of the provisions of Act No. 255 of the Public Acts of 1899, relating to trusts and combinations in restraint of trade or of any act amendatory or declaratory thereof, or supplemental thereto in any court of competent jurisdiction, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to fine, punishment, penalty or forfeiture. The attendance and testimony of such persons in such cases and the production of such books, papers, contracts, agreements and documents may be enforced in the same manner as in any other cause, suit or proceeding. But no person shall be prosecuted or subjected to any fine, imprisonment, penalty or forfeiture for or on account of any matter or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such case, suit or proceeding. No testimony so given by him shall in any prosecution be used as evidence, either directly or indirectly, against him: Provided, That immunity shall extend only to a natural person who in obedience to a subpoena gives testimony under oath, or produces evidence, documentary or otherwise, under oath: Provided further, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: New 1961, p. 493, Act 236, Eff. Jan. 1, 1963.

600.2156 Minister, priest or Christian Science practitioner; nondisclosure of confessions.

Sec. 2156. No minister of the gospel, or priest of any denomination whatsoever, or duly accredited Christian Science practitioner, shall be allowed to disclose any confessions made to him in his professional character, in the course of discipline enjoined by the rules or practice of such denomination.

HISTORY: New 1961, p. 493, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 399, Act 187, Imd. Eff. May 24.

600.2157 Physician-patient privilege; waiver.

Sec. 2157. No person duly authorized to practice medicine or surgery shall be allowed to disclose any information which he may have acquired in attending any patient in his professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon: Provided, however, That in case such patient shall bring an action against any defendant to recover for any personal injuries, or for any malpractice, if such plaintiff shall produce any physician as a witness in his own behalf, who has treated him for such injury, or for any disease or condition, with reference to which such malpractice is alleged, he shall be deemed to have waived the privilege hereinbefore provided for, as to any or all other physicians, who may have treated him for such injuries, disease or condition: Provided further, That after the decease of such patient, in a contest upon the question of admitting the will of such patient to probate, the heirs at law of such patient, whether proponents or contestants of his will, shall be deemed to be personal representatives of such deceased patient for the purpose of waiving the privilege hereinbefore created.

HISTORY: New 1961, p. 493, Act 236, Eff. Jan. 1, 1963.

600.2158 Crime; interest or relationship of witness, effect.

Sec. 2158. No person shall be excluded from giving evidence on any matter, civil or criminal, by reason of crime or for any interest of such person in the matter, suit, or proceeding in question, or in the event of such matter, suit or proceeding, in which such testimony may be offered, or by reason of marital or other relationship to any party thereto; but such interest, relationship, or conviction of crime, may be shown for the purpose of drawing in question the credibility of such witness, except as is herein-after provided.

HISTORY: New 1961, p. 493, Act 236, Eff. Jan. 1, 1963.

600.2159 Parties as witnesses; depositions; comment on failure of criminal defendant to testify.

Sec. 2159. On the trial of any issue joined, or in any matter, suit or proceeding, in any court, or on any inquiry arising in any suit or proceeding in any court, or before any officer or person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties to any such suit or proceeding named in the record, and persons for whose benefit such suit or proceeding is prosecuted, or defended, may be witnesses therein in their own behalf or otherwise, in the same manner as other witnesses, except as hereinafter otherwise provided; and the deposition of any such party or person may be taken and used in evidence under the rules and statutes governing depositions, and any such party or person may be proceeded against and compelled to attend and testify, as is provided by law for other witnesses. No person shall be disqualified as a witness in any civil or criminal case or proceeding by reason of his interest in the event of the same as a party or otherwise or by reason of his having been convicted of any crime; but such interest or conviction may be shown for the purpose of affecting his credibility. A defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness, and his neglect to testify

shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

HISTORY: New 1961, p. 494, Act 236, Eff. Jan. 1, 1963.

600.2160 Repealed. 1967, p. 501, Act 263, Eff. Nov. 2.

Section provided for admissibility of testimony of opposite party on matters equally within knowledge of deceased or mentally incompetent person.

600.2161 Cross examination of opposite party or agent.

Sec. 2161. In any suit or proceeding in any court in this state, either party, if he shall call as a witness in his behalf, the opposite party, employee or agent of said opposite party, or any person who at the time of the happening of the transaction out of which such suit or proceeding grew, was an employee or agent of the opposite party, shall have the right to cross-examine such witness the same as if he were called by the opposite party; and the answers of such witness shall not interfere with the right of such party to introduce evidence upon any issue involved in such suit or proceeding, and the party so calling and examining such witness shall not be bound to accept such answers as true.

HISTORY: New 1961, p. 495, Act 236, Eff. Jan. 1, 1963.

600.2162 Husband or wife as witness for or against other.

Sec. 2162. A husband shall not be examined as a witness for or against his wife without her consent; nor a wife for or against her husband without his consent, except in suits for divorce and in cases of prosecution for bigamy, in cases of prosecution for a crime committed against the children of either or both, and where the cause of action grows out of a personal wrong or injury done by one to the other, or grows out of the refusal or neglect to furnish the wife or children with suitable support, and except in cases of desertion or abandonment, and cases arising under section 6 of Chapter 83 of the Revised Statutes of 1846, as amended, relating to marriage, and cases where the husband or wife shall be a party to the record in a suit, action, or proceeding, where the title to the separate property of the husband or wife so called or offered as a witness, or where the title to property derived from, through or under the husband or wife so called or offered as a witness, shall be the subject matter in controversy or litigation in such suit, action or proceeding, in opposition to the claim or interest of the other of said married persons, who is a party to the record in such suit, action or proceeding; and in all such cases, such husband or wife who makes such claim of title, or under or from whom such title is derived, shall be as competent to testify in relation to said separate property and the title thereto without the consent of said husband or wife, who is a party to the record in such suit, action or proceeding, as though such marriage relation did not exist; nor shall either, during the marriage or afterwards, without the consent of both, be examined as to any communication made by one to the other during the marriage, but in any action or proceeding instituted by the husband or wife, in consequence of adultery, the husband and wife shall not be competent to testify.

HISTORY: New 1961, p. 495, Act 236, Eff. Jan. 1, 1963.

600.2163 Child under ten years as witness.

Sec. 2163. Whenever a child under the age of 10 years is produced as a witness, the court shall by an examination made by itself publicly, or separate and apart, ascertain to its own satisfaction whether such child has sufficient intelligence and sense of obligation to tell the truth to be safely admitted to testify; and in such case such testimony may be given on a promise to tell the truth instead of upon oath or statutory affirmation, and shall be given such credit as to the court or jury, if there be a jury, it may appear to deserve.

HISTORY: New 1961, p. 495, Act 236, Eff. Jan. 1, 1963.

600.2164 Expert witnesses; fees; contempt for excessive fees; number; application of section.

Sec. 2164. (1) No expert witness shall be paid, or receive as compensation in any given case for his services as such, a sum in excess of the ordinary witness fees provided by law, unless the court before whom such witness is to appear, or has appeared, awards a larger sum, which sum may be taxed as a part of the taxable costs in the case. Any such witness who shall directly or indirectly receive a larger amount than such award, and any person who shall pay such witness a larger sum than such award, shall be guilty of contempt of court, and on conviction thereof be punished accordingly.

(2) No more than 3 experts shall be allowed to testify on either side as to the same issue in any given case, unless the court trying such case, in its discretion, permits an additional number of witnesses to testify as experts.

(3) The provisions of this section shall not be applicable to witnesses testifying to the established facts, or deductions of science, nor to any other specific facts, but only to witnesses testifying to matters of opinion.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2165 School teachers and employees; disclosing of students' communication.

Sec. 2165. No teacher, guidance officer, school executive or other professional person engaged in character building in the public schools or in any other educational institution, including any clerical worker of such schools and institutions, who maintains records of students' behavior or who has such records in his custody, or who receives in confidence communications from students or other juveniles, shall be allowed in any proceedings, civil or criminal, in any court of this state, to disclose any information obtained by him from such records or such communications; nor to produce such records or transcript thereof, except that any such testimony may be given, with the consent of the person so confiding or to whom such records relate, if such person is 21 years of age or over, or, if such person is a minor, with the consent of his or her parent or legal guardian.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2166 Actions against person incapable of testifying; admissibility of testimony; persons incapable of testifying, definitions.

Sec. 2166. (1) In any action by or against a person incapable of testifying, a party's own testimony shall not be admissible as to any matter which, if true, must have been equally within the knowledge of the person incapable of testifying, unless some material portion of his testimony is supported by some other material evidence tending to corroborate his claim.

(2) A "person incapable of testifying" includes any individual who is incapable of testifying by reason of death or incompetency and his heirs, legal representatives or assigns; and includes any individual, corporation or other entity, or the successors thereof, whose agent, having material knowledge of the matter, is incapable of testifying by reason of death or incompetency. A "party's own testimony" includes the testimony of his agents, successors, assigns, predecessors or assignors.

(3) In any such actions, all entries, memoranda and declarations by the individual so incapable of testifying, relevant to the matter, as well as evidence of his acts and habits of dealing tending to disprove or show the improbability of the claims of the adverse party, may be received in evidence.

HISTORY: Add. 1967, p. 501, Act 263, Eff. Nov. 2,—Am. 1969, p. 121, Act 63, Imd. Eff. Jul. 21.

CHAPTER 23.

AMENDMENTS

600.2301 Amendment of process or pleadings before judgment.

Sec. 2301. The court in which any action or proceeding is pending, has power to amend any process, pleading or proceeding in such action or proceeding, either in form or substance, for the furtherance of justice, on such terms as are just, at any time before judgment rendered therein. The court at every stage of the action or proceeding shall disregard any error or defect in the proceedings which do not affect the substantial rights of the parties.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2305 Answer to amended pleading.

Sec. 2305. If such amendment is made to any pleading in matter of substance, the adverse party shall be allowed an opportunity, according to the course and practice of the court, to answer the pleading so amended.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2311 Amendment of process or pleadings after judgment.

Sec. 2311. After judgment rendered in any cause, any defect or imperfections in matter or form, contained in the record, pleadings, process, entries, returns, or other proceedings, may be rectified and amended by the court, in affirmance of the judgment, so that such judgment shall not be reversed or annulled; and any variation in the record, from any process, pleading or proceeding had in such cause, shall be reformed and amended according to such original process, pleading or proceeding.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2315 Immaterial defects; judgment not stayed or reversed.

Sec. 2315. When a verdict has been rendered in any cause, the judgment thereon shall not be stayed, nor shall any judgment upon confession, or default, be reversed, impaired, or in any way affected, by reason of the following imperfections, omissions, defects, matters or things, or any of them, in the pleadings, process, record or proceedings, namely:

(1) For any default or defect in process; or for misconceiving any process, or awarding the same to a wrong officer; or for the want of any suggestion for awarding process, or for any insufficient suggestion;

(2) For any imperfect or insufficient return of any sheriff or other officer or that the name of such officer is not set to any return actually made by him;

(3) For any mispleading, miscontinuance, or discontinuance, insufficient pleading, or misjoining of issue;

(4) For the want of any warrant of attorney by either party; except in cases of judgment by confession, where such warrant is expressly required by law;

(5) For any party under 21 years of age, having appeared by attorney, if the verdict or judgment be for him;

(6) For the want of any allegation or averment, on account of which a motion to dismiss could have been maintained;

(7) For omitting any allegation or averment of any matter, without proving which the jury ought not to have given such verdict;

(8) For any mistake in the name of any party or person, or in any sum of money; or in the description of any property; or in reciting or stating any day, month or year, when the correct name, time, sum or description shall have been once rightly alleged in any of the pleadings or proceedings;

- (9) For a mistake in the name of any juror or officer;
- (10) For any informality in entering a judgment, or making up the record thereof; or in any continuance or other entry upon such record;
- (11) For any other default or negligence of any clerk or officer of the court, or of the parties, or their counselors or attorneys, by which neither party shall have been prejudiced.

HISTORY: New 1961, p. 497, Act 236, Eff. Jan. 1, 1963.

600.2321 Immaterial defects; amendments to correct.

Sec. 2321. The omissions, imperfections, variances and defects in section 2315 enumerated, and all others, of the like nature, not being against the right and justice of the matter of the suit, and not altering the issue between the parties, or the trial, shall be supplied and amended by the court where the judgment shall be given, or by the court into which such judgment shall be removed.

HISTORY: New 1961, p. 497, Act 236, Eff. Jan. 1, 1963.

600.2325 Amendment only on order of court.

Sec. 2325. No process, pleading or record, shall be amended or impaired by the clerk or other officer of any court, or by any other person, without the order of such court, or of some other court of competent jurisdiction.

HISTORY: New 1961, p. 497, Act 236, Eff. Jan. 1, 1963.

600.2331 Imperfection in appeal.

Sec. 2331. No appeal shall be dismissed on account of any informality or imperfection in the bond, affidavit or other proceedings, for the taking of such appeal, if plaintiff shall either by amendment, or by furnishing a new bond, affidavit or other paper, supply the deficiency or defect.

HISTORY: New 1961, p. 497, Act 236, Eff. Jan. 1, 1963.

CHAPTER 24.

COSTS

600.2401 Costs; regulation of taxation by supreme court.

Sec. 2401. Except as otherwise provided by statute, the supreme court shall by rule regulate the taxation of costs. When costs are allowed in any action or proceeding in the supreme court or in the circuit courts, the items and amounts thereof shall be governed by the provisions of this chapter.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2405 Costs; items taxable.

Sec. 2405. The following items may be taxed and awarded as costs unless otherwise directed:

- (1) Any of the fees of officers, witnesses, or other persons mentioned in this chapter or in chapter 25, unless a contrary intention is stated.
- (2) Matters specially made taxable elsewhere in the statutes or rules.
- (3) The legal fees for any newspaper publication required by law.
- (4) The reasonable expense of printing any required brief and appendix in the supreme court, including any brief on motion for leave to appeal.
- (5) The reasonable costs of any bond required by law, including any stay of proceeding or appeal bond.
- (6) Any attorney fees authorized by statute or by court rule.

HISTORY: New 1961, p. 496, Act 236, Eff. Jan. 1, 1963.

600.2411 Special costs in action against public officers.

Sec. 2411. In the following actions, if the defendant prevails, he shall be awarded costs and in addition, 1/2 thereof:

(1) In actions against public officers appointed or elected under the laws of this state, or against any person specially appointed according to law to execute the duties of such public officer, for or concerning the omission to do any act which it was his official duty to perform.

(2) In actions against any other person for doing any act by the commandment of such officers or persons, or in their aid or assistance, touching the duties of such office or appointment.

(3) In actions against any person for making any sale or doing any other act by authority of any statute of this state.

HISTORY: New 1961, p. 498, Act 236, Eff. Jan. 1, 1963.

600.2415 Costs; liability of next of friend or guardian.

Sec. 2415. Any person who brings an action as next of friend for an infant, or a person who is insane or otherwise mentally incompetent, shall be responsible for the costs of the suit. However, no person who defends a suit as guardian ad litem of an infant or otherwise incompetent person shall be responsible for the costs of the suit unless specifically charged by the court for some personal misconduct in the case.

HISTORY: New 1961, p. 498, Act 236, Eff. Jan. 1, 1963.

600.2421 Costs; action by state.

Sec. 2421. (1) In all actions by or in the name of the people of this state, instituted by any officer duly authorized for that purpose and not for the use of any citizen, the state shall be liable for costs in the same manner and to the same extent as if the action were commenced by an individual.

Same; action by relator.

(2) In all actions instituted in the name of the people of this state, on the relation of any citizen, such relator shall be entitled to and liable for costs as if the action had been commenced in his own name.

Same; payment.

(3) Whenever costs are adjudged against the people of this state, in any civil action or proceeding instituted by any officer duly authorized for that purpose, the auditor general shall draw on the treasurer for the amount thereof, upon the production of an authenticated copy of the record of judgment, or of the order adjudging such costs, with a taxed bill thereof, and upon the certificate of the attorney general that such suit or proceeding was duly instituted, as by law required.

HISTORY: New 1961, p. 498, Act 236, Eff. Jan. 1, 1963.

600.2425 Costs; abatement of public nuisance; private citizen plaintiff.

Sec. 2425. (1) If an action to abate a public nuisance is brought by a private citizen, whether or not the attorney general or prosecuting attorney intervenes, and the court finds that there was no reasonable ground or cause for the action, costs may be taxed against such citizen. In such a case, attorney's fees are proper costs.

Same; intervention by attorney general or prosecuting attorney.

(2) When the attorney general or prosecuting attorney intervenes, the costs incurred by such officer shall be payable by the county in which the nuisance exists and all costs collected in the action shall be paid into the treasury of such county.

HISTORY: New 1961, p. 499, Act 236, Eff. Jan. 1, 1963.

600.2431 Costs; foreclosure of mortgage by advertisement; attorney's fee.

Sec. 2431. (1) The expenses of foreclosing any mortgage by advertisement shall be taxed in the circuit court as in civil actions upon the request of any person paying the expenses thereof, and upon such party liable to pay the same.

(2) Where an attorney is employed to foreclose a mortgage by advertisement, an attorney's fee, not to exceed any amount which may be provided for in the mortgage, may be included as a part of the expenses in the amount bid upon such sale for principal and interest due thereon in the following amounts:

- (a) for all sums of \$1,000.00 or less, \$25.00.
- (b) for all sums over \$1,000.00 but less than \$5,000.00, \$50.00.
- (c) for all sums of \$5,000.00 or more, \$75.00.

But if payment is made after foreclosure proceedings are commenced and before sale is made, only 1/2 of such attorney's fees shall be allowed. Both the principal and the interest due thereon shall be included in the sum on which the attorney's fee is computed.

HISTORY: New 1961, p. 499, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 5, Act 2, Imd. Eff. Mar. 6.

600.2435 Costs; supplementary proceedings.

Sec. 2435. The court may allow to the judgment creditor, or to any person examined, whether a party to the action or not, witness fees and disbursements, and an attorney's fee in addition not to exceed \$30.00 as costs, in supplementary proceedings.

HISTORY: New 1961, p. 499, Act 236, Eff. Jan. 1, 1963.

600.2441 Costs; sundry costs additional in civil actions in supreme court.

Sec. 2441. (1) In all civil actions or special proceedings in the supreme court, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

- (a) on motions, \$20.00.
- (b) on calendar causes and those given an early hearing, \$50.00.

Same; sundry costs additional in civil actions in circuit courts.

(2) In all civil actions or special proceedings in the circuit courts, whether heard as an original proceeding or on appeal, the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs:

- (a) for the proceedings before trial, \$20.00.
- (b) for motions which result in dismissal or judgment, \$20.00.
- (c) for the trial of the action or proceeding, \$30.00.
- (d) in all actions where judgment is taken by default or upon cognovit, \$15.00.

HISTORY: New 1961, p. 499, Act 236, Eff. Jan. 1, 1963.

600.2445 Costs; appeal; damages for delay.

Sec. 2445. (1) Costs on appeal to the circuit courts or to the supreme court shall be awarded in the discretion of the court.

(2) The appellant may be awarded the costs on appeal if he improves his position on appeal.

(3) The appellee may be awarded damages for the delay and vexation caused by the appeal, to be assessed in the discretion of the court, in addition to costs on appeal, if the appellant does not improve his position on appeal.

(4) Costs in the court below may be awarded to the party who ultimately prevails in the case.

HISTORY: New 1961, p. 499, Act 236, Eff. Jan. 1, 1963.

600.2451 Costs; taxation in supreme court, notice.

Sec. 2451. Costs in the supreme court shall be taxed by 1 of the justices or the clerk thereof, and by such other officers as the supreme court shall, by general or special order, designate for that purpose; and upon such notice to the opposite party, as shall be prescribed by the general rules of the court.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2455 Costs; taxation in circuit courts, municipal courts of record, notice.

Sec. 2455. Costs in the several circuit courts, and in municipal courts of record having civil jurisdiction, may be taxed by any officer authorized to tax costs in the supreme court, by circuit court commissioner, or the clerks of the said circuit and municipal courts respectively, and upon the like notice as shall be required in the supreme court.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2461 Costs; duties of taxing officer.

Sec. 2461. Every officer authorized to tax costs in any court for services rendered in any proceeding authorized by law, shall examine the bills presented to him for taxation, whether such taxation be opposed or not, and shall be satisfied that the items charged in such bill are correct and legal; and shall strike out all charges for services, which, in his judgment, were not necessary to be performed.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

CHAPTER 25.

FEES

600.2501 Fees; allowance.

Sec. 2501. For the services mentioned in this chapter, hereafter done or performed in the several courts in this state, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed shall be allowed.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2504 Fees; special allowance.

Sec. 2504. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service, or providing the compensation therefor.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2507 Fees; state officers, certified copies of certain documents.

Sec. 2507. The secretary of state, auditor general, treasurer and attorney general, respectively, shall be authorized to require searches in the respective offices of each other, and in the offices of the clerks of the supreme court, of the several circuit courts and several probate courts and all of the several courts of record, or of registers of deeds, for any papers, records, or documents necessary to the discharge of the duties of their respective offices, and to require certified copies thereof, and certified extracts therefrom, without the payment of any fee or charge whatever.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2510 Fees; folio, definition.

Sec. 2510. The term "folio", when used as a measure for computing fees or compensation, shall be construed to mean 100 words, counting every figure necessarily used, as a word; and any portion of a folio, when in the whole draft or paper there shall not be a complete folio and when there shall be any excess over the last folio, shall be computed as a folio.

HISTORY: New 1961, p. 500, Act 236, Eff. Jan. 1, 1963.

600.2513 Fees; excessive amount prohibited.

Sec. 2513. No judge of any court, justice, sheriff or other officer whatsoever, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall take or receive any other or greater fee or reward for such service, but such as is or shall be allowed by the laws of this state.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963.

600.2516 Fees; for services actually rendered.

Sec. 2516. No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963.

600.2519 Fees; violation, misdemeanor, civil liability, forfeiture of office.

Sec. 2519. A violation of either section 2513 or 2516 shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963.

600.2522 Fees; taxation for services actually rendered.

Sec. 2522. No fee shall be taxed for services as having been rendered by any attorney, clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963.

600.2525 Fees; receipt, liability for refusal.

Sec. 2525. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for 3 times the amount so paid.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963.

600.2528 Fees; circuit court.

Sec. 2528. In circuit courts in counties having a population of less than 100,000 the following fees shall be paid to the clerk of the court:

(1) Before any civil action is commenced in any circuit court, or before the filing of any application for superintending control or for an extraordinary writ, except the writ of habeas corpus, there shall be paid to the clerk of the court by the moving party the sum of \$30.00.

(2) The clerk shall transmit, at the end of each month, \$8.75 of each \$30.00 so collected within the month to the executive secretary of the retirement system for deposit with the treasurer of the state in the annuity reserve fund created by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948; \$5.00 of each \$30.00 so collected within the month to the secretary of

the legislative retirement system for deposit with the treasurer of the state in the retirement fund created by Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Compiled Laws of 1948; \$5.25 to the state treasurer for deposit in the general fund; and the balance of the filing fee to the county treasurer.

(3) Before the filing and entering of any transcript, claim of appeal or motion for leave to appeal from a district or municipal court, there shall be paid to the clerk the sum of \$5.00.

(4) For each trial before a court of record, with or without a jury, the plaintiff shall pay to the clerk of the court the fee of \$10.00. The clerk shall pay \$5.00 of each such trial fee to the state treasurer, to apply to the credit of the general fund, and \$5.00 of each such trial fee into the county treasury, to apply to the credit of the general fund.

(5) Before the entry of any final judgment by default in pleading in an action without a jury or by consent without trial, or the entry of a judgment against a garnishee defendant upon a district or municipal court transcript, or upon the entry of a judgment on an award from any board or referee upon whose award the law permits the entry of judgment, and in all other cases finally disposed of by court order except those described in subsection (6), there shall be paid to the clerk the sum of \$10.00. The clerk shall pay \$5.00 of each such judgment fee to the state treasurer, to apply to the credit of the general fund.

(6) Before the entry of any final judgment in an action wherein trial has been had, or where a jury is called to render a verdict upon default in pleading, there shall be paid to the clerk the sum of \$10.00. The clerk shall pay \$5.00 of each such judgment fee to the state treasurer, to apply to the credit of the general fund.

(7) Where causes of action are consolidated or tried simultaneously and separate judgments rendered, there shall be paid the sum of \$10.00 on the entry of each such judgment. The clerk shall pay \$5.00 of each such judgment fee to the state treasurer, to apply to the credit of the general fund.

(8) For any and all services relative to the receipt, safekeeping, putting out money, or purchasing, taking or transferring any security therefor, or collecting interest thereon, under the direction of the court, not herein specifically provided for, the clerk shall receive such allowance and compensation, and from such of the parties as the court may consider just and shall direct, by an order for that purpose, after notice to the parties to be charged therewith.

(9) Upon appeal to the supreme court, there shall be paid to the clerk of the trial court the sum of \$10.00.

(10) The sum or sums paid as aforesaid shall be held to be in full for all clerk, entry and judgment fees in any suit from the commencement thereof to and including the issuance and return of the execution or other final process, and are taxable as costs.

(11) In counties where the county clerk receives the fees of his office, all or in part, in lieu of salary, all or in part, the clerk shall pay over to the county treasurer the sum of \$5.00 on each and every civil action that is commenced in the circuit court.

(12) In counties where the county clerk is paid a salary in lieu of fees collected by the county clerk, pursuant to this chapter, all fees shall be paid over to the county treasurer as required by law.

(13) The presiding judge of such court may order any of the above fees waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

HISTORY: New 1961, p. 501, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 416, Act 240, Eff. Sep. 6;—Am. 1967, p. 544, Act 278, Eff. Nov. 2;—Am. 1969, p. 499, Act 264, Eff. Sep. 1;—Am. 1970, p. 664, Act 248, Eff. Jan. 1, 1971.

600.2529 Fees, circuit court, counties over 100,000.

Sec. 2529. In circuit courts in counties having a population of 100,000 or more the following fees shall be paid to the clerk of the court:

(1) Before any civil action is commenced, or before the filing of any application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the moving party shall pay the sum of \$30.00.

(2) The clerk at the end of each month shall transmit \$8.75 of each \$30.00 so collected within the month to the executive secretary of the retirement system for deposit with the treasurer of this state in the annuity reserve fund created by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948; \$5.00 of each \$30.00 so collected within the month to the secretary of the legislative retirement system for deposit with the treasurer of this state in the retirement fund created by Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Compiled Laws of 1948; \$5.25 to the state treasurer for deposit in the general fund; and the balance of the filing fee to the county treasurer.

(3) Before the filing and entering of any transcript, claim of appeal or motion for leave to appeal from a district, municipal or common pleas court, the sum of \$5.00.

(4) For each trial without a jury, the plaintiff shall pay the sum of \$15.00. Where a trial by jury is demanded, the party making the demand at such time shall pay the sum of \$30.00. Failure to pay the fee within the time provided in the court rules constitutes a waiver of the right to a jury trial. Such sum shall be taxed in favor of the party paying the same, in case he recovers a judgment for his costs.

(5) Before entry of any final judgment by default in pleading in an action without a jury or by consent without trial, or the entry of a judgment against a garnishee defendant upon a district, municipal or common pleas court transcript, or the entry of a judgment on an award from any board or referee upon whose award the law permits the entry of judgment, the sum of \$10.00.

(6) Before entry of any final judgment in an action where trial has been had, or where a jury is called to render a verdict upon default in pleading, the sum of \$10.00.

(7) Where causes of action are consolidated or tried simultaneously and separate judgments rendered, the sum of \$10.00 on the entry of each such judgment.

(8) For any and all services relative to the receipt, safekeeping, putting out money, or purchasing, taking or transferring any security therefor, or collecting interest thereon, under the direction of the court, not herein specifically provided for, the clerk shall receive such allowance and compensation, and from such of the parties as the court may consider just and shall direct by an order, after notice to the parties to be charged therewith.

(9) Upon appeal to the supreme court, the sum of \$20.00.

(10) The sums paid as aforesaid shall be held to be in full for all clerk, entry and judgment fees in any suit from the commencement thereof to and including the issuance and return of the execution or other final process, and are taxable as costs.

(11) All fees shall be paid over to the county treasurer as required by law.

(12) The presiding judge of such court may order any of the above fees waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

HISTORY: Add. 1963, p. 327, Act 218, Eff. Sep. 6;—Am. 1964, p. 27, Act 21, Eff. Aug. 28;—Am. 1966, p. 38, Act 20, Eff. Jan. 1, 1967;—Am. 1967, p. 545, Act 278, Eff. Nov. 2;—Am. 1970, p. 665, Act 248, Eff. Jan. 1, 1971.

600.2531 Oath of office; administration without fee.

Sec. 2531. No fee may be charged by any officer, for administering the oath of office to any member of the legislature, to any military officer, or to any other public officer.

HISTORY: New 1961, p. 502, Act 236, Eff. Jan. 1, 1963.

600.2534 Legal advertisements in newspapers; minimum rate.

Sec. 2534. (1) For publishing any legal notice or any order, citation, summons, advertisement or other matters arising out of judicial proceedings required by law to be published in any newspaper, except as provided in subsection (2), the cost shall not exceed the rate of \$3.00 per folio for the first insertion, and \$2.00 per folio for each subsequent insertion. A minimum cost of \$12.00 shall be allowed for any notice which must appear 2 times or more and a minimum cost of \$7.50 shall be allowed for any notice which must appear 1 time.

(2) Any newspaper publishing for the state any advertisement other than tax lists shall be permitted to charge therefor its regular established commercial rate in effect at the time the advertisement is published.

HISTORY: New 1961, p. 502, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 181, Act 161, Imd. Eff. Jul. 1.

600.2537 Jury fees; failure to pay; taxation as costs.

Sec. 2537. In every case where a trial by jury is demanded, the party making the demand shall, at the time of filing the demand, pay to the clerk of the court the sum of \$20.00. Failure to pay the fee within the time provided in the court rules constitutes a waiver of the right to a jury trial. Such sum shall be taxed in favor of the party paying the same, in case he recovers a judgment for his costs.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963;—Am. 1969, p. 482, Act 250, Imd. Eff. Sep. 1.

600.2540 Jury fees; inquests.

Sec. 2540. Each juror sworn before any coroner or justice of the peace, on an inquest taken by either of them on view of any dead body, is entitled to receive \$6.00 for each day's attendance and \$3.00 for each half day's attendance on such inquest, the accounts for such service to be allowed by the board of supervisors in counties not having a board of county auditors, and in counties having a board of county auditors by such board, on the certificate of such coroner or justice.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963.

600.2543 Circuit court stenographers; transcripts, fees.

Sec. 2543. (1) The circuit court stenographers shall be entitled to demand and receive per folio for transcripts ordered by either party to a cause the sum of 25 cents per original folio and 10 cents for each copy thereof unless a lower rate is agreed upon. For transcripts ordered by the circuit judge, stenographers shall be entitled to receive from the county the compensation hereinbefore specified.

(2) Only if the transcript is desired for the purpose of moving for a new trial, or preparing a record for appeal shall the amount of stenographers' fees paid therefor be recovered as a part of the taxable costs of the prevailing party in such motion, or in the supreme court.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 289, Act 200, Eff. Sep. 6.

600.2546 Certified copies of records; fee per page.

Sec. 2546. For all certified copies, and exemplifications of records, pleadings and proceedings furnished on request, where no special provision is otherwise made, the fee is \$1.00 per page.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 418, Act 240, Eff. Sep. 6.

600.2549 Depositions; certified copies, fees taxable as costs.

Sec. 2549. (1) The legal fees paid for depositions of witnesses filed in any clerk's office, and for the certified copies of documents or papers recorded or filed in any pub-

lic office, shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, such depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.

(2) Fees for taking depositions shall be as follows:

(a) For taking the deposition, \$5.00;

(b) For transcribing, certifying, sealing and forwarding depositions, 15 cents for each 100 words contained in the deposition;

(c) For copies of testimony furnished to any party, 3 cents for each 100 words contained in such copy.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963.

600.2552 Witness fees; mileage; attorneys as witnesses, inquests; witness fees, mileage.

Sec. 2552. (1) Witnesses shall receive for attending in any suit or proceeding pending in a court of record, \$12.00 for each day and \$6.00 for each half day, or a witness may be paid for his loss of working time, but not more than \$15.00 for each day shall be taxable as costs as his witness fee. Witnesses shall receive for traveling at the rate of 10 cents per mile in coming to the place of attendance and returning therefrom, to be estimated from the residence of such witness, if within this state, or from the boundary line of this state, which such witness passed in coming, if his residence is out of the state.

(2) No attorney or counsel in any cause in which he may be interested as attorney or counsel, shall be allowed any fee for attending as a witness in such case.

(3) Witnesses shall receive for attending before any person authorized to hold inquests on the view of dead bodies, or before any officer, person, or board authorized to take the examination of witnesses, \$12.00 for each day's attendance and \$6.00 for each half day; for traveling in such case, 10 cents per mile in coming to the place of attendance and returning therefrom, to be estimated from the residence of such witness, if within this state, or from the boundary line of this state, which such witness passed in coming, if his residence is out of the state.

HISTORY: New 1961, p. 503, Act 236, Eff. Jan. 1, 1963;—Am. 1966, p. 38, Act 20, Eff. Jan. 1, 1967.

600.2555 Process server; traveling fees.

Sec. 2555. The sheriff or other officer, serving any process or paper, shall only be entitled to traveling fees for such service, from the county seat of the county in which service was made, to the place of service therein.

HISTORY: New 1961, p. 504, Act 236, Eff. Jan. 1, 1963.

600.2558 Fees of sheriff and mileage; penalty for excessive charges.

Sec. 2558. The fees of the sheriff shall be as provided in this section.

(1) For serving a summons, or other process for which no fee is specified elsewhere, and for serving a writ of garnishment, \$3.00, and for the service on each additional defendant, \$1.50.

(2) For traveling in making such service, on the usual traveled route, 15 cents per mile for going only.

(3) For taking a bond in cases where he is authorized to take the same, \$1.50; for a certified copy of such bond when requested, \$1.00.

(4) For a copy of every summons, writ, or other process, \$1.50, not taxable as costs.

(5) For serving an attachment for the payment of money, or an execution for the payment of money, or a warrant issued for the same purpose and delivered to him by the county treasurer or any supervisor, for collecting the sum of \$1,000.00 or less, 5%, and for any sum more than \$1,000.00, 2%.

(6) For advertising goods or chattels, lands or tenements for sale, on any execution, if a sale is made, \$5.00; and if the execution is stayed or settled after advertising and before sale, \$3.00.

(7) When more than 1 paper in the same cause of action is served at the same time, the fee for each additional paper shall be \$1.50, such additional paper to be counted as 1 unit, regardless of the number of pages therein.

(8) The fees allowed by law and paid to any printer by such sheriff for publishing an advertisement of the sale of real estate for not longer than required by law and for the publishing of the postponement of any such sale, the expense shall be paid by the party requiring the same.

(9) The fees herein allowed for the service of an execution and for advertising therein shall be collected by virtue of such execution, in the same manner as the sum therein directed to be levied; but when there are several executions against the defendant, at the time of advertising his property, in the hands of the same sheriff, there shall be but 1 advertising fee charged on the whole, and the sheriff shall elect upon which execution he will receive same.

(10) For every certificate on the sale of real estate, \$1.50; and for each copy thereof, \$1.50, which, together with the register's fee for filing the same, shall be collected as other fees on execution.

(11) For drawing and executing a deed pursuant to a sale of real estate, \$1.50.

(12) For serving a writ of possession or of restitution, putting any person into possession of the premises and removing the occupant, \$10.00.

(13) For taking a bond for the liberties of the jail, \$1.50.

(14) For summoning a jury upon a writ of inquiry, attending such jury, and making and returning the inquisition, \$5.00.

(15) For summoning a jury pursuant to any precept or summons of any officer in any special proceeding, \$5.00, and for attending such jury when required, \$5.00.

(16) For bringing up a prisoner upon habeas corpus, \$3.00, and for traveling each mile from the jail, 15 cents; for attending any court with such prisoner, \$5.00 per day, besides actual necessary expenses.

(17) For attending before any officer with a prisoner for the purpose of having him surrendered in exoneration of his bail, or attending to receive a prisoner so surrendered, who was not committed at the time, and receiving such prisoner into his custody in either case, \$15.00.

(18) For attending a view, when ordered by the court, \$15.00 per day, including the time occupied in going and returning.

(19) For serving an attachment upon any ship, boat or vessel, in proceedings to enforce any lien thereon, created by law, \$5.00, with such additional compensation for his trouble and expenses in taking possession of and preserving the same as the officer issuing the warrant shall certify to be reasonable.

(20) For making and returning an inventory and appraisal to the appraisers, \$10.00 for each day actually employed, and \$5.00 for each half day; further, the court, by rule, may adjust a schedule fixing amount of appraisal fees where the statutory fee is deemed by said court to be inadequate; and for drafting the inventory, \$1.25 for each page and for copying the same, 10 cents for each page.

(21) For selling any ship, boat, or vessel, or the tackle, apparel or furniture thereof, so attached, and for advertising such sale, the same fees as for sales on executions.

(22) For giving notice for general or special election to the inspectors of the different townships and wards of his county, \$1.00 for each township or ward, and the ex-

penses of publishing such notices required by law, such fees and expenses to be paid by the county, as other contingent expenses thereof.

(23) For any services which may be rendered by a constable, the same fees as are allowed by law for such services to a constable.

(24) For attending the supreme court by the order of the court, \$10.00 for each day, to be allowed by the auditor general on the certificate of the clerks, and paid out of the state treasury, not taxable as costs.

(25) For attending a circuit court, by the order of the court, \$15.00 for each day, except in the county of Wayne; not taxable as costs.

(26) In the county of Wayne there shall be paid to the deputy sheriffs in actual attendance on the circuit court in the said county such compensation as shall be fixed by the board of supervisors in accordance with the county uniform salary plan to be allowed and paid as other contingent charges of the county are paid. The number of said deputies shall not exceed 2 for each judge of said circuit.

(27) For summoning grand or petit jurors to attend a circuit court, \$2.00 for each juror summoned, not taxable as costs.

(28) For serving a subpoena for witnesses, \$2.00 for each witness summoned and 15 cents for each mile actually traveled, in going only, but when 2 or more witnesses live in the same direction, traveling fees shall be charged only from the farthest.

(29) For keeping and providing for debtor in jail in all cases where the debtor is unable to support himself, \$1.00 for each day or such sum as shall be fixed by the board of supervisors, to be paid by the creditor each week, in advance, and which sum the creditor shall be entitled to recover from the debtor.

(30) For mileage on every execution collected, 15 cents per mile for going only, to be computed from the court house of his county.

(31) For selling lands on the foreclosure of a mortgage by advertisement; and executing a deed to the purchaser and for all services required on such sale, \$10.00.

(32) Any sheriff or other officer who shall demand or receive any greater fees or compensation for performing any of the services hereinbefore mentioned than as hereinbefore allowed, shall, in addition to all other liabilities now provided by law, be liable to the party injured, for paying such illegal fees, in 3 times the amount so demanded, received or paid, together with all costs of suit or prosecution.

(33) Any sheriff or other officer neglecting or refusing any of the services required by law, after the fees specified have been tendered, shall be liable to the party injured for all damages which he may sustain by reason of such neglect or refusal.

HISTORY: New 1961, p. 504, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 232, Act 170, Eff. Sep. 6.

600.2561 Coroners; compensation or fees.

Sec. 2561. Coroners shall be entitled to such compensation as shall be determined by the board of supervisors, or to the following fees:

(1) For all services rendered by them, the same fees as are herein allowed to sheriffs for similar services.

(2) For the view of a dead body, and for taking and returning an inquisition thereof, \$5.00.

(3) For traveling to the place of such view, 10 cents for each mile both ways.

(4) For every subpoena, warrant or venire for a jury, 25 cents.

(5) Swearing each witness, 10 cents; but the charges for swearing witnesses in any one case, shall not exceed 50 cents.

(6) For taking a recognizance, 25 cents.

(7) All the fees herein allowed to coroners, except for such services authorized to be

performed as sheriff as are not chargeable to the county, shall be allowed and paid by the proper county.

HISTORY: New 1961, p. 506, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 59, Act 73, Eff. Mar. 28, 1963.

600.2564 Fees of notaries public.

Sec. 2564. Notaries public shall be entitled to the following fees, which are not taxable as costs:

(1) For drawing and copy of protest of the nonpayment of a promissory note or bill of exchange, or of the nonacceptance of such bill, 50 cents, in cases where by law, such protest is necessary, but in no other case.

(2) For drawing and copy of every other protest, 25 cents.

(3) For drawing, copy, and serving every notice of nonpayment of a note, or nonacceptance of a bill, 25 cents.

(4) For drawing any affidavit, or other paper or proceeding, for which provision is not herein made, 20 cents for each folio, and for copying the same, 6 cents for each folio.

(5) For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services.

HISTORY: New 1961, p. 506, Act 236, Eff. Jan. 1, 1963.

600.2567 Fees of registers of deeds.

Sec. 2567. Registers of deeds shall be entitled to the following fees, which are not taxable as costs except as indicated:

(1) For entering and recording any deed, mortgage, certified copy of an attachment or other instrument, \$2.00 for the first page and \$1.00 for each additional and succeeding page. If the first page of any instrument exceeds 1,000 words, the fee for such page shall be \$4.00, and if any additional and succeeding page exceeds 1,000 words, the fee for such page shall be \$2.00; any document which assigns or discharges more than 1 instrument, 25 cents shall be added to the page price for each additional instrument so assigned or discharged; the fee to be paid when said deed, mortgage, certified copy of an attachment or other instrument is left for record.

(2) For copies of any records or papers, when required, \$1.00 per page, taxable as costs if otherwise allowed.

(3) Seal to exemplification, \$1.00.

(4) Searching the records and files in his office, 10 cents for each year for which searches shall be made, with a minimum of \$1.00.

(5) For recording every notice of the pendency of a suit, and entering the same, \$2.00 for the first page and \$1.00 for each additional and succeeding page.

(6) For filing every other paper, and making an entry thereof, when necessary, \$1.00, unless otherwise specifically provided for.

(7) Searching for every other paper, on request, 10 cents for each paper examined.

(8) The definition of a page shall be 1 side of a single sheet of paper not exceeding 8½ inches in width and 14 inches in length on which the printed or typed words shall not be smaller than 8-point type which shall be legible and on paper of not less than 13 (17 x 22—500) pound weight.

HISTORY: New 1961, p. 506, Act 236, Eff. Jan. 1, 1963; — Am. 1963, p. 418, Act 240, Eff. Sep. 6; — Am. 1964, p. 239, Act 179, Eff. Jan. 1, 1965.

600.2570 Fees of appraisers; mileage.

Sec. 2570. All appraisers of property taken on any writ of attachment, and sheriffs' aids in criminal cases or in the execution of legal process, where no express provision is made for compensation therefor, shall be entitled to \$5.00 for each day and \$2.50 for each half day for their services, and 6 cents a mile for travel in going and returning.

HISTORY: New 1961, p. 507, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22.

600.2573 Fees of circuit court commissioners; allowance to other persons.

Sec. 2573. Circuit court commissioners shall be entitled to the following fees:

(1) For issuing a summons, warrant or attachment, for a party or witness to attend before him, \$1.00.

(2) For adjourning a cause or proceeding assigned for hearing, \$1.00.

(3) For attending and hearing a motion for an injunction, habeas corpus, special motion, or any other matter referred to him, and making his decision and order on the same, \$5.00.

(4) For taking an account of what is due on every mortgage, and the security accompanying the same, if any, and making his report thereof to the court, \$10.00.

(5) For drawing every report, and all schedules to be thereto annexed, in pursuance of an order of reference to him, 25 cents for each folio; for copies of reports, and all other proceedings furnished on request, 15 cents for each folio.

(6) For examining into circumstances of sureties, and certifying his opinion to the court, \$4.00.

(7) For appointing any person to appear as next friend for an infant, \$1.00.

(8) For inspecting and examining an infant or infants who want guardians appointed, inquiring who are willing to become guardians and into their competency, the proposed security, and the competency thereof, and certifying the facts to the court, \$5.00—whether the same is for 1 or more infants in the same petition.

(9) For drawing every advertisement of public notice of the sale of property, to be sold by him, \$4.00.

(10) For posting notices of the sale of real estate, \$2.00, and in addition thereto, 10 cents a mile for traveling by the nearest traveled route.

(11) For attending at the time and place of sale, and adjourning the same, \$3.00; and 10 cents per mile, travel fees, both ways; for attending and making the sale, \$4.00, and 10 cents per mile travel fees, both ways.

(12) For executing the deed or deeds of real estate sold, \$4.00 for each deed necessarily made, and filing the same, 20 cents for each folio; for settling the form of a deed to be executed under his direction by a third person under a judgment or order, \$3.00.

(13) For superintending and certifying the payment of money, when paid under his direction by order, and having the same properly accepted, \$3.00.

(14) No fees are to be allowed for the payment of money arising from sales to a party in the suit or into court.

(15) For examining into the circumstances and sufficiency of sureties, in every bond of recognizance entered into before him, and approving or rejecting the same, \$2.00.

(16) For taxing every bill of costs, including the bill of the officers of the court, and reporting the amount taxed, \$2.00.

(17) For every notice to any party, officer or person, required by law to be given, 50 cents.

(18) For administering an oath, 75 cents.

(19) For certifying each exhibit shown to a witness, 50 cents.

(20) For signing a judgment, \$1.00.

- (21) For every precept for a jury, \$1.00.
- (22) For taking and reducing to form every recognizance entered into before him, \$1.00.
- (23) For drawing every complaint to obtain possession of premises, \$2.00.
- (24) For every order for a commission to take testimony, \$1.00; for settling and certifying interrogatories to be annexed to a commission, \$2.00.
- (25) For every deposition, for each day's attendance in taking testimony, \$6.00, taxable as costs only in accordance with subsection (1) of section 2549.
- (26) For presiding and conducting any trial by jury, receiving and entering the verdict or discharging the jury, or trying any issue in special proceedings without a jury, \$5.00 for each day while necessarily engaged in such trial.
- (27) For receiving and filing the petitions and accompanying papers of an insolvent debtor, \$1.00; for every order, certificate, warrant or appointment of assignees in such proceedings, \$2.00.
- (28) For deciding on the propriety [sic] of directing the assignment of the estate of an insolvent debtor, \$5.00.
- (29) For taking the acknowledgment of any conveyance or mortgage of real estate or other instrument which may be recorded, 50 cents for the first person acknowledging, and 25 cents for each additional person; and when the execution of any conveyance or mortgage of real estate or other instrument is proven by 2 witnesses, \$1.00.
- (30) For taking surrender of principal in any cause, \$1.00; for committing such principal, \$1.00.
- (31) For warrant of restitution to put any person or persons in possession of land or premises, \$2.00.
- (32) For making any order in any cause not herein specified, \$1.00.
- (33) For making return on appeal, \$3.00.
- (34) For all internal revenue stamps necessarily used in any case he shall be allowed and paid the actual cost of such stamps.
- (35) When a commissioner is authorized to advertise in a newspaper, property for sale, or for parties to appear before him to prove debts or exhibit claims, he shall be allowed therefor the legal rates of advertising in such papers, what he shall legally pay.
- (36) When money is ordered to be put out by a commissioner, and when an estate is sold by a commissioner, under an order on them, the commissioner shall be allowed all necessary disbursements actually paid by him, and such further allowance by way of commission as the court shall direct, after notice thereof to the party to be charged therewith, but this shall not be construed to apply to sales of mortgaged premises.
- (37) When a commissioner shall take an account of an estate, or of any administration thereof, or any account between parties in trade, or shall take any other account (except upon mortgage), under judgment or order not included in the foregoing provisions, or when extra services shall be rendered by a commissioner in taking or stating an account, the court may make such further allowance beyond the fees herein specified as under the circumstances may be just and reasonable, upon the notice of the party to be charged therewith.
- (38) When any other person is authorized to perform any of the duties hereinbefore mentioned to be done or performed by a circuit court commissioner, such person shall be entitled to and receive the same fees as are hereinbefore allowed to circuit court commissioners for like services.
- (39) Said commissioner shall have no fees for any services not herein specified.

HISTORY: New 1961, p. 507, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 339, Act 244, Eff. Aug. 28.

600.2576 Counties over 1,000,000; proceedings relating to realty; fees; dispositions.

Sec. 2576. (1) Before any action or proceeding for the recovery of possession of lands and buildings shall be commenced before referees, in counties having a population of 1,000,000 or more, there shall be paid to the clerk of the referees, by the party bringing the same the sum of \$8.00, if there is only 1 defendant to said action or proceeding. Should there be more than 1 defendant to such action or proceeding, the party bringing the same shall pay to the clerk an additional sum of \$5.00 for each additional defendant. Of the fees so collected the sum of 50 cents for each defendant shall be paid by the clerk to the Wayne county retirement system to be credited to the circuit court referees bailiffs' retirement fund.

(2) The bailiff serving the summons in said action or proceeding shall receive for his services the sum of \$4.50 for each defendant served.

(3) A fee in the amount of \$8.00 shall be paid to the clerk of said commissioners for the issuance of a writ of restitution on the consummation of any action or proceeding before a circuit court commissioner. The bailiff serving said writ of restitution shall receive for his services the sum of \$4.50.

(4) A fee in the amount of \$2.00 shall be paid to the clerk of said commissioners upon the institution of proceedings under RJA chapter 61 for hearing and examination before a circuit court commissioner, and application for dissolution of attachment and also upon the filing of a demand for the examination of a garnishee defendant before a circuit court commissioner.

(5) Before any affidavit on appeal shall be served on a commissioner, in addition to the costs now provided by law for making returns to appeals, the further sum of \$4.00 shall be paid to said clerk by the appellant or plaintiff in error, and the clerk therewith shall pay the entry fee in the circuit court and at the same time file therein the return to the appeal.

(6) The moneys so paid shall be for the use of the county and shall be held in full of all fees now allowed by law to said commissioners, from the commencement of such proceeding to and including the issuing of such final process as may be necessary to give effect to an order or judgment of such commissioner.

(7) The sum or sums so paid, including jury fees, shall be taxed as costs of suit in favor of the party paying the same if he is the prevailing party in the action in addition to any other to which he may be entitled by law.

HISTORY: New 1961, p. 508, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 288, Act 196, Eff. Sep. 6;—Am. 1969, p. 490, Act 259, Imd. Eff. Aug. 11.

600.2579 Supreme court crier; fees.

Sec. 2579. For the service of all orders, processes or writs issued from the supreme court, the supreme court crier shall collect for such service the fees allowed by law to sheriffs. Any and all fees collected by the crier shall be paid into the state treasury to be credited to the general fund.

HISTORY: New 1961, p. 509, Act 236, Eff. Jan. 1, 1963.

600.2582 Service on corporation and securities commission; fee.

Sec. 2582. If service on a corporation is made by service on the corporation and securities commission, there shall be paid to the corporation and securities commission at the time of such service a fee of \$3.00, which sum may be taxed as costs to the plaintiff, in case he prevails in the proceedings.

HISTORY: New 1961, p. 509, Act 236, Eff. Jan. 1, 1963.

CHAPTER 26.

BONDS

600.2601 Bonds; form.

Sec. 2601. (1) Whenever a bond is required by law to be given by any person in order to entitle him to any right or privilege conferred by law or to commence any proceeding, it is not necessary that the bond conform in all respects to the form prescribed by the statute. It is sufficient if it substantially conforms to the form prescribed by the statute and does not vary so as to prejudice the rights of the party to whom or for whose benefit the bond is given.

Defective bond, amendment; new bond.

(2) Whenever a bond defective in any respect has been or is given, the court, officer, or body that would be authorized to receive the bond or to entertain any proceeding in consequence of the bond if it were perfect may amend the bond in any respect upon the application of the obligors of the bond or may allow a new bond bearing the date at which the earlier bond was required to be given to be substituted in the place of the defective bond upon the application of the person required to give the bond. The new bond shall then be deemed valid from the date of the execution of the earlier bond. When application is made to amend, the court, officer, or body is not limited to the particular amendment applied for but has power to amend the bond in any respect so as to make the defective bond meet the requirements that existed at the time it was given. When a new bond is allowed, it shall be substantially the same as might have been demanded when the defective bond was given.

HISTORY: New 1961, p. 509, Act 236, Eff. Jan. 1, 1963.

600.2605 Stay of proceedings without bond; conditions.

Sec. 2605. If the party applying for a stay of proceedings is unable to give a stay bond by reason of poverty, the judge may, upon due proof of inability for such reason, grant such stay without requiring such bond upon such conditions and for such reasonable time as the judge may determine.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2611 Bond not required of state or municipal corporation; appeal.

Sec. 2611. In any suit or proceeding in which the state, or any state officer duly authorized for that purpose, or any corporate body in charge of any state institution, or any municipal corporation, is a party, no bond shall be required to be given by any such party as a prerequisite to the taking of an appeal, or the making of an order staying proceedings.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2615 Bond not required of state or municipal corporation; process.

Sec. 2615. No bond, obligation, or security may be required of the state of Michigan, or of any of its departments, institutions or subdivisions in any action instituted by or in which the state of Michigan or any of its departments, institutions or subdivisions is a party, or for the issuance of any warrant or levying of any execution on behalf of said parties.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2621 Single corporate surety; sufficiency.

Sec. 2621. Unless otherwise expressly provided, a statute requiring a bond with 2 sureties on the bond may be satisfied by having, as surety on the bond, a single corporate surety authorized to transact such business in this state.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2625 Oath to sureties or bail.

Sec. 2625. Whenever any officer is authorized to take any sureties or bail, he is authorized to administer an oath to every person who is offered as such bail or surety, to ascertain his sufficiency.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2631 Cash or securities in lieu of bail or bond; deposit, receipts, discharge, interest, substitution.

Sec. 2631. In any civil cause, action, proceeding or matter before any court, board or commission in this state or upon appeal from any action of any such court, board or commission, in any civil cause, action, proceeding or matter where bond or bail of any character is required or permitted for any purpose, it shall be lawful for the party or parties required or permitted to furnish such bail or bond to deposit, in lieu thereof, in the same manner herein provided for, cash, satisfactory municipal bonds negotiable by delivery, a certified check or certified checks on any state or national bank within this country payable to the officer with whom such check is filed, or obligation of the United States government negotiable by delivery, equal in amount to the amount of the bond or bail so required or permitted.

(1) Any person, firm or corporation desiring to avail himself of the provisions of this section shall deposit or cause to be deposited such cash or securities with the county, city, village or township treasurer of county, city, village or township within which the bond or bail is to be furnished or, in any case, with the state treasurer.

(2) Such treasurer, upon tender to him, shall accept such cash or securities and shall deliver to the depositor a duplicate receipt reciting the fact of such deposit.

(3) If such bond or bail is required after the office hours of any such treasurer with whom it is desired to file such cash or securities, the deposit may be made with the chief clerk of such court, board or commission or with the sheriff of the county or the deputy in charge of the county jail or the sheriff's office, who shall accept the same, giving duplicate receipts therefor, and cause such security to be delivered to the proper treasurer as above provided for within 48 hours thereafter.

(4) The filing of 1 of such duplicate receipts with the court, board or commission with which such bond or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond or bail and shall be taken and accepted by such court, board or commission or by its chief clerk in lieu of such bond or bail.

(5) If such bond or security be discharged, an order to that effect shall be entered upon the records of the court, board or commission with a statement of the amount to be returned to the person making the deposit. Upon presentation to him of a copy of such order, duly certified by the chief clerk of the court, board or commission making the same, the proper treasurer shall pay to the person named therein or to his order the amount specified or shall return the securities as the case may be. If the bond or security be forfeited, an order to that effect shall be entered upon the records of the court, board or commission, and upon presentation to him of a copy of such order, certified by the chief clerk of the court, board or commission making the same, the treasurer shall make such disposition of the security as such order shall provide for. Money or securities deposited hereunder shall not be subject to garnishment. In case such cash or security is still in the hands of the clerk of such court, board or commission at the time the same is declared discharged or forfeited, the clerk shall make the same disposition of such security as the treasurer would be required to make in similar circumstances. Whenever the order of the court, board or commission requires or contemplates the same, the treasurer or clerk shall endorse to the proper party any certified check deposited with him as security.

(6) Any cash or securities received by any treasurer under the provisions of this section shall be deposited in a special fund or place of deposit subject to the order of the proper court, board or commission. Any interest accumulating upon such fund shall be paid into the general fund or corresponding fund of the state, county, city, village or township according to the nature of the case or in accordance with the order of the proper court, board or commission. When bonds or other securities are deposited the interest coupons shall not be detached therefrom but shall follow the disposition of the securities.

(7) Any person, firm or corporation, availing themselves of the provisions of this section may, at any time, before forfeiture of the same, redeem any cash or securities so deposited by substituting the bond originally required or permitted.

HISTORY: New 1961, p. 510, Act 236, Eff. Jan. 1, 1963.

600.2641 Change in parties; effect, new bonds.

Sec. 2641. No change in parties, made by order of court, shall impair any previous attachment of the estate of any person remaining a defendant in the action; nor impair bonds or recognizances of any person remaining a party either as against himself or his sureties; nor impair receipts to an officer for property attached; and, when parties are changed, the court may order new bonds if such new bonds are deemed necessary.

HISTORY: New 1961, p. 511, Act 236, Eff. Jan. 1, 1963.

600.2645 Liability of officer if sureties insufficient; recovery of penalty by state or county.

Sec. 2645. (1) If on the return of an execution, duly issued upon any judgment obtained on a bond, it appears that the sureties taken therein were insufficient at the time of taking, and that the officer receiving them had reasonable ground to doubt their sufficiency, or failed to comply with the rules of the supreme court in receiving the bond, the officer is liable to the party aggrieved for the amount of the judgment recovered by him, and for his costs and expenses in such suit.

(2) If such suit was brought by the attorney general or a prosecuting attorney, an action may in like manner be brought by them, in the name of the people of this state, for the amount of the judgment so recovered. The penalty recovered shall be paid into the treasury of the county in which the bond was taken, to the credit of the general fund.

HISTORY: New 1961, p. 511, Act 236, Eff. Jan. 1, 1963.

600.2651 Joint defendants; appeal bond; judgment against sureties.

Sec. 2651. If the defendants, or any 2 or more of them, have taken any cause where they are joint defendants by appeal to any court, and have filed a bond on appeal and on the trial or hearing in the higher court, a verdict, finding, opinion or judgment is rendered for 1 or more of such defendants so appealing, the surety or sureties on such appeal bond shall not be released from his or their liability on such bond by reason of such action, but judgment may be entered against said surety or sureties as well as against the defendant or defendants held liable.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963.

600.2655 Security for costs; judgment against surety.

Sec. 2655. Whenever any person becomes security for costs for another, in any court in this state, whether such security is required by law to be given, or is required by order of the court, in case the opposite party in any such action recovers final judgment for costs against the principal, thereupon judgment or decree may immediately

be entered, as well against such surety as against such principal, and execution may issue against such surety, in the same manner as if he had been himself a party to such suit.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963.

600.2661 Actions on probate bonds.

Sec. 2661. All actions may be commenced in this state by order of a probate court, upon any bond required by law to be filed with such court.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963.

600.2665 Attorney not to post bond or bail; probate fiduciary.

Sec. 2665. No practicing attorney or counselor shall become a surety or post bond for any client in criminal or civil matters. This section shall not apply to any bond of \$100.00 or less required to be filed by a fiduciary in the probate court.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 21, Act 16, Eff. Aug. 28.

CHAPTER 27.

NOTICE LIS PENDENS

600.2701 Notice lis pendens; recording, copy as evidence.

Sec. 2701. (1) To render the filing of a complaint constructive notice to a purchaser of any real estate, the plaintiff shall file for record, with the register of deeds of the county in which the lands to be affected by such constructive notice are situated, a notice of the pendency of such action, setting forth the title of the cause, and the general object thereof, together with a description of the lands to be affected thereby.

(2) Such a notice may be filed with the complaint before the service of the summons; but, in that case, personal or substituted service of the summons must be made upon a defendant, within 60 days after the filing, or else, before the expiration of the same time, publication must be commenced, or service thereof must be made without the state, as prescribed by law. If the defendant dies within 60 days after the filing of the notice and before commencement or completion of service of the summons, the summons may be served upon the person substituted for the defendant within 60 days after such substitution.

(3) The register of deeds shall record such notice, in a book kept for that purpose, upon the payment of the fee as is provided by law. A copy of such record, authenticated by the register of deeds, is evidence of such notice, and the recording of the same, in all courts and places.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963.

CITED IN OTHER SECTIONS: The above section is cited in § 564.405.

600.2711 Notice lis pendens; filing by defendant.

Sec. 2711. Where a defendant sets up in his answer a counterclaim, upon which he demands an affirmative judgment affecting the title to, or the possession, use or enjoyment of real property, he may file for record a like notice at the time of filing his answer or at any time afterwards before final judgment. For these purposes, the defendant filing such a notice is regarded as a plaintiff and the plaintiff is regarded as a defendant.

HISTORY: New 1961, p. 512, Act 236, Eff. Jan. 1, 1963.

600.2715 Notice lis pendens; duration, extension.

Sec. 2715. (1) A notice of pendency hereafter filed for record shall be effective as notice for a period of 3 years from the date of filing. Before the expiration of the period, the court upon application of the plaintiff and upon such notice as may be directed or approved by the court, and for good cause shown, may from time to time grant additional orders each extending the period of duration of the notice of pendency for a period of not more than 3 years. If extended, a copy of the notice stating

the date of filing of the immediately preceding notice, and stamped or marked "extended", shall be filed for record, recorded and indexed prior to the expiration of the notice of pendency then in force in the manner prescribed in this chapter.

(2) A notice of pendency heretofore filed shall be effective for a period of 3 years from the effective date of this act, and shall be subject to extension as herein prescribed.

HISTORY: New 1961, p. 513, Act 236, Eff. Jan. 1, 1963.

600.2721 Notice lis pendens; index by register of deeds.

Sec. 2721. Each register of deeds shall enter in an index to be kept in his office, such references to the said notices, as will enable all persons interested to search his office for such notices without inconvenience.

HISTORY: New 1961, p. 513, Act 236, Eff. Jan. 1, 1963.

600.2725 Notice lis pendens; cancellation, costs.

Sec. 2725. (1) If a plaintiff filing the notice before the service of the summons fails to serve the same within the time prescribed in this chapter, or after the action is settled, discontinued or abated, or final judgment is rendered therein against the party filing the notice, and the time to appeal therefrom has expired, the court, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, shall direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(2) If a plaintiff filing the notice unreasonably neglects to proceed in the action, or does not commence or prosecute the action in good faith, the court, in its discretion, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, may direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(3) The cancellation shall be made by a note to that effect, on the margin of the record, referring to the order. A certified copy of the order shall be filed for record with the register of deeds before the notice is canceled.

(4) The court, in its discretion, upon directing cancellation of the notice upon termination of the action, or during the pendency thereof if satisfied that the plaintiff who filed the notice unreasonably neglected to proceed in the action or did not commence or prosecute the same in good faith, may direct the plaintiff to pay all or any of the costs and expenses occasioned by filing the notice and the cancellation of the record, aside from the costs of the action itself.

HISTORY: New 1961, p. 513, Act 236, Eff. Jan. 1, 1963.

600.2731 Notice lis pendens; cancellation, bond.

Sec. 2731. (1) In any pending or future action, other than an action to foreclose a mortgage or for the partition of real property or for dower, in which a notice of the pendency thereof has been filed and in which it appears to the court that adequate relief can be secured to the party who filed the same by the giving of a bond, where the cancellation of such notice is not otherwise expressly provided for or regulated, any person having an interest in the property affected by the action may apply for the cancellation thereof upon notice to all the parties to the action and to such other persons as the court may direct.

(2) The court in which the action is pending may make an order for the bond upon such terms as to costs or otherwise as may seem just. The discretion vested in the court by this section may be exercised in any such action, notwithstanding the same may

have been brought to recover a judgment affecting the title to, or the possession, use or enjoyment, of specific real property.

(3) Upon an application as provided in subdivision (1) for cancellation of the notice of pendency, made in any pending or future action for specific performance of a contract to convey real property, whether or not the court determines that adequate relief can be secured to the party filing the notice of pendency by the giving of a bond, the court may order that the notice be canceled, upon the giving of a bond by the applicant upon terms fixed in the order, as provided in subdivision (2), unless the person filing the notice of pendency gives a bond, upon terms to be fixed by the order.

(4) The bond shall be in an amount which the court, upon consideration of the affidavits submitted upon the application, deems sufficient to indemnify the applicant for the damages he may incur if the notice of pendency is not canceled.

(5) The order shall provide that upon failure of the person filing the notice of pendency to give a bond in accordance with the order, the notice of pendency shall be canceled upon the giving of a bond by the applicant, as provided therein.

(6) Where the person who filed the notice of pendency has given a bond as provided in the order, recovery may be had upon the bond without further leave of the court, upon the discontinuance or abatement of the action, or the cancellation of the notice of pendency because of the neglect of such person to proceed in the action, or upon final judgment against him. The recovery may be obtained by a separate civil action, or by motion in the action as to which the notice was filed.

HISTORY: New 1961, p. 513, Act 236, Eff. Jan. 1, 1963.

600.2735 Notice lis pendens; suits in federal courts.

Sec. 2735. (1) This chapter applies to suits affecting title to real property in the federal courts.

(2) The register of deeds shall file and index notices of the pendency of actions in the federal courts as prescribed herein.

(3) If a suit is removed to a federal court, or remanded to a state court, no additional notice need be filed; the notice filed in the action prior to removal or remand remains in effect.

HISTORY: New 1961, p. 514, Act 236, Eff. Jan. 1, 1963.

CHAPTER 29.

PROVISIONS CONCERNING SPECIFIC ACTIONS

600.2901 Actions abolished; alienation of affections, criminal conversation, seduction, breach of contract to marry.

Sec. 2901. The following causes of action are abolished:

(1) alienation of the affections of any person, animal, or thing capable of feeling affection, whatsoever;

(2) criminal conversation;

(3) seduction of any person of the age of 18 years or more;

(4) breach of contract to marry.

HISTORY: New 1961, p. 514, Act 236, Eff. Jan. 1, 1963.

600.2902 Actions abolished; certain real actions.

Sec. 2902. All writs of right, writs of dower, writs of entry, and writs of assize, all fines and common recoveries, and all other real actions known to the common law, not enumerated and retained in this act, and all writs and other processes heretofore used in real actions, which are not specifically retained in this act, are abolished.

HISTORY: New 1961, p. 514, Act 236, Eff. Jan. 1, 1963.

600.2903 Judgment in tort; renewal; continuance of remedies.

Sec. 2903. Any judgment in tort heretofore or hereafter rendered and of record in any court of record in this state may be sued on and renewed, within the time and as provided by law, and such renewal judgment or judgments, when obtained, shall likewise be in tort and have the same attributes as the original tort judgment or judgments, with all the rights and remedies of tort judgments attaching thereto.

HISTORY: New 1961, p. 514, Act 236, Eff. Jan. 1, 1963.

600.2904 Repealed. 1964, p. 225, Act 170, Eff. Jul. 1, 1965.

Section abolished governmental immunity of political subdivisions in actions arising out of operation of motor vehicles, and provided for payment of premiums on liability insurance.

600.2905 Civil actions by state; laws applicable.

Sec. 2905. Every suit or proceeding in a civil cause instituted in the name of the people of this state, by any public officer duly authorized for that purpose, is subject to all the provisions of law respecting similar suits or proceedings, when instituted by or in the name of any citizen, except where provision is or shall be otherwise expressly made by statute.

HISTORY: New 1961, p. 515, Act 236, Eff. Jan. 1, 1963.

600.2906 Confession of judgment.

Sec. 2906. Judgments may be entered in any circuit court at any time, upon a plea of confession, signed by an attorney of such court, although there is no suit then pending between the parties, if the following provisions are complied with, and not otherwise:

(1) The authority for confessing such judgment shall be in some proper instrument, distinct from that containing the bond, contract or other evidence of the demand for which such judgment was confessed;

(2) Such authority shall be produced to the officer signing each judgment, and shall be filed with the clerk of the court in which the judgment shall be entered, at the time of the filing and docketing of such judgment.

HISTORY: New 1961, p. 515, Act 236, Eff. Jan. 1, 1963.

600.2907 Malicious prosecution or action; civil liability, penalty.

Sec. 2907. Every person who shall, for vexation and trouble or maliciously, cause or procure any other to be arrested, attached, or in any way proceeded against, by any process or civil or criminal action, or in any other manner prescribed by law, to answer to the suit or prosecution of any person, without the consent of such person, or where there is no such person known, shall be liable to the person so arrested, attached or proceeded against, in treble the amount of the damages and expenses which, by any verdict, shall be found to have been sustained and incurred by him; and shall be liable to the person in whose name such arrest or proceeding was had in the sum of \$200.00 damages, and shall be deemed guilty of a misdemeanor, punishable on conviction by imprisonment in the county jail for a term not exceeding 6 months.

HISTORY: New 1961, p. 515, Act 236, Eff. Jan. 1, 1963.

600.2908 Labor claims against corporation; action against stockholders.

Sec. 2908. A civil action may be maintained against any or all of the stockholders of a corporation or joint stock association, on their individual liability, for labor performed for the corporation or association if an execution against the corporation is returned unsatisfied, in whole or in part, or if the corporation is adjudicated bankrupt.

HISTORY: New 1961, p. 515, Act 236, Eff. Jan. 1, 1963.

600.2909 Stockholders, individual liability for corporate debts; enforcement; labor debts.

Sec. 2909. Whenever any stockholders are individually liable for the debts of a corporation the remedy for the enforcement of their liability shall be as prescribed by the court rules and not otherwise. This section does not apply to actions for labor performed when the action is brought by the person who performed the labor or his assignees.

HISTORY: New 1961, p. 516, Act 236, Eff. Jan. 1, 1963.

600.2910 Action for seduction.

Sec. 2910. Actions for seduction are subject to the following provisions and limitations:

(1) In any action for seduction it is necessary to allege and prove that the female seduced was not 18 years of age or over at the time of the seduction.

(2) In any action for seduction it is not necessary to allege or prove any loss of services in consequence of the seduction.

(3) An action for seduction may be brought by the seduced female's mother, father, or guardian.

HISTORY: New 1961, p. 516, Act 236, Eff. Jan. 1, 1963.

600.2911 Imputation of unchastity.

Sec. 2911. (1) Words imputing a lack of chastity to any female are actionable in themselves and subject the person who uttered or published them to a civil action for the slander in the same manner as the uttering or publishing of words imputing the commission of a criminal offense.

Libel or slander; damages, actual, exemplary, retraction.

(2) (a) Except as provided in (b), in actions based on libel or slander the plaintiff is entitled to recover only for the actual damages which he has suffered in respect to his property, business, trade, profession, occupation, or feelings.

(b) Exemplary and punitive damages shall not be recovered in actions for libel unless the plaintiff, before instituting his action, gives notice to the defendant to publish a retraction and allows a reasonable time to do so, and proof of the publication or correction shall be admissible in evidence under a denial on the question of the good faith of the defendant, and in mitigation and reduction of exemplary or punitive damages. The retraction shall be published in the same size type, in the same editions and as far as practicable, in substantially the same position as the original libel.

Same; justification; newspaper's fair report of public proceeding, privilege.

(3) If the defendant in any action for slander or libel gives notice in his justification that the words spoken or published were true, this notice shall not be of itself proof of the malice charged in the complaint though not sustained by the evidence. In any action for slander or for publishing a libel even though the defendant has pleaded or attempted to prove a justification he may prove mitigating circumstances including the sources of his information and the ground for his belief. No damages shall be awarded in any libel action brought against a reporter, editor, publisher, or proprietor of a newspaper for the publication in it of a fair and true report of any public and official proceeding, or for any heading of the report which is a fair and true headnote of the article published. This privilege shall not apply to a libel which is contained in any matter added by any person concerned in the publication or contained in the report of anything said or done at the time and place of the public and official proceeding which was not a part of the public and official proceeding.

Same; contribution from persons jointly responsible; exception as to sellers; author's liability to printer or publisher.

(4) Any person or persons against whom a judgment is recovered for damages arising out of the authorship or publication of a libel is entitled to recover contribution in a civil action from all persons who were originally jointly liable for the libel with the defendant or defendants, whether joined as defendants or not, to the same extent as and with the same effect that joint sureties are liable to contribute to each other in cases where they are sureties on the same contract. Where the libel has been published in any newspaper, magazine, or other periodical publication the servants and agents of the publisher of the periodical, and the news agents and other persons who have been connected with the libel only by selling or distributing the publication containing the libel and who have not acted maliciously in selling or publishing the libel, shall not be required to contribute and shall not be taken into account in determining the amount that any joint tortfeasor is required to contribute under the provisions of this section. And if the author of the libel acted maliciously in composing or securing the printing or the publication of the libel and the printer, publisher, or distributor of the libel acted in good faith and without malice in printing and publishing the libel the author of the libel is liable in a civil action to that printer, publisher, or distributor for the entire amount of the damages which are recovered against and paid by that printer, publisher, or distributor.

Previous judgment for plaintiff.

(5) In actions brought for the recovery of damages for libel in this state, it is competent for the defendant or defendants in such action to show in evidence upon the trial of such action that the plaintiff in such action has heretofore recovered a judgment or judgments for damages in an action or actions for libel or libels to the same, or substantially the same purport or effect as the libel for the recovery of damages for which such action has been brought, or that the plaintiff in such action has heretofore brought an action or actions for such libel or has received or agreed to receive compensation for such a libel.

HISTORY: New 1961, p. 516, Act 236, Eff. Jan. 1, 1963.

600.2912 Actions for malpractice; member of state licensed profession.

Sec. 2912. (1) A civil action for malpractice may be maintained against any person professing or holding himself out to be a member of a state licensed profession. The rules of the common law applicable to actions against members of a state licensed profession, for malpractice, are applicable against any person who holds himself out to be a member of a state licensed profession.

(2) Malpractice may be given in evidence in defense to any action for services rendered by the member of a state licensed profession, or person holding himself out to be a member of a state licensed profession.

HISTORY: New 1961, p. 517, Act 236, Eff. Jan. 1, 1963.

600.2913 Malicious or wilful destruction by minors; recovery of damages from parents.

Sec. 2913. (1) Any municipal corporation, county, township, village, school district, department of the state of Michigan, person, partnership, corporation, association, or any incorporated or unincorporated religious organization may recover damages in an amount not to exceed \$1,500.00 in a civil action in a court of competent jurisdiction against the parents or parent of any unemancipated minor under 18 years of age, living with his parents or parent, who has maliciously or wilfully destroyed real, personal or mixed property which belongs to the municipal corporation, county, township, village, school district, department of the state of Michigan, person, partnership, corpo-

ration, association, or any religious organization incorporated or unincorporated or who has maliciously or wilfully caused bodily harm or injury to any person.

HISTORY: New 1961, p. 517, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 19, Act 23, Eff. Mar. 28, 1963;—Am. 1967, p. 246, Act 184, Eff. Jul. 1, 1968.

600.2914 Discharge in bankruptcy; cancellation of judgment, procedure.

Sec. 2914. After a bankrupt has been discharged from his debts pursuant to the federal laws relating to bankruptcy, the bankrupt, his receiver, his trustee, or any other interested person or corporation may apply to have a judgment debt canceled and discharged of record upon proof of the bankrupt's discharge. Application for equitable relief shall be made to the court in which the judgment was rendered against the bankrupt, or if it was rendered in a court not of record, application shall be made to the court in which it became a judgment by docketing. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which that judgment was recovered, an order shall be made directing that the judgment be canceled and discharged of record. This order shall recite that the judgment is canceled and discharged because of the bankrupt's discharge in bankruptcy. The clerk of the court shall then discharge the judgment by marking on the docket that the judgment is canceled and discharged by order of the court because of the defendant's discharge in bankruptcy, and the clerk shall mark the date and entry of the order of discharge.

Notice to judgment creditor.

(1) Notice of the application, accompanied by copies of the papers on which it is based, must be served on the judgment creditor or his attorney of record in the judgment, if the residence or place of business of either the creditor or his attorney of record is known, at least 30 days prior to the date of the hearing of the application. Upon proof by affidavit that the residences and places of business of both are unknown and after due diligence cannot be ascertained or upon proof by affidavit that the creditor is not a resident of this state and his attorney is dead or removed from this state or cannot be found within this state, the judge of the court before which the application is pending may make an order that the notice of the application be published once a week for 3 successive weeks in the newspaper that he shall designate. This publication shown by affidavit of the publisher shall be sufficient service of the application upon the judgment creditor.

Judgments from other states.

(2) No action or proceeding shall be prosecuted in any of the courts of this state to enforce any judgment rendered in any court of any other state of the United States which would be subject to cancellation and discharge under the provisions of this section had the judgment been rendered by a court of this state.

Judgment, definition.

(3) The word judgment as used in this section is here defined to include any decree or order for the payment of money dischargeable pursuant to the federal law relating to bankruptcy.

Judgments in cases arising under vehicle code.

(4) Nothing contained in this section shall be deemed to supersede or abrogate the provisions of section 513 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.513 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 517, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 399, Act 187, Imd. Eff. May 24.

600.2915 Actions for taxes due other states; reciprocity.

Sec. 2915. Any state of the United States of America or any political subdivision of any state of the United States has the right to sue in the courts of Michigan to recover any tax which may be owing it, whether or not the tax has been reduced to judgment,

when the like right is accorded to the state of Michigan and its political subdivisions by that state, whether the right is granted by statutory authority or as a matter of comity. The attorney general and the appropriate legal officers of the political subdivisions of this state are empowered to bring actions in the courts of other states to collect taxes legally due this state or its political subdivisions.

HISTORY: New 1961, p. 518, Act 236, Eff. Jan. 1, 1963.

600.2916 Lethal gases for fumigation; liability, damages.

Sec. 2916. (1) Any person who uses any substance which, by itself or in combination with any other substance, emits or liberates a gas, fume or vapor, which gas, fume, vapor or substances when liberated and used for the destruction or control of insects, termites, vermin, rodents, or other structural pests, is lethal, poisonous, noxious or dangerous to human life, in violation of the provisions of this section, is liable to any person or persons injured or killed for damages to be recovered in an action by such person or the estate of such person. The amount of damages shall be determined by a jury as in other cases, or by the court in case a jury is waived by the parties.

Means of ingress, locking, posting, permission to enter.

(2) Any person who uses any of the substances outlined in (1) of this section shall lock all means of ingress to the building or structure in which such substance has been used for a period of not less than 12 hours, and shall post such means of ingress with a visible warning notice stating that poisonous substances have been used and no entrance in the building shall be made without the written permission of the county sheriff or of the police or fire authorities of the city, village or township in which the building is situated for at least 48 hours from the time of using such poisonous substances.

Notice to sheriff or police and fire authorities.

(3) Any person using any substance outlined in (1) of this section shall notify the county sheriff or the police and fire authorities of the city, village or township in which the building or structure is situated that such substance has been used in the building, that the proper warning notices have been placed at all means of ingress in the building or structure, and that entrance into the building or structure is dangerous to human life for at least 48 hours, and such person is responsible for inspection of such building or structure at the end of the 48-hour period to determine the suitability for human habitation.

Penalty.

(4) Any person who violates the provisions of this section, in addition to civil liability for damages, is guilty of a felony and, upon conviction thereof, shall be punished as provided in the laws of this state.

HISTORY: New 1961, p. 518, Act 236, Eff. Jan. 1, 1963.

600.2917 Suspected shoplifting; probable cause as defense in civil action.

Sec. 2917. In any civil action against a merchant, his or its agent, for false imprisonment, unlawful arrest, assault, battery, libel or slander, if the claim arose out of conduct involving a person suspected of removing or of attempting to remove from a store without right or permission goods held for sale therein, where the merchant, his or its agent had probable cause for believing and did believe that the plaintiff had committed or aided or abetted in the larceny of goods held for sale in the store, no damages for or resulting from mental anguish and no punitive, exemplary or aggravated damages shall be allowed a plaintiff, excepting when it is proved that the merchant, or his

or its agent used unreasonable force or detained plaintiff an unreasonable length of time or acted with unreasonable disregard of plaintiff's rights or sensibilities or acted with intent to injure plaintiff.

HISTORY: New 1961, p. 519, Act 236, Eff. Jan. 1, 1963.

600.2918 Ejection or detainer; treble damages.

Sec. 2918. Any person who is ejected or put out of any lands or tenements in a forcible and unlawful manner, or being out is afterwards held and kept out by force, if he prevails, is entitled to recover 3 times the amount of his actual damages in addition to recovering possession.

HISTORY: New 1961, p. 519, Act 236, Eff. Jan. 1, 1963.

600.2919 Damage to land; treble damages, single damages.

Sec. 2919. (1) Any person who:

(a) cuts down or carries off any wood, underwood, trees, or timber or despoils or injures any trees on another's lands, or

(b) digs up or carries away stone, ore, gravel, clay, sand, turf, or mould or any root, fruit, or plant from another's lands, or

(c) cuts down or carries away any grass, hay, or any kind of grain from another's lands

without the permission of the owner of the lands, or on the lands or commons of any city, township, village, or other public corporation without license to do so, is liable to the owner of the land or the public corporation for 3 times the amount of actual damages. If upon the trial of an action under this provision or any other action for trespass on lands it appears that the trespass was casual and involuntary, or that the defendant had probable cause to believe that the land on which the trespass was committed was his own, or that the wood, trees, or timber taken were taken for the purpose of making or repairing any public road or bridge judgment shall be given for the amount of single damages only.

Same; waste by holder of present estate, double damages.

(2) (a) Any guardian, tenant in dower, life tenant, or tenant for years who commits or suffers any waste, during his term or estate, to the lands, tenements or hereditaments, without having a lawful license to do so, is liable for double the amount of actual damages. Any joint tenant or tenant in common who commits or suffers waste of the lands, tenements, or hereditaments held in joint tenancy, without having a lawful license in writing to do so, is liable for double the amount of actual damages at the suit of his cotenant.

(b) A claim under this provision may be brought by the person having the next immediate estate, in fee, for life, or for years or by any person who has the remainder or reversion in fee or for life after an intervening estate for life or for years; and each of the parties shall recover damages according to his estate in the premises. A joint tenant or tenant in common may bring the claim in case of waste by one of his joint tenants or tenants in common. An heir, whether of full age or not, after coming into possession of his inheritance, may maintain a claim for waste done in the time of his ancestor as well as in his own time, unless recovery has been had by the executor or administrator of the ancestor. A tenant who assigns his full interest is not liable for waste done or suffered by his assignees while he remains out of possession of the premises.

Same; threatened waste, injunction, damages.

(3) (a) The circuit court shall grant injunctions to stay and prevent threatened trespass when the remedies provided by subsection (1), above, are not fully adequate and in any case where the trespass is of a continuing nature.

(b) In any case where there is not a plain, adequate, and complete remedy provided for waste by subsection (2), above, or where waste is threatened the circuit court may grant injunctions to stay and prevent waste.

(c) Having taken jurisdiction of the case the circuit court may at the same time dispose of all questions involved, including the assessing and awarding of money damages.

Same; waste after commencement of action, restraining order, contempt.

(4) After the commencement of any action based on a claim for damages for waste, or for the recovery of land, or for the possession of land the defendant shall not make any waste of the land in demand or premises in question during the pendency of the action. If the defendant commits, threatens to commit, or makes preparations to commit waste the court in which the action is pending or any circuit judge or circuit court commissioner may make, on the application of the plaintiff, an order restraining the defendant from the commission of any waste or further waste of the land in demand or premises in question. Any person violating the terms of any such order is guilty of a contempt of the court in which the action is pending, which is punishable as other cases of contempt.

Same; waste on land under levy, restraining order, contempt.

(5) If any person commits, threatens to commit, or makes preparations to commit any waste on real estate which has been attached or levied upon by execution in any civil action, the court from which the execution or attachment issued or any circuit judge or circuit court commissioner may make, on the application of the plaintiff, an order restraining the person from committing any waste or further waste on the land which has been attached or levied upon. Any person who shall violate the terms of any such order is guilty of contempt of the court in which the action is pending and is punishable as in other cases of contempt.

Same; land sold on execution, liability of person entitled to possession, acts after sale not waste.

(6) (a) If, at any time after the sale of real estate on execution and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights may have and maintain, against the person doing the injury and against any other person who has the buildings, fences, or fixtures in his possession after their removal, the same actions which the absolute owner of the premises would be entitled to.

(b) Whenever any lands or tenements are sold by virtue of an execution issued upon any judgment, the person to whom the conveyance is executed by the sheriff pursuant to the sale has a claim for damages for any waste committed on the premises by any person after the sale.

(c) Any person entitled to the possession of lands or tenements sold under execution may use and enjoy the premises until the period of redemption has run in the following ways without being guilty of waste:

(i) He may in all cases use and enjoy the premises sold in the same manner and for the same purposes in and for which they were used and enjoyed prior to the sale, doing no permanent injury to the freehold;

(ii) If the premises sold were buildings or other erections he may make necessary repairs to them although he shall not make alterations in the form or structure of them;

(iii) If the premises sold were land, he may use and improve the land in the ordinary course of husbandry, but he shall not be entitled to any crops growing on the premises at the expiration of the period of redemption;

(iv) He may apply any wood or timber on the land to the necessary repair of any fences, buildings, or erections which were on the premises at the time of sale;

(v) If he is in actual occupation of the land sold he may take necessary firewood from the land for the use of his family.

HISTORY: New 1961, p. 519, Act 236, Eff. Jan. 1, 1963.

600.2920 Actions to recover personal property.

Sec. 2920. (1) A civil action may be brought to recover any goods or chattels which have been unlawfully taken or unlawfully detained and to recover damages sustained by the unlawful taking or unlawful detention, except as provided below.

(a) No action may be maintained under this provision for any property taken by virtue of any warrant for the collection of any tax, assessment, or fine in pursuance of any statute of this state.

(b) No action may be maintained under this provision to recover goods or chattels seized by virtue of any execution or attachment at the suit of the defendant in the execution or attachment unless the goods or chattels are exempted by law from execution or attachment.

(c) No action may be maintained under this provision by any person who does not at that time have a right to possession of the goods taken or detained.

Papers pertaining to an office, surrender.

(2) (a) Whenever any person holds papers pertaining to an office, and he is not the person in that office, he shall surrender them to the person entitled to that office.

(b) The person entitled to possession of such books and papers may bring an action to recover their possession. The court may order any person to show cause why he should not be compelled to deliver such books and papers and may order the delivery of the books and papers.

HISTORY: New 1961, p. 521, Act 236, Eff. Jan. 1, 1963.

600.2921 Survival of actions; death of injured person during pendency of action.

Sec. 2921. All actions and claims survive death. Actions on claims for injuries which result in death shall not be prosecuted after the death of the injured person except pursuant to the next section. If an action is pending at the time of death the claims may be amended to bring it under the next section. A failure to so amend will amount to a waiver of the claim for additional damages resulting from death.

HISTORY: New 1961, p. 521, Act 236, Eff. Jan. 1, 1963.

600.2922 Wrongful death; liability of tort-feasor.

Sec. 2922. (1) Whenever the death of a person or injuries resulting in death shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages, in respect thereof, then and in every such case, the person who, or the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony. All actions for such death, or injuries resulting in death, shall be brought only under this section.

Same; persons entitled to sue; damages, distribution.

(2) Every such action shall be brought by, and in the names of, the personal representatives of such deceased person, and every such action the court or jury may give such damages, as, the court or jury, shall deem fair and just, with reference to the pecuniary injury resulting from such death, to those persons who may be entitled to such damages when recovered and also damages for the reasonable medical, hospital, fu-

neral and burial expenses for which the estate is liable and reasonable compensation for the pain and suffering, while conscious, undergone by such deceased person during the period intervening between the time of the inflicting of such injuries and his death. Such person or persons entitled to such damages shall be of that class who, by law, would be entitled to inherit the personal property of the deceased had he died intestate. The amount recovered in every such action for pecuniary injury resulting from such death shall be distributed to the surviving spouse and next of kin who suffered such pecuniary injury and in proportion thereto. Within 30 days after the entry of such judgment, the judge before whom such case was tried or his successor shall certify to the probate court having jurisdiction of the estate of such deceased person the amount and date of entry thereof, and shall advise the probate court by written opinion as to the amount thereof representing the total pecuniary loss suffered by the surviving spouse and all of the next of kin, and the proportion of such total pecuniary loss suffered by the surviving spouse and each of the next of kin of such deceased person, as shown by the evidence introduced upon the trial of such case. After providing for the payment of the reasonable medical, hospital, funeral and burial expenses for which the estate is liable, the probate court shall determine as provided by law the manner in which the amount representing the total pecuniary loss suffered by the surviving spouse and next of kin shall be distributed, and the proportionate share thereof to be distributed to the surviving spouse and the next of kin. The remainder of the proceeds of such judgment shall be assets of the estate of the deceased.

HISTORY: New 1961, p. 522, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 232, Act 146, Imd. Eff. Jul. 12.

CITED IN OTHER SECTIONS: The above section is cited in § 702.115.

600.2923 Action on official or other bond; assignment of specific breaches.

Sec. 2923. (1) When an action is prosecuted in any court upon any bond of any public officer, or upon any bond for the breach of any condition, other than the payment of money, or for any penal sum for the nonperformance of any covenant or written agreement, the plaintiff shall assign the specific breaches for which the action is brought, and upon the trial of such action, the verdict and judgment shall be for such damages as are found arising from the specific breaches assigned; and such judgment shall not be a bar to any further action by the same, or any other plaintiff, for any subsequent breaches of the condition of said bond; but said bond shall stand as security for any further or subsequent breaches to the amount of the remainder of the penalty thereof.

Same; pendency of suit as affecting other breaches.

(2) During the pendency of any suit upon such official bond, or after judgment rendered in such suit, any other party aggrieved by the default or delinquency of such officer, may, in like manner prosecute an action upon such official bond; and the pendency of any other suit on the same bond, or a judgment recovered by or against any other person on such bond shall not abate or in any manner affect such suit, or the proceedings therein, except as hereinafter provided.

Same; notice by surety as bar to suit.

(3) No such suit shall be barred, nor shall the amount which the plaintiff may be entitled to recover therein, be affected by any notice given by any surety in such bond, of a judgment recovered thereon, unless it is accompanied by an allegation that the sureties in such bond, some or 1 of them, have been obliged to pay the damages assessed by such judgment, or some part thereof, for want of sufficient property of such officer whereon to levy the same, or that they will be obliged to pay the same, or some part thereof for the same reason; nor unless such notice is verified by the oath of the defendant giving the same.

Same; damages paid equal to liability of surety.

(4) If it appears that the amount of any damages so recovered, which such surety has been obliged to pay, or will be obliged to pay, as specified in (3), is equal to the amount for which such defendant shall be liable, by virtue of the bond, he shall be acquitted and discharged of all further liability, and judgment shall be rendered in his favor.

Same; damages paid less than liability of surety.

(5) If it appears that the amount of any damages so recovered, which such surety has been obliged to pay, or which he will be obliged to pay, is not equal to the liability of such surety, the amount thereof shall be allowed to such defendant, in estimating the extent of his liability in any such action.

Same; execution, order of levy.

(6) Whenever a judgment is obtained against an officer and his sureties, a direction shall be endorsed on the execution issued thereon, by the attorney issuing the same, to levy the amount of such execution, in the first place, of the property of such officer, and if sufficient property of such officer cannot be found to satisfy such execution, then to levy the deficiency of the property of the sureties.

Same; judgments in excess of liability of surety, distribution of proceeds of levy.

(7) Whenever several judgments are obtained at the same term, upon any official bond of any officer, for damages, amounting in the whole to more than the sums for which the sureties therein shall be liable, the court shall order the moneys levied upon such judgments from the property of the sureties, to be distributed to the persons for whose use such judgments were recovered respectively, in proportion to the amount of their respective recoveries.

Same; unsatisfied executions, distribution of proceeds.

(8) If executions are issued upon several judgments obtained at the same term, upon any such official bond, and sufficient money is not raised to satisfy all of the said executions, the court shall distribute the money collected on such executions to the plaintiffs in proportion to the amount of their respective recoveries.

HISTORY: New 1961, p. 522, Act 236, Eff. Jan. 1, 1963.

600.2924 Bill of discovery.

Sec. 2924. An equitable action seeking relief in the nature of a bill of discovery may be filed and the defendant shall be compelled to answer, where the defendant is charged with having given to another person a power of attorney to enter up a judgment, or with having confessed or suffered any judgment, purporting to be for a sum or debt due, when in fact nothing, or only a part of the sum mentioned in such power of attorney or judgment is due, with intention to defraud the just creditors of such defendant, or to place the property of the defendant out of the reach of his creditors, or to hold the same in some secret trust or confidence, or for the benefit of such defendant.

HISTORY: New 1961, p. 523, Act 236, Eff. Jan. 1, 1963.

600.2925 Contribution between joint tort-feasors.

Sec. 2925. (1) Whenever a money judgment has been recovered jointly against 2 or more defendants in an action for bodily injury or death resulting therefrom, or property damage, and such judgment has been paid in part or in full by 1 or more of such defendants, each defendant who has paid more than his own pro rata share is entitled to contribution with respect to the excess so paid over and above the pro rata share of the defendant or defendants making such payment. Joint tort-feasors who are summoned in as third party defendants pursuant to court rule may likewise be liable for

contribution. No person may be compelled to pay to any other defendant an amount greater than his pro rata share of the entire judgment.

Release of 1 joint tort-feasor not bar to action against others.

(2) It shall be lawful for all persons having a claim or cause of action against 2 or more joint tort-feasors to compound, settle with, and discharge, at any time prior to rendition of a judgment in said action, any and every one or more of said joint tort-feasors for such sum as such person may deem fit, without impairing the right of such person or persons to demand and collect the balance of said claim or cause of action from the remaining joint tort-feasors, against whom such person, or persons, has such claim or cause of action, and not so released.

Right of insurer of 1 joint tort-feasor to contribution from others.

(3) An insurer of a person jointly or severally liable with 1 or more other persons upon a judgment for the same private wrong, which insurer has on behalf of its insured, discharged the common liability by payment, or has paid more than its insured's pro rata share thereof, shall be entitled to assert either in its own name or in the name of its insured any right to contribution which such insured would have acquired by such payment.

Claim for contribution, assertion within 6 months.

(4) Any claim for contribution hereunder must be asserted within 6 months after discharge by such party of the common liability or payment of more than his pro rata share.

HISTORY: New 1961, p. 524, Act 236, Eff. Jan. 1, 1963.

600.2926 Jurisdiction to appoint receivers; termination.

Sec. 2926. Circuit court judges in the exercise of their equitable powers, may appoint receivers in all cases pending where appointment is allowed by law. This authority may be exercised in vacation, in chambers, and during sessions of the court. In all cases in which a receiver is appointed the court shall provide for bond and shall define the receiver's power and duties where they are not otherwise spelled out by law. Subject to limitations in the law or imposed by the court, the receiver shall be charged with all of the estate, real and personal debts of the debtor as trustee for the benefit of the debtor, creditors and others interested.

The court may terminate any receivership and return the property held by the receiver to the debtor whenever it appears to be to the best interest of the debtor, the creditors and others interested.

HISTORY: New 1961, p. 524, Act 236, Eff. Jan. 1, 1963.

600.2926a Cemetery receivers; appointment; qualifications; term; accounting; compensation and expenses.

Sec. 2926a. Circuit court judges in the exercise of their equitable powers in matters relating to cemeteries operating under the provisions of Act No. 87 of the Public Acts of 1855, as amended, being sections 456.1 to 456.36 of the Compiled Laws of 1948, and Act No. 12 of the Public Acts of 1869, as amended, being sections 456.101 to 456.119 of the Compiled Laws of 1948, may appoint receivers. Such appointments shall be limited to persons who have had at least 5 years' experience in cemetery management. Such appointments shall be limited to 1 year with reappointment permissible. Any person appointed under this section shall be required to make an accounting to the court at least once each 90 days. Compensation for such receivers shall not exceed \$200.00 per week, which compensation and expenses shall be determined and approved by the appointing court.

HISTORY: Add. 1967, p. 242, Act 180, Eff. Nov. 2.

600.2927 Mortgaged property; nonpayment of taxes or insurance as waste.

Sec. 2927. (1) The parties to any mortgage, trust mortgage, or deed of trust of real property, or any extension thereof, may, by agreement therein contained to that effect, provide that the failure of the mortgagor or grantor, as the case may be, to pay any taxes assessed against such property or installments thereof, in the event said taxes are being paid under the provisions of Act No. 126 of the Public Acts of 1933, as amended, or any insurance premium upon policies covering any property located upon such premises constitutes waste.

Receiver to prevent waste; collection of rents and income.

(2) If such mortgagor or grantor in such instrument fails to pay such taxes or insurance premiums upon property subject to the terms of a mortgage, trust mortgage, or deed of trust containing such agreement the circuit court having jurisdiction of such property may, in its discretion upon complaint or motion filed by such mortgagee, grantee, assignee thereof or trustee under such instrument and upon such notice as the court may require, appoint a receiver of the property for the purpose of preventing such waste. Subject to the order of the court, the receiver may collect the rents and income from such property and shall exercise such control over such property as to such court may seem proper.

Same; homestead; property under \$7,500 value.

(3) No receiver may be appointed under the provisions of this section for any dwelling house or farm occupied by any owner thereof as his home or farm. No receiver may be appointed under the provisions of this section for any store or other business property having an assessed valuation of \$7,500.00 or less.

HISTORY: New 1961, p. 524, Act 236, Eff. Jan. 1, 1963.

600.2928 Land of infants and incompetents; disposition.

Sec. 2928. (1) The circuit court may order the sale, lease, exchange, conveyance, and if necessary or desirable, the platting, of all or any part of any lands, tenements, and hereditaments held by an infant or other incompetent person, by way of mortgage, in trust only for others, in fee, life tenancy, tenant for years, or in any other way when it appears that the sale, lease, exchange or conveyance is necessary and proper for the support, maintenance and education of the infant or other incompetent or that the interest of such person or the person for whom the property is held will be substantially promoted by the sale, lease, exchange, conveyance or platting. This power shall be exercised in accordance with the rules of court and in the manner and with the restrictions as the court deems expedient.

Discharge of incumbrance.

(2) Whenever it is made to appear to the court that it will be manifestly for the interest and advantage of any infant or other incompetent person that any incumbrance upon the real estate of such person should be purchased and discharged, in whole or in part, the court may authorize the guardian of such person to purchase and discharge the same, and if necessary, to sell and dispose of such part of the real estate of such person as may be necessary for that purpose. Such purchase and discharge shall in no way be construed as vesting in said guardian any right, title or interest in such premises, to the prejudice of such person.

Provision of will or conveyance, effect.

(3) But no real estate or term for years shall be sold, leased or disposed of in any matter against the provisions of any last will, or of any conveyance, by which such estate or term was devised or granted to such infant or other incompetent person.

Proceeds of sale deemed real estate.

(4) No sale made as aforesaid of the real estate of any infant or other incompetent person, shall give to such infant or other incompetent person, any other or greater interest or estate in the proceeds of such sale than he had in the estate sold; but the said proceeds shall be deemed real estate of the same nature as the property sold.

Release of dower; lump sum settlement.

(5) With the consent of the person holding a dower interest in such property, the court may authorize that a lump sum settlement releasing dower be made with such person and taken from the proceeds received.

Conveyance by order of court, confirmation, effect at law.

(6) Every conveyance, lease, or other disposition of the property, and every plat, made pursuant to the order of the court and confirmed by the court, shall be as good and effective in law as if it were made by the infant or other incompetent person, when of lawful age and of sound mind.

Infant or incompetent as ward of court; orders of court.

(7) The infant or other incompetent person, in an action under this section becomes a ward of the court for the property involved, its proceeds and income, and he and his guardian are subject to periodic orders of the court pertaining thereto.

Proceedings equitable in nature.

(8) Proceedings under this section are equitable in nature.

Delivery of guardianship property to probate court guardian; discharge of circuit court guardian.

(9) When a guardian has been appointed by the probate court, the circuit court guardian shall deliver all guardianship property and funds to the probate court guardian and upon receipt therefor, the guardian appointed by the circuit court shall be discharged.

HISTORY: New 1961, p. 525, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 114, Act 117, Eff. Aug. 28.

600.2929 Lands held in trust; sale by fiduciary, orders of court.

Sec. 2929. (1) Actions for equitable relief by any fiduciary seeking authority to sell any lands, tenements, or hereditaments which he is holding in trust for others may be brought in the circuit courts. If it appears to the best interest of the person for whom the lands, tenements, and hereditaments are held in trust the court may order, direct, and authorize the fiduciary to sell, grant, and convey the lands, tenements, and hereditaments at public or private sale. When approved by the circuit court, a sale made pursuant to this section passes title to the lands, tenements, and hereditaments to the purchaser.

(2) The court shall make all proper orders and directions from time to time for the management, investment, and disposition of the moneys received from the sale, and the interest and income therefrom.

HISTORY: New 1961, p. 526, Act 236, Eff. Jan. 1, 1963.

600.2930 Life estate; sale on order of court.

Sec. 2930. (1) Circuit courts may order any lands, tenements, or hereditaments which are held for life, with or without power of appointment by will or sale, or held in trust, without power of sale, sold under the direction of the court, whenever it satisfactorily appears that the rights of the interested parties will otherwise be jeopardized.

Bond.

(2) Upon making the order of sale the court may order that a bond be given with penalty and sureties, in the form the court directs. This bond shall run to the clerk of the court for the use and benefit of any person who is or may become interested in the lands, tenements, or hereditaments, or their proceeds, conditioned for the investment

of and accounting for the proceeds of the lands, tenements, and hereditaments, and for the observance of all orders of the court in relation to the lands, tenements, and hereditaments, and their proceeds.

Confirmation of sale; proceeds, orders of court.

(3) After the confirmation of the sale, the proceeds of the sale shall stand in lieu of the property sold, and the court shall make such orders as to the investment of the proceeds as may be necessary. From time to time thereafter, the court may make such further orders as the circumstances may require.

Provision of conveyance or will, effect.

(4) No sale or conveyance of any kind shall be made of any property, under the authority of this provision, contrary to any specific provisions contained in the deed of conveyance, or in the will, under which the petitioner holds the property.

Conveyance by order of court, effect at law.

(5) Every conveyance made in accordance with an order of court entered in an action brought under this section shall be good and effectual in law and shall convey the same title as if it were made by a person seized of the title in fee.

Proceedings equitable in nature.

(6) Proceedings under this section are equitable in nature.

HISTORY: New 1981, p. 526, Act 236, Eff. Jan. 1, 1983.

600.2931 Barring dower of incompetent wife; action by husband.

Sec. 2931. (1) The husband of an insane or otherwise incompetent wife or any other person who has an interest in the real estate in which she has a right of dower may maintain an action to bar her of her right of dower in the premises.

Determination by court; payment to guardian; disposition of proceeds.

(2) If the court finds that the wife is incurably insane or for more than 2 years has remained insane or otherwise incompetent so that she has been unable from defective intellect to join her husband in the conveyance of the real estate, and that it is proper or necessary to sell the real estate or bar the wife's right of dower in it, then the court shall determine the cash value of the wife's dower interest in the premises, taking into consideration the respective ages of the husband and wife, and order that the wife shall be barred of her dower by the payment of this sum to a guardian other than her husband who shall receive and invest this sum for her sole use and support subject to the supervision of the court. On her becoming sound in mind the court shall direct the remainder to be delivered to her. On her death the court shall direct the remainder to be delivered to her husband, if living, or if not, to her personal representatives.

Guardian, bond, conveyance of wife's dower interest.

(3) The guardian, after posting bond approved by the court, may sell at private sale the interest of his ward at a sum not less than the value of the dower as fixed by the court or he may, in a conveyance with the husband, or by separate conveyance, transfer the interest of the ward in the property to the husband's grantee or grantees, or their heirs and assigns but to no other person. Such conveyance shall bar dower as if the ward had, being in sound mind, joined her husband in a deed of the premises.

Proceedings equitable in nature.

(4) Proceedings under this section are equitable in nature.

HISTORY: New 1981, p. 527, Act 236, Eff. Jan. 1, 1983.

600.2932 Quieting title; interest of plaintiff.

Sec. 2932. (1) Any person, whether he is in possession of the land in question or not, who claims any right in, title to, equitable title to, interest in, or right to possession of land, may bring an action in the circuit courts against any other person who claims or

might claim any interest inconsistent with the interest claimed by the plaintiff, whether the defendant is in possession of the land or not.

Same; mortgagees, eligibility.

(2) No action may be maintained under subsection (1) by a mortgagee, his assigns, or representatives for recovery of the mortgaged premises, until the title to the mortgaged premises has become absolute, or by a person for the recovery of possession of premises, which were sold on land contracted, to whom relief is available under subdivision (1) of section 5634.

Same; establishment of title, relief afforded.

(3) If the plaintiff established his title to the lands, the defendant shall be ordered to release to the plaintiff all claims thereto. In an appropriate case the court may issue a writ of possession or restitution to the sheriff or other proper officer of any county in this state in which the premises recovered are situated.

Same; tenancy in common.

(4) Any tenant or tenants in common who recovers any undivided interest in lands in an action under subsection (1) against a person or persons who may be in possession thereof, but who does not show in the trial of such action that he or they have any interest therein or title thereto, may take possession of the entire premises subject to all of the rights and interest of the other tenant or tenants in common therein.

Actions equitable in nature.

(5) Actions under this section are equitable in nature.

HISTORY: New 1961, p. 527, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 14, Act 8, Eff. Aug. 28.

600.2933 Dower; admeasurement procedure.

Sec. 2933. (1) A widow entitled to dower, or a woman entitled to dower and her husband, may maintain a claim to recover her dower in lands, tenements, and hereditaments under section 2932 after the expiration of 6 months from the time her right to dower accrued. If an action is brought to recover the dower of any widow which has not been admeasured to her before the commencement of such action, instead of a writ of possession being issued, such plaintiff shall proceed to have her dower assigned to her in the following manner:

(a) Upon the filing of the record of judgment the court, on the motion of the plaintiff, shall appoint 3 discreet and disinterested freeholders commissioners, for the purpose of making admeasurement of the dower of the plaintiff out of the lands described in the record; and the commissioners so appointed shall proceed in like manner, possess the like powers, and be subject to the like obligations as commissioners appointed by the judge of probate to set off dower;

(b) The commissioners shall make a report of their doings to the court, in writing, as soon as may be after their appointment, which report shall be confirmed by such court, unless good cause to the contrary is shown; and shall be entered at large in the minutes of the court;

(c) Upon the confirmation of the report of the commissioners, a writ of possession shall be issued to the sheriff of the proper county, describing the premises assigned for the dower and commanding the sheriff to put the plaintiff in possession thereof.

(d) The costs and expenses incurred in such admeasurement are subject to the same provisions as in cases of admeasurement of dower by commissioners appointed by the judge of probate.

Same; award of money in lieu.

(2) In any action commenced by any widow for the recovery of dower in lands which were aliened by her husband in his lifetime, if dower cannot be assigned in the land by metes and bounds without injustice or manifest injury to the widow or to the

owners or persons in possession of the land or some one of them, the court having cognizance of the matter may award a sum of money in lieu of dower to be paid to the widow, or may assign to her, as tenant in common, a just proportion of the rents, issues, and profits of the lands. In all cases the court shall consider the true value of the lands at the time of their alienation by the husband, and of the probable duration of the life of the doweress at the time the sum of money is awarded or the rents, issues, and profits are assigned to her.

Actions equitable in nature.

(3) Actions under this section are equitable in nature.

HISTORY: New 1961, p. 528, Act 236, Eff. Jan. 1, 1963.

600.2934 Quieting title; lands owned by corporation after expiration of term.

Sec. 2934. (1) Notwithstanding the expiration of the term of private corporations organized for the conduct of business of any kind, under the laws of this state, any one having such an interest as would entitle him to bring an action under section 2932, in any land owned by such corporation while in existence, and now aliened or divested from it by due process of law, may bring an action under section 2932 and this section for the recovery of the same.

Complaint against corporation and occupants.

(2) The summons and complaint shall be against such corporation by its corporate name, and against any occupant or occupants of such land, as defendants.

Stockholders and creditors of corporation as defendants.

(3) In accordance with the court rules, any person or persons who were stockholders of such corporation while it subsisted and who still retain their rights in the property in question, by virtue of having owned stock therein, and any creditor or creditors of such corporation, whose claims are subsisting and not barred by limitation of time, may appear and defend such action as fully as such corporation could have done while subsisting. Such right to appear and defend may be drawn in question by the plaintiff on the trial of the cause.

Service on corporation; defendants, liability for costs.

(4) All persons so appearing shall plead together and in the name of the corporation. Service on the corporation, in the manner prescribed by the court rules, is a full and complete service upon such corporation, and upon all persons natural or artificial, interested in said land, because of their having been stockholders in the corporation while subsisting, or creditors thereof. All persons so appearing and defending, or seeking to defend, are liable for costs in the action as fully as such corporation would be if defending.

Judgment against corporation; conclusiveness.

(5) (a) The judgment in such suit shall be against the corporation in the corporate name and shall be binding upon it and upon all persons claiming said land by virtue of their stock in or demands upon the same, and shall be conclusive against such corporation and such persons subject only to such exceptions as are or may be provided by general statute in other actions brought under section 2932.

Judgment for corporation; judgment for plaintiff, damages, costs.

(6) Any judgment in favor of the defendant corporation shall inure to the benefit of the persons entitled to the property in dispute. The plaintiff shall have judgment against such corporation neither for money damages of any kind nor for costs of suit subject to the discretion of the court, nor shall he be entitled to file against it a suggestion of damages in continuation of such judgment.

Actions equitable in nature.

(7) Actions under this section are equitable in nature.

HISTORY: New 1961, p. 528, Act 236, Eff. Jan. 1, 1963.

600.2935 Quieting title; recording of judgment.

Sec. 2935. If the effect of a judgment is to quiet the title to lands, or if it in any way concerns the title to real estate, a certified copy thereof may be recorded in the office of the register of deeds of any county where said lands or any part of the same are situated.

HISTORY: New 1961, p. 529, Act 236, Eff. Jan. 1, 1963.

600.2936 Probate in chancery of foreign will; proof by copy.

Sec. 2936. (1) Whenever it is necessary to probate in this state, the last will of any deceased person which was either

(a) executed in a foreign country whose laws do not require or provide for the probate of wills after the death of the maker, or

(b) executed by a testator who was not at the time of his death domiciled in the country of execution, and the laws of the country of execution require or provide for the probate of wills after the death of the maker, if the original will cannot be produced in this state for probate, it, or any part thereof, may be proved and allowed by a full and complete copy in an action in the circuit court in and for any county in which the testator left any property affected by the will at his decease. The will or that part thereof established and proved shall be certified to and filed with the proper probate court which vests the probate court with the power and jurisdiction over the estate as if the will had been validly proved and allowed in the probate court.

Legal representative's bill of peace.

(2) Whenever any person appointed by a probate court as the legal representative or trustee of the estate of a deceased person, a minor, or a mentally incompetent person, has possession of over \$100.00-worth of the estate's real or personal property or its proceeds and has good reason to doubt his right to hold or dispose of this property because of adverse claims of title or lien of other persons or corporations, or of conflicting proceedings to administer the estate in that or another probate court, and no proceedings have been taken to test his right, by adverse claimants or otherwise, he may file a complaint in the nature of a bill of peace in the circuit court of the county in which is located the probate court which appointed him, to have adjudicated the validity of his own right and the rights of adverse claimants and the legal representatives appointed in conflicting proceedings.

HISTORY: New 1961, p. 529, Act 236, Eff. Jan. 1, 1963.

600.2937 Obstructions and encroachments on public highways, streets and alleys; circuit court, relief.

Sec. 2937. All claims for relief from obstructions and encroachments on the public highways, streets, and alleys in cities, incorporated villages, and organized townships in this state may be brought in the circuit courts. The courts shall give such legal and equitable relief as is warranted.

HISTORY: New 1961, p. 530, Act 236, Eff. Jan. 1, 1963.

600.2938 Obscene matter; injunction.

Sec. 2938. (1) The chief executive or legal officer of any city, village or charter township or prosecuting attorney of the county may institute and maintain an action in the circuit court against any person, firm or corporation to enjoin and prevent the sale or further sale or the distribution or further distribution or the acquisition or possession of any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photograph, figure or image or any written or printed matter of an indecent

character, which is obscene, lewd, lascivious, filthy, indecent or disgusting, or which contains an article or instrument of indecent or immoral use or purports to be for indecent or immoral use or purpose.

Same; adjudication of lawfulness, procedure.

(2) Any person, firm or corporation may also bring an action in the circuit court as plaintiff to obtain an adjudication of the lawful propriety of the sale, distribution, possession or acquisition of any item as follows:

(a) The item may be submitted to the chief executive or legal officer of the city, village, charter township or prosecuting attorney of the county in which the sale, distribution, possession or acquisition is intended to be had.

(b) The officer to whom submitted, within 5 days shall furnish to the person, firm or corporation by whom submitted, a written statement in positive and unequivocal words that the sale, distribution, possession or acquisition of such book or other article or thing so submitted is by him deemed or not deemed, as the case may be, to be in violation of the provisions of any section of the Michigan penal code.

(c) If the officer deems the sale, distribution, possession or acquisition to be in violation of the provisions of any section of the Michigan penal code, the person, firm or corporation making the submission may bring a civil action to adjudicate the lawful propriety of the sale, distribution, possession or acquisition.

(d) The officer to whom a submission is authorized to be made, without any submission being so made, may furnish to any person, firm or corporation a written statement covering any book or other article or thing referred to in (1), and thereupon the person, firm or corporation to whom so furnished has a like right to bring action as in the case of the statement furnished pursuant to a submission.

Same; temporary injunction, application.

(3) In any action brought as provided in (2) the officer furnishing the written statement shall be made defendant thereto. The officer shall be given prior notice of the time and place of filing such action and has the right to appear at such time and place and seek an injunction against distribution pending the final adjudication thereon.

Preliminary injunction, summary determination.

(4) A preliminary injunction or restraining order may be issued upon or at any time after the filing of the complaint. The person, firm or corporation sought to be enjoined is entitled to a trial of the issues within 1 day after joinder of issue and a decision shall be rendered by the court within 2 days of the conclusion of the trial.

Injunction, surrender of obscene matter, destruction.

(5) If a final order or judgment of injunction is entered in favor of such officer of the city, village or charter township and against the person, firm or corporation sought to be enjoined, the final order or judgment shall contain a provision directing the person, firm or corporation to surrender to the sheriff of the county in which the action was brought any of the matter described in (1) and the sheriff shall be directed to seize and destroy the same.

Injunction without bond; nonliability for costs or damages.

(6) In any action brought as herein provided the officer of the city, charter township or village shall not be required to file any undertaking before the issuance of an injunction order provided for in (4), is not liable for costs and is not liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm or corporation sought to be enjoined.

Distribution of obscene matter after summons and complaint, knowledge of contents.

(7) Every person, firm or corporation who sells, distributes or acquires possession with intent to sell or distribute any of the matter described in (1), after the service upon him of a summons and complaint in an action brought by such officer of any city, charter township or village pursuant to this section is chargeable with knowledge of the contents thereof.

Delegation of authority to other officers or agency.

(8) The legislative body of any city, village or charter township or board of supervisors of any county may transfer or delegate any of the power and authority of the chief executive or legal officer or prosecuting attorney, as the case may be, to any other officer or agency of the city, village, charter township or county and all acts done by the officer or agency to whom so transferred or delegated shall be as effective in law as if done by the officer in this section designated.

Adjudication hereunder; criminal prosecution.

(9) Nothing in this section shall be construed to preclude or impair prosecution in the criminal courts for violation of any section of the Michigan penal code relating to obscene or other similar matters except when an adjudication has been made under the procedure authorized herein to the effect that the book, picture, or other subject of adjudication is not violative of any such law such adjudication is full protection for all persons against any prosecution for criminal penalties or other action in respect of the subject of such adjudication.

Proceedings equitable in nature.

(10) Proceedings under this section are equitable in nature.

HISTORY: New 1961, p. 530, Act 236, Eff. Jan. 1, 1963.

600.2939 Gaming; action by loser, oath of parties; prosecution according to common law.

Sec. 2939. (1) In any suit brought by the person losing any money or goods, against the person receiving the same, when it appears from the complaint that the money or goods came to the hands of the defendant by gaming, if the plaintiff makes oath before the court in which such suit is pending, that the money or goods were lost by gaming with the defendant as alleged in the complaint, judgment shall be rendered that the plaintiff recover damages to the amount of the said money or goods, unless the defendant makes oath that he did not obtain the same, or any part thereof by gaming with the plaintiff; and if he so discharges himself, he shall recover of the plaintiff his costs; but the plaintiff may at his election, maintain and prosecute his action according to the usual course of proceedings in such actions at common law.

Forfeiture by winner or loser; limitation of action.

(2) Every person who wins or loses, at any time or sitting, by gaming or betting on the hands or sides of such as are gaming, any money or goods, to the value of \$5.00 or more, whether the same is paid over or delivered, or not, shall forfeit and pay 3 times the value of such money or goods if the action therefor is commenced within 6 months after the committing of the offense.

Instruments given in gaming or betting, validity.

(3) All notes, bills, bonds, mortgages, or other securities or conveyances whatever, in which the whole or any part of the consideration, shall be for any money or goods won by playing at cards, dice, or any other game whatever, or by betting on the sides or hands of such as are gaming, or by any betting or gaming whatever, or for reimbursing or repaying any moneys knowingly lent or advanced for any gaming or betting, shall be void and of no effect, as between the parties to the same, and as to all persons, ex-

cept such as shall hold or claim under them in good faith, and without notice of the illegality of such contract or conveyance.

Lands, enuring of benefit in certain cases; fraudulent conveyances.

(4) Whenever any mortgage or other conveyance of land is adjudged void under (3), such lands shall enure to the sole benefit of such person or persons as would be entitled thereto, if the mortgagor or grantor were naturally dead; and all grants and conveyances for preventing such lands from coming to or devolving upon the person or persons to whose use, and benefit the said lands would so enure, is fraudulent and of no effect, except as against purchasers in good faith, and without notice of the illegality of such mortgage or other conveyance.

HISTORY: New 1961, p. 531, Act 236, Eff. Jan. 1, 1963.

600.2940 Nuisance; abatement, circuit court, injunction.

Sec. 2940. (1) All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.

Private nuisance; damages, abatement.

(2) When the plaintiff prevails on a claim based on a private nuisance, he may have judgment for damages and may have judgment that the nuisance be abated and removed unless the judge finds that the abatement of the nuisance is unnecessary.

Same; abatement.

(3) If the judgment is that the nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of the defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as 6 months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.

Same; expense of abatement.

(4) The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.

Actions equitable in nature; damages.

(5) Actions under this section are equitable in nature unless only money damages are claimed.

HISTORY: New 1961, p. 532, Act 236, Eff. Jan. 1, 1963.

600.2941 Artesian or flowing well; certain condition deemed nuisance, abatement, damages.

Sec. 2941. (1) Any artesian or flowing well, the water of which is unnecessarily allowed to run to waste in an unreasonable manner to the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

Wells, unreasonable or unnecessary waste; abatement, damages.

(2) Where any well is supplied by a head, reservoir, stratum, or vein or by percolating waters common to other springs or wells, and the owner thereof or his lessee or licensee puts its waters to a use unreasonable or unnecessary, in view of the condition

and situation of the land on which it is situated, and through such unreasonable or unnecessary use, lowers or depletes the head, pressure, or supply of water of any spring or well dependent on the same head, vein, or stratum, to the detriment or injury of the owner or any person entitled to the use thereof, the well so unreasonably and unnecessarily used, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

Judgments, contents, reopening.

(3) Where any order or judgment is rendered under this section, declaring any well a nuisance because of the waste or unreasonable use of its waters and directing the abatement thereof, such order or judgment shall specify in some practicable manner the daily amount or volume of water that may be used or allowed to flow therefrom without violating such order or judgment, and specify such reasonable time as to the court shall seem just within which the provisions thereof shall be carried into effect. Any such order or judgment may be reopened at any time after entry on the question of reasonable use on a proper showing of change of circumstances or other equitable reason therefor.

HISTORY: New 1961, p. 533, Act 236, Eff. Jan. 1, 1963.

600.2942 Public securities validation; action to contest validity; counterclaim; third party complaint, continuances, amendment.

Sec. 2942. (1) If an action contesting the validity of any securities proposed to be issued or any aspect of such validity is brought against any public body, the public body may file a counterclaim against the plaintiff and a third party complaint against the state of Michigan and all persons, resident and nonresident, owning property or subject to taxation in the public body or in the political entity or entities it represents, and all other persons interested in or affected by the issuance of the securities, for the purpose of securing an adjudication, forever conclusive as against all the parties, as to the validity of the securities or as to those issues affecting such validity as are then properly justiciable or become so during the pendency of the proceedings. The court may grant continuances and permit amendments as may be appropriate to enable the issues affecting the validity of the securities to be adjudicated as fully as possible.

Counterclaim, third party complaint, contents.

(2) The counterclaim and third party complaint shall briefly set out by proper allegation, reference or exhibit, insofar as the circumstances of the case permit, such facts as may be necessary to show the authority of the public body to issue the securities and to take any other action essential to their validity, the taking of all proceedings and other action and the satisfaction of all legal requirements essential to the validity of the securities (including the holding of any required election and the result thereof), the nature and characteristics of the securities (including amount, date, purpose, maturities, maximum interest rate), the source of the funds from which the securities are to be paid, and any other essential matters relevant to the issues upon which an adjudication is sought. In case the public body was established for the purpose of constructing or acquiring a public improvement for which the securities are to be issued, the counterclaim shall also set forth the authority for the creation of the public body.

Same; notice to appear.

(3) Upon the filing of the counterclaim and third party complaint, the court shall issue an order in general terms in the form of a notice directed against the plaintiff in the action and against the state of Michigan and, without naming them, all public bodies, property owners, taxpayers, citizens and others having or claiming any right or interest affected in any way by the issuance of the securities, requiring them, in general terms, and the state of Michigan, through its attorney general or his representative, to

appear at a time and place designated in the order and show cause why the prayer of the counterclaim and third party complaint should not be granted.

Same; service on plaintiff and attorney general; examination, defenses.

(4) A copy of the counterclaim, the third party complaint, and the order shall be served upon the plaintiff in the action and upon the attorney general at least 20 days before the time fixed in the order for the hearing. The attorney general shall carefully examine the counterclaim and third party complaint and if it appears, or there is reason to believe, that it is defective, insufficient or untrue, or if in his opinion the securities have not been duly authorized or cannot be lawfully issued, or the taxes, assessments, rates, tolls or other charges or revenues provided for payment of said securities cannot be lawfully levied, collected and pledged for such purpose, he shall make such defense thereto as may seem proper.

Publication of order to appear.

(5) Prior to the date set for hearing, the clerk of the court shall publish a copy of the order once each week for 3 consecutive weeks in each of the newspapers designated below, the first publication in each newspaper to be not less than 20 nor more than 30 days prior to the date set for hearing:

(a) If the public body embraces, or the project for which the securities are to be issued extends into, territory in only 1 county, the notice shall be published in the county in a newspaper of general circulation in the territory.

(b) If the public body embraces, or the project for which the securities are to be issued extends into, territory in more than 1 but not more than 5 counties, the notice shall be published in each of the counties in a newspaper of general circulation therein.

(c) If the public body embraces, or the project for which the securities are to be issued extends into, territory in more than 5 counties, the notice shall be published in each of the 5 most populous counties in a newspaper of general circulation therein, and also in a newspaper or newspapers of general circulation in the territory outside of the 5 counties.

(d) If the public body is the state of Michigan (as distinguished from a political subdivision thereof) or any department, commission, agency or official thereof, or if the project extends throughout the state, the notice shall also be published in the county wherein the seat of state government is located, in a newspaper of general circulation therein.

Same; parties.

(6) At least 10 days prior to the date set for the hearing, the clerk of the court shall give such notice of the filing of the counterclaim and the third party complaint and of the hearing on the order to show cause to all known parties as the court shall direct in the order.

Other actions; injunction, consolidation, appeal.

(7) Upon motion of the public body, whether before or after the date set for hearing as provided in (3), the court may enjoin the commencement by any person or public body, of any other action contesting the validity of the security issue described in the counterclaim, may order a joint hearing or trial before him of all issues raised by the counterclaim and third party complaint which are then pending in any action or proceeding in any court, may order all such actions or proceedings consolidated with the action pending before him, and may make such orders as may be necessary and proper to effect such consolidation and as may tend to avoid unnecessary costs or delays and multiplicity of actions. Such orders shall not be appealable.

Intervention; hearing, judgment.

(8) Any public body, property owner, taxpayer, citizen or other person affected by or interested in the issuance of the securities may become a named party to the proceedings by pleading to the third party complaint on or before the time set for hearing as provided in (3) or thereafter by intervention upon leave of court. At the time and place designated in the order for hearing, the court shall proceed to hear and determine all questions of law and fact in the proceedings and may make such orders as to the proceedings and such adjournments as will enable the court properly to try and determine the same and to render a final judgment therein with the least possible delay. Such final judgment shall be based upon a written opinion of the court which shall find the facts specially and shall state separately the court's conclusions of law therein.

Appeal to supreme court.

(9) Any parties to the cause, whether plaintiff, defendant, third party plaintiff, third party defendant, intervenor or otherwise, dissatisfied with the final judgment, may appeal therefrom to the supreme court. The supreme court, insofar as practicable, shall expedite and give priority to the hearing and decision on the appeal.

Adjudication upholding validity, effect.

(10) In the event that the judgment upholds the validity of the securities or such aspects thereof as have been adjudicated, and no appeal is taken therefrom, or if an appeal is taken and the judgment is affirmed, the judgment shall be forever binding and conclusive against the public body and all other parties to the cause, named or unnamed, and shall constitute a permanent injunction against the institution by any person of any action contesting any aspect of the validity of the security issue which has been adjudicated.

Definitions.

(11) For the purposes of this section, the term:

(a) "Public body" means the state of Michigan or any political subdivision thereof, including any county, township, city, village, school district, metropolitan district, port district, drainage district, public authority or other political entity, or any department, commission, agency or official of any of the foregoing.

(b) "Securities" or "security issue" means any bonds, notes, orders, certificates or other evidences of indebtedness whether general or special obligations and whether payable from taxes, assessments, rates, tolls or other charges or revenues or otherwise creating an obligation upon a public body.

(c) "Validity" as applied to any securities means the authority of the public body to issue the securities, to levy and collect the taxes, assessments, rates, tolls or other charges or revenues as are provided for the payment thereof, to pledge the same for payment, and to take any action essential to any of the foregoing; and also the legality of all proceedings and other action taken, and the satisfaction of all legal requirements, in connection with the issuance of the securities and the levy and collection of the taxes, assessments, rates, tolls or other charges or revenues and the pledge thereof.

Short title.

(12) This section shall be known and may be cited as the "public securities validation act".

Counterclaim and third party proceedings equitable in nature.

(13) Counterclaims and third party proceedings brought pursuant to this section are equitable in nature.

HISTORY: New 1961, p. 533, Act 236. Eff. Jan. 1, 1963;—Am. 1962, p. 400, Act 187, Imd. Eff. May 24.

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600.2943 Quieting title; relief to defendant on rehearing.

Sec. 2943. When any rehearing of an action quieting title to real estate is ordered on petition of a defendant, the relief to be granted the defendant shall be limited to an award of damages against the prevailing parties in the original action, in an amount determined by the court to be equivalent to the fair cash market value of the interest of the defendant in the real estate at the time of entry of the original decree. Any decree on rehearing shall not be a lien or encumbrance on the real estate to secure payment of the sum awarded.

HISTORY: Add. 1962, p. 402, Act 187, Imd. Eff. May 24.

600.2944 Access to adjoining property for repairs or improvements.

Sec. 2944. When an owner or lessee seeks to make improvements or repairs to real property so situated that the improvements or repairs cannot reasonably be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make the improvements or repairs may commence a civil action in the circuit court of the county in which the property is located. The complaint shall state the facts making the entry necessary, the date on which entry is sought, the duration and the method proposed for protecting the defendant against damage. The court may grant a limited license for entry upon such terms as justice and equity require. The owner or lessee to whom the limited license to enter is granted shall be liable to the adjoining owner or his lessee for damages occurring as a result of the entry and shall file such bond or liability insurance or both as shall be required by the court.

HISTORY: Add. 1969, p. 103, Act 55, Eff. Jul. 29.

CHAPTER 31.

FORECLOSURE OF MORTGAGES AND LAND CONTRACTS

600.3101 Circuit courts; jurisdiction to foreclose mortgages.

Sec. 3101. The circuit courts have jurisdiction to foreclose mortgages on real estate and land contracts.

HISTORY: New 1961, p. 536, Act 236, Eff. Jan. 1, 1963.

600.3105 Mortgage; land contract; foreclosure proceeding; unsatisfied execution on judgment at law.

Sec. 3105. (1) If a judgment has been obtained in any other civil action for the money, or part thereof, demanded in the complaint in an action to foreclose a mortgage on real estate or a land contract, no proceeding shall be had in the action to foreclose unless the sheriff or other proper officer has returned an execution as unsatisfied, in whole or in part, and certified that he can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

Proceeding at law.

(2) After a complaint has been filed to foreclose a mortgage on real estate or land contract, while it is pending, and after a judgment has been rendered upon it, no separate proceeding shall be had for the recovery of the debt secured by the mortgage, or any part of it, unless authorized by the court.

Consolidation of suits.

(3) When a complaint is filed to foreclose a trust mortgage or deed of trust given to secure notes, bonds, or other evidences of indebtedness, the court may at any time before final judgment require all cases begun subsequent to the filing of the foreclosure

complaint, by plaintiffs holding notes, bonds, or other evidences of indebtedness secured by the mortgage, to be consolidated with the action to foreclose, and the court may adjudicate the rights of the individual security holders.

HISTORY: New 1961, p. 536, Act 236, Eff. Jan. 1, 1963.

600.3110 Foreclosure of interest or installment; payment before judgment.

Sec. 3110. Whenever a complaint is filed for the satisfaction or foreclosure of any mortgage on real estate or land contract, upon which there is due any interest or any portion or installment of the principal and there are other portions or installments to become due subsequently, the complaint shall be dismissed upon the defendant's bringing into court, at any time before the judgment of sale, the principal and interest due, with costs.

HISTORY: New 1961, p. 536, Act 236, Eff. Jan. 1, 1963.

600.3115 Foreclosure proceeding; sale, time.

Sec. 3115. Whenever a complaint is filed for the foreclosure or satisfaction of any mortgage on real estate or land contract, the court has power to order a sale of the premises which are the subject of the mortgage on real estate or land contract, or of that part of the premises which is sufficient to discharge the amount due on the mortgage on real estate or land contract plus costs. But the circuit judge shall not order that the lands subject to the mortgage be sold within 6 months after the filing of the complaint for foreclosure of the mortgage or that the lands which are the subject of the land contract be sold within 3 months after the filing of the complaint for foreclosure of the land contract.

HISTORY: New 1961, p. 536, Act 236, Eff. Jan. 1, 1963.

600.3120 Foreclosure proceeding; judgment of sale; payment of principal, interest and costs.

Sec. 3120. If, after a judgment of sale is entered against him, the defendant brings into court the principal and interest due with costs, the proceedings in the action shall be stayed; but the court shall enter a judgment of foreclosure and sale to be enforced by a further order of the court upon a subsequent default in the payment of any portion or installment of the principal, or of any interest thereafter to become due.

HISTORY: New 1961, p. 537, Act 236, Eff. Jan. 1, 1963.

600.3125 Sale; time, place, method.

Sec. 3125. All sales of land on foreclosure of a land contract or mortgage on real estate shall be made by a circuit court commissioner of the county in which the judgment was rendered or of the county where the land or some part of the land is situated, or by some other person duly authorized by the order of the court. These sales shall be at public sale between the hour of 9 o'clock in the morning and 4 o'clock in the afternoon and shall take place at the court house or place of holding of the circuit court in the county in which the land or some part of it is situated or at any other place the court directs. The sale is subject to the provisions of section 6091.

HISTORY: New 1961, p. 537, Act 236, Eff. Jan. 1, 1963.

600.3130 Sale; deed, contents, execution, title.

Sec. 3130. (1) The circuit court commissioner or other person making the sale shall execute deeds specifying the names of the parties in the action, the date of the land contract or mortgage, when and where it was recorded, a description of the premises sold, and the amount for which each parcel of land described in the deed was sold; and he shall endorse upon each deed the time it becomes operative in case the premises are not redeemed according to law. Unless the premises described in the deed or any parcel of them are redeemed within the time limited for redemption the deed shall become operative as to all parcels not redeemed, and shall vest in the grantee

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named in the deed, his heirs, or assigns all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage or at any time thereafter.

Recording of deed, entry of redemption.

(2) The deed or deeds of sale shall as soon as practicable and within 20 days after the sale be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall endorse upon the deed the time it was received and shall record the deed at length in a book to be provided in his office for that purpose and shall index the deed in the regular index of deeds, and the fee for recording the deed shall be included among the other costs and expenses allowed by law. In case the premises or any parcel of them are redeemed the register of deeds shall write on the face of the record the word "Redeemed" and he shall write at what date the entry is made and sign the entry with his official signature.

HISTORY: New 1961, p. 537, Act 236, Eff. Jan. 1, 1963.

600.3135 Proceeds of sale; application; disposition of surplus.

Sec. 3135. (1) The proceeds of every sale under a judgment shall be applied to the discharge of the debt adjudged by the court to be due and of the costs awarded; and if there is any surplus it shall be brought into court for the use of the defendant, or of the person entitled to it, subject to the order of the court.

Investment of surplus.

(2) If the surplus or any part of it remains in the court for the term of 3 months without being applied for, the circuit court may direct that it be put out at interest under the direction of the court for the benefit of the defendant, his representatives, or assigns, to be paid to them by the order of the court.

HISTORY: New 1961, p. 537, Act 236, Eff. Jan. 1, 1963.

600.3140 Mortgage foreclosure sale; redemption; portions of premises.

Sec. 3140. The mortgagor, his heirs, executors, administrators, or any person lawfully claiming from or under him or them may redeem the entire premises sold by paying, within 6 months from the time of the sale, to the purchaser, his executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the time of the sale at the rate percent borne by the mortgage. The vendee of a land contract, his heirs, executors, administrators, or any person lawfully claiming from or under him or them may redeem the entire premises sold within 6 months from the time of the sale by paying to the purchaser, his executors, administrators, or assigns or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the time of the sale at the rate percent borne by the land contract. In case the sum is paid to the register of deeds the sum of \$5.00 shall be paid to him as a fee for the care and custody of the redemption money. After these sums have been paid the deed of sale is void and of no effect, but in case any distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed of sale is inoperative merely as to the portion or portions of the premises which are redeemed, and to the portions not redeemed it remains valid and of full effect.

HISTORY: New 1961, p. 538, Act 236, Eff. Jan. 1, 1963; — Am. 1963, p. 418, Act 240, Eff. Sep. 6; — Am. 1970, p. 262, Act 86, Eff. Apr. 1, 1971.

600.3145 Redemption from sale; additional sums for taxes and insurance premiums.

Sec. 3145. The court may make provision in any judgment of foreclosure for the adding to the amount determined in the judgment to be due, any sum or sums paid at any time after the foreclosure and prior to the expiration of the period of redemption,

as taxes assessed against the property and/or the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption, if under the terms of the mortgage it would have been the duty of the defendants determined to be personally liable to have paid the taxes or insurance premium had the mortgage not been foreclosed. In case of any such payment which is made prior to the entry of the order confirming the commissioner's report of sale, determination of the additional liability shall be made in the order. In case of any such payment made after the entry of the order proof of the payment may be made by filing with the register of deeds with whom the deed of sale is deposited, an affidavit of payment by the purchaser or some one in his behalf having knowledge of the facts together with a receipt evidencing the payment of the taxes, or, in case of insurance premiums, an affidavit of an agent of the insurance company stating the making of the payment and also what portion of the payment covers the premium for the period prior to the expiration of the period of redemption. Redemption shall not be effected after the determination, or filing of affidavit and receipt, or affidavits, as the case may be, except upon payment of the additional sum or sums. In case the property is not redeemed the taxes or premiums paid after the confirmation of sale shall not be added to or included in the deficiency judgment.

HISTORY: New 1961, p. 538, Act 236, Eff. Jan. 1, 1963.

600.3150 Personal liability for mortgage debt; execution for deficiency; possession.

Sec. 3150. In the original judgment in foreclosure cases the court shall determine and adjudge which defendants, if any, are personally liable on the land contract or for the mortgage debt. The judgment shall provide that upon the confirmation of the commissioner's report of sale that if either the principal, interest or costs ordered to be paid, is left unpaid after applying the amount received by the commissioner for the sale of the premises, the clerk of the court shall issue execution for the amount of the deficiency, upon the application of the attorney for the plaintiff, without notice to the defendant or his attorney. The court also has power to order and compel the delivery of the possession of the premises to the purchaser at the sale.

HISTORY: New 1961, p. 538, Act 236, Eff. Jan. 1, 1963.

600.3155 Upset price at sale.

Sec. 3155. In any forfeiture, foreclosure, or specific performance case based upon a mortgage on real estate or land contract the court may fix and determine the minimum price at which the real property covered by the mortgage or land contract may be sold at the sale under the forfeiture, foreclosure, or specific performance proceedings.

HISTORY: New 1961, p. 539, Act 236, Eff. Jan. 1, 1963.

600.3160 Persons other than mortgagor or vendee securing debt.

Sec. 3160. If the land contract or mortgage debt is secured by the obligation or other evidence of debt of any other person besides the vendee or mortgagor, the plaintiff may make that person a party to the action, and the court may order payment of the balance of the debt remaining unsatisfied, after a sale of the mortgaged premises, against this other person as well as against the vendee or mortgagor, and may enforce this judgment as in other cases.

HISTORY: New 1961, p. 539, Act 236, Eff. Jan. 1, 1963.

600.3165 Foreclosure; reference to commissioner; sale in parcels.

Sec. 3165. (1) If the defendant does not bring into court the amount due, with costs, or if for any other cause a judgment is entered for the plaintiff, the court may direct a reference to a circuit court commissioner to ascertain and report the situation of the

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premises subject to the mortgage or land contract or may itself determine the situation on oral or other testimony. If it appears that the premises can be sold, in parcels, without injury to the interests of the parties, the judgment shall direct as much of the premises subject to the mortgage or land contract to be sold as is sufficient to pay the amount then due on the mortgage or land contract, with costs, and the judgment shall remain as security for any subsequent default.

Subsequent default.

(2) If there is any default subsequent to the judgment, in the payment of any portion or installment of the principal or of any interest due upon the mortgage or land contract, the court may, upon the petition of the plaintiff, by a further order founded upon the first judgment, direct a sale to be made of as much of the premises subject to the mortgage or land contract as is sufficient to satisfy the amount due, with costs of the petition and subsequent proceedings on it, and the same proceedings may be had as often as a default happens.

Sale of whole premises; disposition of proceeds.

(3) If it appears to the court that the premises subject to the mortgage or land contract are so situated that a sale of the whole premises will be most beneficial to the parties the judgment shall be entered for the sale of the whole premises in the first instance. In this case the proceeds of the sale shall be applied to the interests, portion, or installment of the principal due as well as towards the whole or residue of the sum secured by the mortgage or land contract and not due and payable at the time of the sale. And if the residue does not bear interest the court may direct that the residue be paid with a rebate of the legal interest for the time during which the residue will not be due and payable; or the court may direct that the balance of the proceeds of the sale, after paying the sum due with costs, be put out at interest for the benefit of the plaintiff, to be paid to him as the installments or portions of the principal, or the interest become due, and the surplus for the benefit of the defendant, his representatives, or assigns, to be paid to them on the order of the court.

HISTORY: New 1981, p. 539, Act 236, Eff. Jan. 1, 1983.

600.3170 Trust mortgage property; authority of trustee to bid in at foreclosure for bondholders, effect of acquisition on rights of parties.

Sec. 3170. (1) When a complaint is filed in any circuit court for the foreclosure of any trust mortgage or deed of trust given to a trustee or trustees to secure bonds or other obligations issued and authenticated as set forth in the trust instrument, and on the sale of the mortgaged property had under the judgment on the complaint, no bid is made or appears to be obtainable for a sum which in the judgment of the court represents the then fair and reasonable value of the interest in the premises of the holders of the bonds or other obligations secured by the trust mortgage or deed in trust, the court may authorize the trustee or trustees to bid for and acquire the mortgaged property for a sum which in the judgment of the court represents the then fair and reasonable value of the interest. The court shall authorize the trustees to bid only if the court believes that to do so will be for the best interest of the holders of the bonds or obligations as a whole, and only if the persons requesting the authorization shall be representative in number of the persons holding bonds or obligations and hold at least a majority in value of the bonds or obligations. The authorization shall be made on the hearing on the report of the proceedings had in relation to the sale under the foreclosure judgment and may authorize that the bid be made in open court at the hearing or at any further offering for sale if the court directs any further offering for sale to be made. The acquisition by the trustee is subject to all rights of redemption by the mortgagor and other parties. The bid and acquisition and full title if not redeemed shall be for and on behalf of all holders of the bonds or other obligations secured by the mort-

gage and then outstanding according to their several and respective interests and the property shall be held and administered accordingly. The bid shall be satisfied by a pro rata credit on each bond or other obligation to the extent of the net distribution which would have been distributed on the bonds or other obligations if the bid were to be paid in cash.

Same; management after acquisition, powers and duties of trustee; disposal; report, accounting.

(2) Any property so acquired shall be managed and administered by the trusts under and in accordance with the rules and principles of law and equity pertaining to express trusts generally subject to the jurisdiction of the court to be exercised in the cause by proceedings subsequent to the judgment and order. The trustee shall be allowed all proper expenses and disbursements and reasonable compensation to be approved by the court. The trustee has power and authority to repair, maintain, and operate or lease the property until a sale or other disposal of the property is approved or directed. The trustee may borrow money for the payment of the portion of the bid required to be paid in cash and for any other purpose of the trust or for the benefit of the holders of the bonds, obligations, or beneficial certificates under the trust and secure that borrowed money by mortgage of the property of the trust. This mortgage shall be superior to and binding upon the interests of the holders of the bonds or obligations or beneficial certificates provided for by this section. It is the duty of the trustee to negotiate and effect a sale or other disposal of the property at the earliest time at which it can be done without sacrifice of the fair and reasonable value of the property. Any sale may be for cash or in whole or in part for bonds, notes, debentures, stocks, or other securities. No operating contract which is for more than 2 years or borrowing of money, mortgage, sale, or other disposal shall be made except by and with the approval and authorization of the court upon consent of or due notice to a majority in interest of the then beneficiaries of the trust. The court in the order authorizing the trustee to bid and acquire the property as provided above or by any order made subsequent to it may provide any other terms, conditions, powers, duties, and authority of the trust and of the trustee not inconsistent with the foregoing and any limitations on the foregoing which the court considers just and which are approved by a majority in interest of the beneficiaries of the trust. The court may likewise provide for the surrender and cancellation or for the pro rata cancellation, as the case may be, of the bonds or other obligations and for the issuance of certificates evidencing the beneficial interests in and under the trust. Upon a sale or other disposal of all the trust property and the complete consummation of the disposal the trustee shall render in writing a full and complete report and account of the administration of the trust and of the distribution of the assets of the trust upon which a hearing shall be had after due notice to the holders of beneficial interests whose appearances are then on file. If any trust continues more than 1 year an account and report of its administration shall be rendered when required by the court but at least annually and when any report has been made the final account and report required above shall be required to cover only from the date of the then last account and report.

Construction of section; supplementation by court rule.

(3) This section is intended to be remedial and to be liberally construed and to be supplemented by rule of court if necessary or expedient to the accomplishment or furtherance of its intents and purposes.

HISTORY: New 1961, p. 540, Act 238, Eff. Jan. 1, 1963.

600.3175 Discharge of mortgage on real property, land contract or tax lien; action.

Sec. 3175. (1) When a recorded mortgage on real property, land contract, or tax lien (except tax liens held by the state or any political subdivision of the state) on lands or

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property has been paid or satisfied or when 15 years have elapsed since the debt or lien secured by the mortgage, land contract, or tax lien became due and payable or since the last payment made upon it, and no civil action or proceedings have been commenced to collect the same and in case of tax deeds when no service of notice to interested persons (of any kind) has been filed with the county clerk, the owner of the land or property may institute an action in the circuit courts to discharge the mortgage, land contract or tax lien.

Same; evidence of payment, lapse of 15 years, judgment.

(2) If it appears to the court at the trial, either by the production in evidence of the original mortgage, land contract, tax lien, bond or bonds, promissory notes to secure the payment of which the mortgage was given, or by any other competent evidence, that the debt or lien secured by the mortgage, land contract, or tax lien has been fully paid both in principal and interest; or if it appears to the court by competent evidence that the debt or lien has been past due for 15 years, or that 15 years have elapsed since the last payment was made on the debt or lien and that no action or proceeding has been commenced to foreclose or perfect the mortgage, land contract, or tax lien the court shall enter judgment to that effect which contains within it the names of the witnesses and the nature of the evidence by which the facts have been made to appear. A minute of this shall be entered in the court's journal. A copy of the judgment, signed by the judge of the court and attested by the clerk of the court under the seal of the court shall be delivered to the plaintiff and may be recorded in the office of the register of deeds for the county or counties in which the mortgage, land contract, or tax lien is recorded in the same manner and with the same effects in all respects as if it were a formal discharge of the mortgage, land contract, or tax lien duly executed by the mortgagee or owner of the land contract or tax lien.

HISTORY: New 1961, p. 541, Act 236, Eff. Jan. 1, 1963.

600.3180 Actions equitable in nature.

Sec. 3180. Actions under this chapter are equitable in nature.

HISTORY: New 1961, p. 541, Act 236, Eff. Jan. 1, 1963.

CHAPTER 32.

FORECLOSURE OF MORTGAGES BY ADVERTISEMENT

600.3201 Foreclosure of mortgages containing power of sale; right.

Sec. 3201. Every mortgage of real estate, containing therein a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner hereinafter specified.

HISTORY: New 1961, p. 541, Act 236, Eff. Jan. 1, 1963.

600.3204 Foreclosure of mortgages containing power of sale; prerequisites; installments as separate mortgages; redemption.

Sec. 3204. To entitle any party to give a notice as hereinafter prescribed, and to make such foreclosure, it shall be requisite:

(1) That some default in a condition of such mortgage shall have occurred, by which the power to sell became operative;

(2) That no suit or proceeding shall have been instituted, at law, to recover the debt then remaining secured by such mortgage, or any part thereof; or if any suit or proceeding has been instituted, that the same has been discontinued, or that an execution

upon the judgment rendered therein has been returned unsatisfied, in whole or in part; and

(3) That the mortgage containing such power of sale has been duly recorded; and if it shall have been assigned that all the assignments thereof shall have been recorded.

(4) In cases of mortgages given to secure the payment of money by installments, each of the installments mentioned in such mortgage after the first, shall be taken and deemed to be, a separate and independent mortgage, and such mortgage for each of such installments may be foreclosed in the same manner and with the like effect as if such separate mortgages were given for each of such subsequent installments and a redemption of any such sale by the mortgagor shall have the like effect as if the sale for such installments had been made upon an independent prior mortgage.

HISTORY: New 1961, p. 542, Act 236, Eff. Jan. 1, 1963.

600.3208 Notice of foreclosure; publication, posting.

Sec. 3208. Notice that said mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the same for 12 successive weeks at least once in each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated, if there be one; and if no newspaper be published in such county, then such notice shall be published in a newspaper published in an adjacent county and, in every case within 30 days after the first publication of such notice, a true copy shall be posted in a conspicuous place upon any part of the premises described in such notice.

HISTORY: New 1961, p. 542, Act 236, Eff. Jan. 1, 1963.

600.3212 Notice of foreclosure by advertisement; contents.

Sec. 3212. Every such notice shall specify:

- (1) The names of the mortgagor and of the mortgagee, and the assignee of the mortgage if any;
- (2) The date of the mortgage, and when recorded;
- (3) The amount claimed to be due thereon at the date of the notice; and
- (4) A description of the mortgaged premises, conforming substantially with that contained in the mortgage; and
- (5) In the case of any mortgage executed on or after January 1, 1965, the length of the redemption period as determined under section 3240.

HISTORY: New 1961, p. 542, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 100, Act 102, Eff. Aug. 28.

600.3216 Sale; time and place.

Sec. 3216. The sale shall be at public sale, between the hour of 9 o'clock in the forenoon and 4 o'clock in the afternoon, at the place of holding the circuit court within the county in which the premises to be sold, or some part of them, are situated, and shall be made by the person appointed for that purpose in the mortgage, or by the sheriff, undersheriff, or a deputy sheriff of the county, to the highest bidder.

HISTORY: New 1961, p. 542, Act 236, Eff. Jan. 1, 1963.

600.3220 Sale; adjournment; notice, posting, publication.

Sec. 3220. Such sale may be adjourned from time to time, by the sheriff or other officer or person appointed to make such sale at the request of the party in whose name the notice of sale is published by posting a notice of such adjournment before or at the time of and at the place where said sale is to be made, and if any adjournment be for more than 1 week at one time, the notice thereof, appended to the original notice of sale, shall also be published in the newspaper in which the original notice was published, the first publication to be within 10 days of the date from which the sale was adjourned and thereafter once in each full secular week during the time for which

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such sale shall be adjourned. No oral announcement of any adjournment shall be necessary.

HISTORY: New 1961, p. 542, Act 236, Eff. Jan. 1, 1963.

600.3224 Sale of distinct parcels.

Sec. 3224. If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as 1 parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the cost and expenses allowed by law but if distinct lots be occupied as 1 parcel, they may in such case be sold together.

HISTORY: New 1961, p. 543, Act 236, Eff. Jan. 1, 1963.

600.3228 Sale; purchase by mortgagee or assigns.

Sec. 3228. The mortgagee, his assigns, or his or their legal representatives, may, fairly and in good faith, purchase the premises so advertised, or any part thereof, at such sale.

HISTORY: New 1961, p. 543, Act 236, Eff. Jan. 1, 1963.

600.3232 Deed of sale; endorsement, deposit with register, recording; entry upon redemption.

Sec. 3232. The officer or person making the sale shall forthwith execute, acknowledge, and deliver, to each purchaser a deed of the premises bid off by him; and if the lands are situated in several counties he shall make separate deeds of the lands in each county, and specify therein the precise amounts for which each parcel of land therein described was sold. And he shall endorse upon each deed the time when the same will become operative in case the premises are not redeemed according to law. Such deed or deeds shall, as soon as practicable, and within 20 days after such sale, be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall endorse thereon the time the same was received, and for the better preservation thereof, shall record the same at length in a book to be provided in his office for that purpose; and shall index the same in the regular index of deeds, and the fee for recording the same shall be included among the other costs and expenses allowed by law. In case such premises shall be redeemed, the register of deeds shall, at the time of destroying such deed, as provided in section 3244 of this chapter, write on the face of such record the word "Redeemed", stating at what date such entry is made, and signing such entry with his official signature.

HISTORY: New 1961, p. 543, Act 236, Eff. Jan. 1, 1963.

600.3236 Deed of sale; effect upon failure to redeem; prior liens.

Sec. 3236. Unless the premises described in such deed shall be redeemed within the time limited for such redemption as hereinafter provided, such deed shall thereupon become operative, and shall vest in the grantee therein named, his heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, except as to any parcel or parcels which may have been redeemed and canceled, as hereinafter provided; and the record thereof shall thereafter, for all purposes be deemed a valid record of said deed without being re-recorded, but no person having any valid subsisting lien upon the mortgaged premises, or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his rights or interests be in any way affected thereby.

HISTORY: New 1961, p. 543, Act 236, Eff. Jan. 1, 1963.

600.3240 Redemption; reimbursement of purchaser for taxes and insurance paid after sale; proof of payment; recording; periods of redemption.

Sec. 3240. If the mortgagor, his heirs, executors, administrators, or any person lawfully claiming from, or under him or them, shall, within the applicable time limit prescribed in subsections (2), (3) or (4) of this section, redeem the entire premises sold, by paying to the purchaser, his executors, administrators or assigns, or to the register of deeds in whose office such deed is deposited for the benefit of such purchaser, the sum which was bid therefor, with interest from the time of the sale at the rate per cent, borne by the mortgage, not exceeding 7% per annum, and in case such payment is made to the register of deeds, the sum of \$3.00 as a fee for the care and custody of such redemption money, then such deed shall be void and of no effect; but in case any distinct lot or parcel separately sold shall be redeemed, leaving a portion of the premises unredeemed, then such deed shall be inoperative merely to the parcel or parcels so redeemed, and to those portions not so redeemed shall remain valid and of full effect. In case such purchaser shall, following such sale, pay any sum or sums as taxes assessed against such property or premiums upon any insurance policy covering any buildings located thereon which under the terms of said mortgage it would have been the duty of the mortgagor to have paid, had such mortgage not been foreclosed, and which premiums are necessary to keep such policy in force until the expiration of the period of redemption, and such purchaser or someone in his behalf having knowledge of the facts, shall make an affidavit of such payment showing the amount and items paid, together with the receipt evidencing the payment of such taxes or insurance premiums, as the case may be, together with an affidavit of an insurance agent of such insurance company stating the making of such payment and also what portion thereof covers the premium for the period prior to the expiration of the period of redemption, all of which shall be filed with the register of deeds with whom such deed is deposited who shall endorse thereon the time same was received. The register of deeds shall record at length the affidavit of the purchaser only and shall preserve in his files such recorded affidavit, together with the tax and insurance receipts and insurance agent's affidavit, until expiration of the period of redemption. Redemption shall only be made thereafter upon payment of the sum above specified plus the amount shown by such affidavits and receipts to have been so paid, with interest thereon, from the date of such payment to the date of redemption, at the rate specified in such mortgage.

(2) In the case of any mortgage executed on or after January 1, 1965 on commercial or industrial property, or multi-family residential property in excess of 4 units, the redemption period shall be 6 months from the time of such sale.

(3) In the case of any mortgage executed on or after January 1, 1965 on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due thereon at the date of the notice of foreclosure is more than 66- $\frac{2}{3}$ % of the original indebtedness secured by the mortgage, the redemption period shall be 6 months.

(4) In any other case, the redemption period shall be 1 year from the date of such sale.

HISTORY: New 1961, p. 543, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 20, Act 15, Eff. Aug. 28;—Am. 1964, p. 101, Act 102, Eff. Aug. 25.

600.3244 Redemption; destruction of deed; record.

Sec. 3244. Upon the payment of the entire sum bid at such sale, and interest thereon, and the fee of \$5.00 mentioned in section 3240 to the register in whose office the deed therefor shall have been deposited, or upon delivering to such register a certificate, signed and acknowledged by the person entitled to receive the same, and certified by some officer authorized to take the acknowledgment of deeds, setting forth that such sum, with interest, has been paid to such person, and upon paying to such

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register a fee of 25 cents, such register shall thereupon destroy such deed, and shall enter in the margin of the record of such mortgage, a memorandum that such mortgage is satisfied; or in case the premises shall have been sold in parcels, and 1 or more of said parcels shall have been redeemed, as hereinbefore provided, it shall then be the duty of the register to enter upon the face of said sheriff's deed, and the record thereof, a memorandum that the same is inoperative as to the parcel or parcels so redeemed, and to enter in the margin of the record of such mortgage a memorandum that the same is satisfied as to the parcel or parcels so redeemed.

HISTORY: New 1961, p. 544, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 419, Act 240, Eff. Sep. 6.

600.3248 Redemption; refusal to certify payment, civil liability.

Sec. 3248. If any person entitled to receive such redemption moneys, shall, upon payment or tender thereof to him, refuse to make and acknowledge such certificate of payment, he shall be liable to the person aggrieved thereby, in the sum of \$100.00 damages, over and above all the actual damages sustained, to be recovered in a civil action, except that no damages of any kind may be recovered from any register of deeds who shall refuse to accept tender of payment after the time indorsed upon the deed when the same shall become operative in case the premises are not redeemed, and the officer or person making the sale shall be entitled to rely conclusively upon the recital of the length of the redemption period contained in the notice of foreclosure in making such indorsement upon the deed.

HISTORY: New 1961, p. 544, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 101, Act 102, Eff. Aug. 28.

600.3252 Surplus proceeds of sale; distribution; third party claimants.

Sec. 3252. If after any sale of real estate, made as herein prescribed, there shall remain in the hands of the officer or other person making the sale, any surplus money after satisfying the mortgage on which such real estate was sold, and payment of the costs and expenses of such foreclosure and sale, the surplus shall be paid over by such officer or other person on demand, to the mortgagor, his legal representatives or assigns, unless at the time of such sale, or before such surplus shall be so paid over, some claimant or claimants, shall file with such person so making such sale, a claim or claims, in writing, duly verified by the oath of such claimant, his agent or attorney, that such claimant has a subsequent mortgage or lien encumbering such real estate, or some part thereof, and stating the amount thereof unpaid, setting forth the facts and nature of the same, in which case the person so making such sale, shall forthwith upon receiving such claim, pay such surplus to, and file such written claim with the clerk of the circuit court of the county in which such sale is so made; and thereupon any person or persons interested in such surplus, may apply to said court for an order referring it to a circuit court commissioner of said county, to take proofs of the facts and circumstances contained in such claim or claims so filed, and such commissioner shall, upon receiving such order, summon such claimant or claimants, party or parties interested in such surplus, to appear before him at a time and place to be by him named, and attend the taking of such proof, and such claimant or claimants or party interested who shall appear as aforesaid, may examine witnesses and produce such proof as they or either of them may see fit, and the said commissioner shall, after such proofs are closed, at his earliest convenience report the same to said court with his opinion thereon, and said court shall thereupon make an order in the premises directing the disposition of said surplus moneys or payment thereof in accordance with the rights of such claimant or claimants or persons interested.

HISTORY: New 1961, p. 544, Act 236, Eff. Jan. 1, 1963.

600.3256 Affidavits to perpetuate evidence of sale; endorsement or annexation to one instrument.

Sec. 3256. (1) Any party desiring to perpetuate the evidence of any sale made in pursuance of the provisions of this chapter, may procure:

(a) An affidavit of the publication of the notice of sale, and of any notice of postponement, to be made by the publisher of the newspaper in which the same was inserted, or by some person in his employ knowing the facts; and

(b) An affidavit of the fact of any sale pursuant to such notice, to be made by the person who acted as auctioneer at the sale, stating the time and place at which the same took place, the sum bid, and the name of the purchaser; and

(c) An affidavit setting forth the time, manner and place of posting a copy of such notice of sale to be made by the person posting the same.

(2) Where any or all of such affidavits are endorsed upon or annexed to 1 instrument, a single copy of the notice of sale, and a single copy of any notice of postponement, shall be sufficient to annex to such instrument, and reference made in any of such affidavits to copy of notice of sale and to copy of any notice of postponement of sale as annexed or attached shall be deemed to refer to such single copy of notice of sale and to such single copy of any notice of postponement.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3260 Affidavits to perpetuate evidence of sale; persons to take.

Sec. 3260. The affidavits specified in section 3256 may be taken and certified by any officer authorized by law to administer oaths.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3264 Affidavits to perpetuate evidence of sale; record, evidence.

Sec. 3264. Such affidavits shall be recorded at length by the register of deeds of the county in which the premises are situated, in a book kept for the record of deeds; and such original affidavits, the record thereof, and certified copies of such record, shall be presumptive evidence of the facts therein contained.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3268 Marginal notes to record of mortgages.

Sec. 3268. A note referring to the page and book where the evidence of any sale having been made under a mortgage, is recorded, shall be made by the register recording such evidence, in the margin of the record of such mortgage, if such record be in his office.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3272 Redemption; notice to purchaser.

Sec. 3272. Upon the payment of the entire sum bid at such sale, and the interest thereon and expenses as in section 3240 of this chapter mentioned to the register of deeds of the county in whose office the sheriff's deed shall have been deposited, the register of deeds shall give notice of such payment, by mail or otherwise to the purchaser, his agent or attorney.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3276 Posting of notices; mortgagee's right of entry.

Sec. 3276. Incident to the foreclosure of a mortgage pursuant to the provisions of this chapter, the mortgagee, his agents and assigns shall have a right to enter upon the mortgaged premises for the purpose of posting or serving the notices required by this chapter.

HISTORY: New 1961, p. 545, Act 236, Eff. Jan. 1, 1963.

600.3280 Foreclosure by advertisement; deficiency, defenses.

Sec. 3280. When, in the foreclosure of a mortgage by advertisement, any sale of real property has been made after February 11, 1933, or shall be hereafter made by a mortgagee, trustee, or other person authorized to make the same pursuant to the power of sale contained therein, at which the mortgagee, payee or other holder of the obligation thereby secured has become or becomes the purchaser, or takes or has taken title thereto at such sale either directly or indirectly, and thereafter such mortgagee, payee or other holder of the secured obligation, as aforesaid, shall sue for and undertake to recover a deficiency judgment against the mortgagor, trustor or other maker of any such obligation, or any other person liable thereon, it shall be competent and lawful for the defendant against whom such deficiency judgment is sought to allege and show as matter of defense and set-off to the extent only of the amount of the plaintiff's claim, that the property sold was fairly worth the amount of the debt secured by it at the time and place of sale or that the amount bid was substantially less than its true value, and such showing shall constitute a defense to such action and shall defeat the deficiency judgment against him, either in whole or in part to such extent. This section shall not affect nor apply to the rights of other purchasers or of innocent third parties, nor shall it be held to affect or defeat the negotiability of any note, bond or other obligation secured by such mortgage, deed of trust or other instrument. Such proceedings, as aforesaid, shall in no way affect the title of the purchaser to the lands acquired by such purchase. This section shall not apply to foreclosure sales made pursuant to an order or decree of court nor to any judgment sought or rendered in any foreclosure suit nor to any chancery sale heretofore or hereafter made and confirmed.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

CHAPTER 33.

PARTITION

600.3301 Partition of lands; jurisdiction of circuit court; actions equitable in nature.

Sec. 3301. Actions containing claims for the partition of lands may be brought in the circuit courts, including, but not limited to, the matters covered in this chapter. Such actions are equitable in nature.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

600.3304 Partition of lands; joint tenants; tenants in common.

Sec. 3304. All persons holding lands as joint tenants or as tenants in common may have those lands partitioned.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

600.3308 Partition of lands; estate in possession; inapplicable to reversions or remainders.

Sec. 3308. Any person who has an estate in possession in the lands of which partition is sought may maintain a claim for partition of those lands, but a person who has only an estate in reversion or remainder in the lands may not maintain a claim for their partition.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

600.3312 Mineral rights.

Sec. 3312. Any person who has an estate in possession of any ores, minerals, or metals in lands may maintain a claim for partition. But the claim for partition may be brought only against those persons who have estates in possession of the ores, minerals, and metals.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

600.3316 Undivided interest in estate in possession or in expectancy deemed fee simple.

Sec. 3316. Any person who owns an undivided interest, however acquired, in all of the estates in possession and in expectancy in the land of which partition is sought is deemed to have an estate in fee simple, absolute in possession, in the land to the extent of the least share which he has in any of the estates and is entitled to maintain a claim for partition.

HISTORY: New 1961, p. 546, Act 236, Eff. Jan. 1, 1963.

600.3320 Participation by guardian; authority to agree to division.

Sec. 3320. (1) The circuit court may direct and authorize general guardians or guardians ad litem to agree to a division or a sale of the entire premises or of as much of the premises as, in the opinion of the court, is incapable of partition, or of as much of the premises as the best interest of the ward requires to be sold.

Same; report, confirmation, order, release of ward's rights.

(2) The guardian shall report on oath to the court the partition or sale he made under the court's direction and if the court approves and confirms the sale the court shall enter an order authorizing the guardian to execute conveyances of the rights of the ward to the purchaser of that portion of the estate, or to execute a release of the rights of the ward to the portion of the estate which in the division falls to the shares of the other joint tenants or tenants in common. Those deeds shall be valid and effectual to convey the share and interest of the ward.

Same; infants.

(3) If any part of his estate is sold an infant shall be deemed a ward of the court and the court shall direct an order for securing, investing, and applying the proceeds of the sale, and for requiring security from the guardian for that purpose.

Same; married woman infant.

(4) If the infant is a married woman the court may, upon petition, appoint her husband as her guardian and he shall be subject to the provisions of this section.

Delivery of guardianship property to probate court guardian; discharge of circuit court guardian.

(5) When a guardian has been appointed by the probate court, the circuit court guardian shall deliver all guardianship property and funds to the probate court guardian and upon receipt therefor, the guardian appointed by the circuit court shall be discharged.

HISTORY: New 1961, p. 547, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 111, Act 113, Eff. Aug. 28.

600.3324 Lands held in trust; parties.

Sec. 3324. (1) The provisions concerning partition are applicable to lands held by a trustee for the benefit of others, and a claim for partition may be instituted by the trustees or any person interested in the lands held in trust.

Same; division among heirs or devisees.

(2) When the original parties in interest in the trust, or any of them, have died, leaving heirs or legatees or others interested by title or right through them or any of them in the lands held in trust, the court, at its discretion, may divide the land by judgment among the heirs, legatees, or others representing the interests of the deceased in those lands so as to set off the interest of all of these persons together, without subdivision among them.

HISTORY: New 1961, p. 547, Act 236, Eff. Jan. 1, 1963.

600.3328 Partition against state; service of papers; appearance.

Sec. 3328. Partition proceedings may be brought in the circuit courts against the state of Michigan whenever any lands are held jointly or as tenants in common by individuals and the state of Michigan.

All papers required to be served on the people of this state as defendants in a partition proceeding shall be served on the attorney general, who shall appear in behalf of the state and attend to its interests. The proceedings shall be conducted in the same manner as if they were against individuals and like orders and decrees shall be had. The proportion of the costs and expenses which are adjudged to be paid by the people of this state shall be certified by the attorney general and paid out of the state treasury on warrant of the state treasurer.

HISTORY: New 1961, p. 547, Act 236, Eff. Jan. 1, 1963.

600.3332 Indivisible premises; division of part of premises; minimum price.

Sec. 3332. If the court finds that all the lands and tenements of which division or partition is sought are so situated, or that any district, tract, lot, or portion of the lands and tenements is so situated, that a partition and division of them among the persons interested in them cannot be made without great prejudice to the owners, the court may order the circuit court commissioner to sell the premises which cannot be divided or partitioned, at a public auction to the highest bidder. If the court finds that any portion, interest, or part can be divided and partitioned and that other portions, interests, or parts cannot be divided without great prejudice to the owners, the court may appoint partition commissioners and direct them to partition and divide the parts or interests which can be divided and to set aside to be sold the portions, interests, or parts which cannot be divided and these may be sold as provided in the court rules. The court may fix and determine the minimum price at which the real property may be sold.

HISTORY: New 1961, p. 547, Act 236, Eff. Jan. 1, 1963.

600.3336 Owelty; adjustment of equities.

Sec. 3336. (1) When it appears to the court ordering partition that partition cannot be made equally between the parties without prejudice to the rights and interests of some of the parties the court may adjudge that 1 party compensate another in such a way as to equalize the partition according to the equities of the case.

Adjustment of equities.

(2) When partitioning the premises or dividing the money received from a sale of the premises among the parties the court may take into consideration the equities of the situation, such as the value of the use of the premises by a party or the benefits which a party has conferred upon the premises.

HISTORY: New 1961, p. 548, Act 236, Eff. Jan. 1, 1963.

600.3340 Sales under partition; settlement of value of inchoate, contingent, or vested rights.

Sec. 3340. In all cases of sales under judgment in partition where it appears that any married woman has an inchoate right of dower in any of the lands divided or sold, or that any person has a vested or contingent future right or estate in the lands, the court under whose judgment the sale is made shall ascertain and settle the proportional value of the inchoate, contingent, or vested right or estate, according to the principles of law applicable to annuities and survivorships, and shall direct the proportion of the proceeds of the sale to be invested, secured, or paid over in the manner considered the best to secure the rights and interests of the parties. The payment, investment, or other securing of the proceeds of the sale shall be a bar to that right, estate, or claim.

HISTORY: New 1961, p. 548, Act 236, Eff. Jan. 1, 1963.

600.3344 Release of interest by married woman; payment from proceeds of sale; effect on rights.

Sec. 3344. Any married woman may release her right, interest, or estate to her husband and lawfully acknowledge this release. If the release is executed outside of this state it shall be executed, acknowledged, and certified as the laws of this state require for the execution, acknowledgment, and certification of deeds in any other state, territory, or district of the United States. Upon the release the shares of the sale arising from her contingent interest shall be paid to her. This release shall be a bar to her right, estate, or claim.

HISTORY: New 1961, p. 548, Act 236, Eff. Jan. 1, 1963.

600.3348 Receiver; appointment; protection from waste, trespass, or injury.

Sec. 3348. Whenever it appears that to do so would benefit any part owner of the premises of which partition is sought, the court may appoint a receiver having such authority as is necessary to lease the premises; or protect them from waste, trespass, or injury; or for any other purpose.

HISTORY: New 1961, p. 548, Act 236, Eff. Jan. 1, 1963.

600.3352 Claims barred by statute of limitations; acquiescence.

Sec. 3352. The authority given by this chapter to partition real estate does not authorize the revival or prosecution of any claim to lands which otherwise would be barred by the statute of limitations or by the acquiescence of any party who had the claim.

HISTORY: New 1961, p. 548, Act 236, Eff. Jan. 1, 1963.

600.3356 Creditor with lien; transfer; impairment.

Sec. 3356. The partition of the premises shall not alter or impair the lien of any creditor on the premises in question, except that when the lien is on the undivided interest or estate of any of the parties, either in a portion or the whole of the premises partitioned, such lien, if partition can be made, shall thereafter be transferred, and be a charge only on the premises assigned to such party, and may be enforced against the same as though such lien had originally existed thereupon.

HISTORY: New 1961, p. 549, Act 236, Eff. Jan. 1, 1963.

600.3360 Division of property among cestuis que trust in lieu of sale; authority from court.

Sec. 3360. In any estate vested in a trustee or trustees for the benefit of any person or corporation, whether by will or other grant or conveyance, where a provision is made for the sale of the trust property and distribution of the proceeds and where no limitation is placed upon the power of alienation, nor restriction made as to the time of the division and distribution of the proceeds of the trust property, and it appears to be more advantageous to the persons for whose benefit the trust was created to divide and distribute the trust property among them rather than to have the trustees sell the property and distribute the proceeds, the trustee may make a division and distribution of the trust estate among the persons entitled to the proceeds for the sale of the property in the same proportions as the terms of the instrument or grant which created the trust provide that the proceeds of the sale of the property should be distributed, upon authority being granted by the circuit court.

HISTORY: New 1961, p. 549, Act 236, Eff. Jan. 1, 1963.

600.3364 Division of property among cestuis que trust in lieu of sale; procedure when all parties do not consent.

Sec. 3364. In all cases except where all the parties to be benefited by the distribution of the proceeds of the sale of the trust estate give their consent in writing to the

division and distribution of the trust estate as above provided, the proceedings to obtain the authority of the court as aforesaid to divide and distribute said estate, may be instituted by the trustee or any person interested in such division and distribution, and shall conform to the provisions of this chapter relating to partition of lands, and the division and distribution, if authorized by the court, shall be effected in the manner provided by this chapter for partitioning the undivided interests of persons in real estate generally.

HISTORY: New 1961, p. 549, Act 236, Eff. Jan. 1, 1963.

600.3368 Division of property among cestuis que trust in lieu of sale; procedure when all parties consent.

Sec. 3368. Such division or distribution of a trust estate may be made by a trustee without obtaining the authority of the court as aforesaid, when all the persons who would be entitled to share in the proceeds of the sale of such estate consent thereto in writing, and such trustee shall make such division and distribution when all of the parties interested as aforesaid so request in writing.

HISTORY: New 1961, p. 549, Act 236, Eff. Jan. 1, 1963.

600.3372 Division of property among cestuis que trust in lieu of sale; consent of guardian of minor, insane or incompetent person.

Sec. 3372. When any of the persons entitled to share in the distribution of the proceeds of the sale of such trust estate is a minor, or insane, or incompetent to give his consent, or make such request, the division and distribution shall not be made without the authority of the court as aforesaid, unless the minor, insane or incompetent person has a general guardian, in which event such general guardian, upon obtaining the authority of the court appointing such guardian to consent to such division and distribution, or request that the same shall be made by the trustee, shall have the same power and authority to consent to such division and distribution or make request therefor, and agree upon a method of effecting such division and distribution as a person of full age and otherwise competent to act in the premises could do. The authority of the court appointing such guardian to give such consent, or make such request, may be obtained by such guardian filing with such court a petition showing the circumstances which it is deemed renders it to the advantage of the minor, insane or incompetent person to have such distribution or division made.

HISTORY: New 1961, p. 549, Act 236, Eff. Jan. 1, 1963.

CHAPTER 35.

THE VOLUNTARY DISSOLUTION AND WINDING UP OF CORPORATIONS

600.3501 Voluntary dissolution of corporations; actions equitable in nature.

Sec. 3501. (1) Whenever the directors, trustees, or other officers who have the management of the affairs of any corporation, or the majority of them, discover that the stock, property, and effects of the corporation are so far reduced by losses or otherwise that the corporation will not be able to pay all just demands to which it is liable, or to afford a reasonable security to those who deal with it, or whenever the directors, trustees, or officers, or a majority of them, for any reason, deem it beneficial to the stockholders to dissolve the corporation, they may institute a civil action in the circuit court for the county in which the corporation is located, for a judgment dissolving the corporation. Such actions are equitable in nature.

Parties defendant; stockholders and creditors.

(2) All stockholders and creditors shall be made parties defendant. Hearing of the matter may be referred to a circuit court commissioner.

HISTORY: New 1961, p. 550, Act 236, Eff. Jan. 1, 1963.

600.3505 Voluntary dissolution of corporations; dissolution, receiver, temporary receiver.

Sec. 3505. If it appears to the court that the corporation is insolvent or that dissolution thereof would be beneficial to the stockholders and not injurious to the public, the court may dissolve the corporation and appoint a receiver of its estate and effects. Pending the hearing, the court may appoint a temporary receiver and prescribe his powers and duties.

HISTORY: New 1961, p. 550, Act 236, Eff. Jan. 1, 1963.

600.3510 Receiver; bond, powers, duties; administration of estate.

Sec. 3510. (1) Upon giving bond and qualifying, as the court may direct, such permanent receiver is vested with all the estate, real and personal, of such corporation and is trustee thereof for the benefit of its creditors and stockholders, and has all the powers, authority and remedies of an assignee for the benefit of creditors under RJA chapter 52, and also the power to continue the business of such corporation for such period as the court permits; and so far as they may be applicable, is subject to all the duties and obligations of such an assignee, except where other provisions are herein made.

Common law assignments.

(2) The provisions of law regulating common law assignments with reference to sales of property, notice to creditors to prove claims, the proving, contesting and allowing of claims, the making of set-offs, the powers of the court in chancery or judge thereof, the making and filing of accounts, the closing of the estate, the distribution of dividends and the compensation of the receiver, apply and shall be followed except that:

(a) stockholders as well as creditors shall be given notice of claims filed and may with like effect request that any claim be contested;

(b) stockholders shall be given notice of such other matters and in such manner as the court may require;

(c) in distributing dividends any surplus remaining after payment of expenses and after creditors are paid in full shall be distributed among the stockholders according to their respective rights as determined by the court.

HISTORY: New 1961, p. 550, Act 236, Eff. Jan. 1, 1963.

600.3515 Sales, transfers and levies subsequent to application for dissolution; validity.

Sec. 3515. All sales, assignments, transfers, mortgages and conveyances of any part of the assets of such corporation made after the filing of such application for dissolution, in payment of or as security for any existing or prior debt, and all judgments confessed by such corporation after that time, and all subsequent levies or garnishments are absolutely void as against the receiver who may be thereafter appointed.

HISTORY: New 1961, p. 550, Act 236, Eff. Jan. 1, 1963.

600.3520 Corporations with expired charters; manner of winding up.

Sec. 3520. (1) Any corporation which is organized under the general acts or any special act of the legislature authorizing its organization for the purpose of carrying on the business of mining, smelting, or manufacturing, whose term of existence as fixed by its articles or the special act under which it is organized has expired and whose further term allowed by the laws of this state for winding up its business has also expired

or will expire (no other valid proceeding to wind up its corporate affairs having been completed), may be wound up and its assets disposed of and distributed pursuant to this section and the rules of court upon the application of any stockholder or any creditor whose demand is in full force.

Parties plaintiff; actions equitable in nature.

(2) Any stockholder, whether his title to the stock is legal, equitable, absolute or in trust, in such corporation, or any creditor of such corporation whose demand is in full force and is not barred by any statute of limitations, may bring an action in the circuit court of any county of this state in which any of the real or personal property of such corporation is situated, for the purpose of winding up the affairs of such corporation and disposing of and distributing its property among the persons entitled thereto. Such actions are equitable in nature.

Reorganization or extension of renewal; de facto corporations.

(3) Nothing in this section shall be construed to prevent the reorganization or the extension of the renewal of the corporate term by corporations authorized by law to do so or to affect or impair the organization rights of property of any de facto corporation actively carrying on its proper business.

Receiver; appointment.

(4) The circuit court, or the judge thereof, may at any time, on proper application of plaintiff, and notice to the proper parties, appoint a receiver of the property of the corporation.

Same; powers and duties; conveyances.

(5) Such receiver shall be vested with all the estate, real and personal, of such corporation, and shall, under the direction of the court, proceed to wind up the affairs of such corporation, sell and convey and distribute its assets among its creditors and stockholders, in the same manner as near as may be, as is provided by law in the case of voluntary dissolution of corporations. A conveyance by a receiver in accordance with a court order shall convey all of the interest of the corporation.

HISTORY: New 1961, p. 551, Act 236, Eff. Jan. 1, 1963.

600.3525 Chapter inapplicable to library; lyceums; religious corporation; academy; select school; burying ground corporations.

Sec. 3525. The provisions of this chapter do not extend to any incorporated library or lyceum society; to any religious corporation; to any incorporated academy or select school not organized for pecuniary profit; nor to the proprietors of any burying ground incorporated under the laws of this state.

HISTORY: New 1961, p. 551, Act 236, Eff. Jan. 1, 1963.

CHAPTER 36.

PROCEEDINGS AGAINST CORPORATIONS

600.3601 Restraint of unauthorized exercise of corporate rights, privileges, franchises.

Sec. 3601. (1) Upon complaint being filed by the attorney general, the circuit court may enjoin any corporation from assuming or exercising any franchise, liberty, or privilege or transacting any business not authorized by the corporation's charter. The court may in the same manner restrain any individuals from exercising any corporate rights, privileges, or franchises which have not been granted to them by the laws of this state.

Injunction before answer; continuance.

(2) The court may issue the injunction before the answer, upon satisfactory proof that the defendants have usurped, exercised or claimed any franchise, privilege, lib-

erty, or corporate right not granted to them; and after the answer the injunction may be continued until final judgment is had.

HISTORY: New 1961, p. 551, Act 236, Eff. Jan. 1, 1963.

600.3605 Circuit courts; power over corporate officers, property.

Sec. 3605. (1) Circuit courts have the power, and actions may be brought in the circuit courts:

(a) to compel persons to account for their conduct in the management and disposition of the corporate funds and corporate property committed to their charge;

(b) to compel persons to pay to the corporation which they represent, and to its creditors, all sums of money and the value of all property which they have acquired to themselves or transferred to others or have lost or wasted by any violation of their duties as directors, managers, trustees, or other officers;

(c) to suspend any corporate trustee or other officer from exercising his office whenever it appears that he has abused his trust;

(d) to remove any corporate trustee or officer from his office upon proof or conviction of gross misconduct;

(e) to direct new elections to be held by the corporation or board duly authorized to hold elections to supply any vacancy created by any removal;

(f) in case there is no board, or all the members of the board are removed, then to report this to the governor, who is authorized to fill these vacancies with the consent of the senate;

(g) to set aside all alienations of property made by the trustees or other officers of any corporation contrary to the provisions of law or for purposes foreign to the lawful business and objects of the corporation, in cases where the persons receiving the alienated property knew the purposes for which the alienation was made; and

(h) to restrain and prevent any alienation of corporate property in cases where it is threatened or there is good reason to apprehend that it is intended to be made.

Same; jurisdiction over officers and former officers.

(2) This jurisdiction extends over all directors, managers, trustees, and other officers of corporations, and over any person who has held any of these offices in any corporation against whom proceedings are commenced within 1 year after he has ceased to be a director, manager, trustee, or other officer.

Same; attorney general, creditors, officers, stockholders as plaintiff.

(3) This jurisdiction may be exercised at the instance of the attorney general, prosecuting in the behalf of the people of this state, or at the instance of any creditor of the corporation, or at the instance of any director, trustee, or other officer of the corporation who has a general superintendence of its concerns, or by any stockholder of the corporation.

Same; visitorial powers vested in public officers.

(4) When any of the visitorial powers enumerated in subsection (1), over any corporation, are or shall be vested, by statute, in any corporate body or public officer, the provisions of subsection (1) shall not be construed to divest or impair the powers so vested.

HISTORY: New 1961, p. 552, Act 236, Eff. Jan. 1, 1963.

600.3610 Sequestration of corporate property.

Sec. 3610. (1) Whenever a judgment is obtained against any corporation, incorporated under the laws of this state, and an execution issued upon the judgment is returned unsatisfied, in part or in whole, upon the petition of the person who obtained the judgment, or his representative, the circuit court may sequester the stock, prop-

erty, things in action, and effects of the corporation, and may appoint a receiver of the corporation.

Distribution of assets upon final judgment.

(2) Upon a final judgment, the court shall cause a just and fair distribution of the property of the corporation, and of the proceeds thereof, to be made among the creditors of such corporation, in proportion to their debts respectively, who shall be paid in the same order as provided in the case of a voluntary dissolution of a corporation.

HISTORY: New 1961, p. 552, Act 236, Eff. Jan. 1, 1963.

600.3615 Insolvency for one year; corporate rights deemed surrendered.

Sec. 3615. Whenever any incorporated company has remained insolvent for 1 whole year, or for 1 year has neglected or refused to pay and discharge its notes, or other evidence of debt, it is deemed to have surrendered the rights, privileges, and franchises granted by any act of incorporation, or acquired under the laws of this state, and shall be adjudged to be dissolved.

HISTORY: New 1961, p. 553, Act 236, Eff. Jan. 1, 1963.

600.3620 Creditor's bill against directors or stockholders; jurisdiction of circuit court.

Sec. 3620. (1) Whenever any creditor of a corporation seeks to charge the directors, trustees or other superintending officers of such corporation, or the stockholders thereof, on account of any liability created by law, he may bring an action in the circuit courts to enforce such liability.

Same; accounts; receivers.

(2) The court shall proceed thereon as in other cases, and when necessary, shall cause an account to be taken of the property and debts due to and from such corporation, and shall appoint 1 or more receivers, who shall possess all the powers conferred, and are subject to all the obligations imposed on receivers in case of the voluntary dissolution of a corporation.

Same; determination of liability in case of corporate insolvency.

(3) But if, on the coming in of the answer, or upon the taking of any such account, it appears that such corporation is insolvent, and that it has no property or effects to satisfy such creditor, the court may proceed without appointing any receiver, to ascertain the respective liabilities of such directors and stockholders, and enforce the same, by its orders and judgments, as in other cases.

Distribution of property upon final judgment.

(4) Upon a final judgment being made upon any such application to restrain a corporation, or upon any such complaint filed against directors or stockholders, the court shall cause a just and fair distribution of the property of such corporation, and of the proceeds thereof, to be made among its creditors, in the order and in the proportions prescribed in the case of a voluntary dissolution of a corporation.

HISTORY: New 1961, p. 553, Act 236, Eff. Jan. 1, 1963.

600.3625 Debt; enforcement of payment; stock subscriptions.

Sec. 3625. (1) In all cases in which the directors or other officers of a corporation, or the stockholders thereof, are parties to the action in which judgment is rendered, if the property of such corporation is insufficient to discharge its debts, the court shall proceed to compel each stockholder to pay in the amount due and remaining unpaid on the shares of the stock held by him, or so much thereof as is necessary to satisfy the debts of the company.

Same; determination of liability of directors, officers, stockholders.

(2) If the debts of the company remain unsatisfied, the court shall proceed to ascertain the respective liabilities of the directors or other officers, and of the stockholders, and to adjudge the amount payable by each.

HISTORY: New 1961, p. 553, Act 236, Eff. Jan. 1, 1963.

600.3630 Discovery of corporate assets.

Sec. 3630. (1) Upon any application to the court having jurisdiction, in any of the cases provided in this chapter, such court may compel such corporation to discover any stock, property, things in action or effects alleged to belong, or to have belonged to it, the transfer and disposition thereof, and the consideration, and all the circumstances of such disposition.

Same; officers, agents, stockholders.

(2) Every officer, agent or stockholder of any corporation, against which proceedings are instituted, according to the provisions of this chapter, and every person to whom it is alleged that any transfer of any property or effects of such corporation has been made, or in whose possession or control any such property or effects are alleged to be, may be compelled, in the direction of the court, to answer a complaint filed to obtain any discovery specified in subsection (1), notwithstanding such answer may expose the corporation of which he is a member to a forfeiture of its corporate rights, or any of them.

Same; answers and examination of witnesses.

(3) The answers of the officers and agents of any corporation are evidence against the corporation, in the same manner and to the same extent as if such answers had been given upon an examination of such officers or agents as witnesses in the cause, and such officers or agents may subsequently be examined as witnesses by either party, under the order of the court, but no such answer may be compelled, unless by special order of the court.

Same; evidence not to be used in criminal prosecution.

(4) Neither the answer of any such officer or agent, nor his testimony upon any such subsequent examination, may be used as evidence upon any indictment, or other criminal prosecution or proceeding against him.

HISTORY: New 1961, p. 554, Act 236, Eff. Jan. 1, 1963.

600.3635 Injunction against other proceedings by creditors.

Sec. 3635. (1) Whenever any complaint is filed or any application is made against any corporation, its directors or other superintending officers, or its stockholders, according to the provisions of this chapter, the court may enjoin all other proceedings by any creditor against the defendants in the action, at the application of either party at any stage of the proceedings.

Notice to all creditors to exhibit claims.

(2) Whenever it appears necessary or proper the court may order notice to be served or published in a reasonable manner requiring all the creditors of the corporation to exhibit their claims and become parties to the action within a reasonable time prescribed by the court.

Failure to exhibit claims and become parties.

(3) If any creditors fail to exhibit their claims and become parties within the time specified, they shall be precluded from all benefit of any judgment which is later made in the action and from any distribution which is made under the judgment.

HISTORY: New 1961, p. 554, Act 236, Eff. Jan. 1, 1963.

600.3640 Inapplicability of chapter; library; lyceum; religious corporation; academy; select school; burying ground corporation; insurance or fraternal benefit association.

Sec. 3640. The provisions of this chapter do not extend to any incorporated library or lyceum society; to any religious corporation; to any incorporated academy or select school; or to the proprietors of any burying ground incorporated under the laws of this state; or to any insurance corporation, fraternal benefit association or society doing business under the laws of this state.

HISTORY: New 1961, p. 554, Act 236, Eff. Jan. 1, 1963.

600.3645 Actions equitable in nature.

Sec. 3645. Actions brought under this chapter are equitable in nature.

HISTORY: New 1961, p. 554, Act 236, Eff. Jan. 1, 1963.

CHAPTER 38.

PUBLIC NUISANCES

600.3801 Declared nuisances; abatement.

Sec. 3801. Any building, vehicle, boat, aircraft or place used for the purpose of lewdness, assignation or prostitution or gambling, or used by, or kept for the use of prostitutes or other disorderly persons, or used for the unlawful manufacture, storing, possessing, transporting, sale, keeping for sale, giving away, bartering, furnishing or otherwise disposing of any narcotic and/or hypnotic drug as defined by law or of any vinous, malt, brewed, fermented, spirituous or intoxicating liquors or any mixed liquors or beverages, any part of which is intoxicating, is hereby declared a nuisance and the furniture, fixtures and contents of any such building, vehicle, boat, aircraft, or place and all such intoxicating liquors therein are also declared a nuisance, and all such narcotic and/or hypnotic drugs and nuisances shall be enjoined and abated as hereinafter provided, and as provided in the court rules. Any person, or his servant, agent or employee who shall own, lease, conduct or maintain any building, vehicle or place used for any of the purposes or by any of the persons above set forth or where any of the acts above enumerated are conducted, permitted or carried on, is guilty of a nuisance.

HISTORY: New 1961, p. 555, Act 236, Eff. Jan. 1, 1963.

600.3805 Action to abate; parties.

Sec. 3805. The attorney general of the state of Michigan, the prosecuting attorney or any citizen of the county, may maintain an action for equitable relief in the name of the state of Michigan, upon the relation of such attorney general, prosecuting attorney or citizen to abate said nuisance and to perpetually enjoin any person, his servant, agent, or employee, who shall own, lease, conduct or maintain such building, vehicle, boat, aircraft or place, from permitting or suffering such building, vehicle, boat, or aircraft or place owned, leased, conducted or maintained by him, or any other building, vehicle, boat, aircraft or place conducted or maintained by him to be used for any of the purposes or by any of the persons set forth in section 3801, or for any of the acts enumerated in said section. When the injunction has been granted, it shall be binding on the defendant throughout the judicial circuit in which it was issued.

HISTORY: New 1961, p. 555, Act 236, Eff. Jan. 1, 1963.

600.3810 Owner; definition; authority of court; closing of premises.

Sec. 3810. (1) An owner of the premises within the meaning of this chapter is deemed to be the grantee or vendee of the last recorded deed or contract which describes the premises, or any part thereof upon which any nuisance exists as heretofore defined, and the naming of such person a party defendant gives the court authority to

abate the nuisance by closing the premises and such defendant is subject to the order and judgment of the court.

Same; vehicles; parties defendant.

(2) An owner of a vehicle within the meaning of this chapter is deemed to be the person in whose name the vehicle is titled, and any chattel mortgagee or assignee thereof or other lien holder whose lien has been filed in the office of the register of deeds prior to the commencement of suit, and the plaintiff shall join such mortgagee, assignee or lien holder as a party defendant.

HISTORY: New 1961, p. 555, Act 236, Eff. Jan. 1, 1963.

600.3815 Admissible evidence; unnecessary proof; judgment and order.

Sec. 3815. (1) In any action brought under this chapter, evidence of the general reputation of the building, vehicle, boat, aircraft or place is admissible for the purpose of proving the existence of the nuisance.

(2) Proof of knowledge of the existence of the nuisance on the part of the defendants or any of them, is not required.

(3) It is not necessary for the court to find the property involved was being used as and for a nuisance at the time of the hearing, or for the plaintiff to prove that the nuisance was continuing at the time of the filing of the complaint, if the complaint is filed within 30 days after any act, any violation, or the existence of a condition herein defined as a nuisance, but on finding that the material allegations of the complaint are true, the court shall render judgment and order of abatement as hereinafter provided.

HISTORY: New 1961, p. 555, Act 236, Eff. Jan. 1, 1963.

600.3820 Contempt; punishment, procedure, bail.

Sec. 3820. If any order or injunction granted under the provisions of this chapter is violated, the court may summarily try and punish the offender as for contempt, and the person so offending shall be punished by a fine of not more than \$1,000.00, or by imprisonment in the county jail not more than 6 months, or by both fine and imprisonment, in the discretion of the court. Such violation shall be charged by a motion supported by affidavit, and the court, if satisfied of the sufficiency thereof, shall immediately issue a bench warrant for the arrest of such offender and to bring him before such court to answer for such misconduct. The court may, in its discretion, permit such person arrested to give bail and fix the amount thereof pending hearing of the matters charged in such motion.

HISTORY: New 1961, p. 556, Act 236, Eff. Jan. 1, 1963.

600.3825 Order of abatement; closing of building, removal of contents, sale.

Sec. 3825. (1) If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all furniture, fixtures and contents therein and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released as in this chapter provided.

Vehicles, sale.

(2) Any vehicle, boat, or aircraft found by the court to be a nuisance within the meaning of this chapter, is subject to the same order and judgment as any furniture, fixtures and contents as herein provided.

Sale of personalty, costs, liens, balance to state treasurer.

(3) Upon the sale of any furniture, fixtures, contents, vehicle, boat or aircraft as provided in this section, the officer executing the order of the court shall, after deducting

the expenses of keeping such property and costs of such sale, pay all liens according to their priorities which may be established by intervention or otherwise at the hearing or in other proceedings brought for that purpose as being bona fide and as having been created without the lienor having any notice that such property was being used or was to be used for the maintenance of a nuisance as herein defined, and shall pay the balance to the state treasurer to be credited to the general fund of the state.

Use of closed building; contempt.

(4) If any person uses a building or place so directed to be closed, with knowledge that such building or place is closed by order of the court, he shall be punished as for contempt, as provided in section 3820.

HISTORY: New 1961, p. 556, Act 236, Eff. Jan. 1, 1963.

600.3830 Removal and sale of property, fees; closing of building.

Sec. 3830. (1) For removing and selling the movable property, the officer is entitled to charge and receive the same fees as he would for levying upon and selling like property upon execution, and for closing the building or place and keeping it closed, a reasonable sum shall be allowed by the court.

Loss of property exemptions; liability of officers.

(2) Any person found guilty of maintaining a nuisance under the provisions of this chapter shall forfeit the benefit of all property exemptions, so far as the satisfaction of the order or judgment of the court requires the same, and the taking and disposing of any property of the defendant or defendants by virtue of such order or judgment by any officer directed to execute the same is not a trespass, nor shall such officer be liable either civilly or criminally therefor, if a proper return of such order or judgment and accounting for such property is made to the court within 10 days after the order or judgment is executed.

HISTORY: New 1961, p. 556, Act 236, Eff. Jan. 1, 1963.

600.3835 Proceeds from sale of personal property; application.

Sec. 3835. The proceeds of the sale of the personal property, as provided in section 3830, shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the persons entitled thereto as the court may direct.

HISTORY: New 1961, p. 557, Act 236, Eff. Jan. 1, 1963.

600.3840 Delivery of premises to owner; conditions, bond, abatement.

Sec. 3840. (1) If the owner of such building or place pays all costs of the proceeding, and files a bond with sureties approved by the circuit judge, in the penal sum of not less than \$1,000.00 nor more than \$50,000.00, conditioned that he will immediately abate the nuisance and prevent the same from being established or kept therein within a period of 1 year from the date of the judgment, the court may order such premises to be delivered to the owner and if the bond is given and costs therein paid before order of abatement, the action shall be thereby abated as to that building only.

Liability of sureties.

(2) If it appears to the court that the conditions of the bond have been violated, the principal and sureties thereon are liable thereon for the full penalty of the bond in an action brought in the name of the state of Michigan, or upon motion in the action in which the bond was given.

Appeal, stay of order of abatement.

(3) Should the defendants, or any of them, appeal to the supreme court from the order and judgment rendered, the injunction or order of abatement shall not be stayed pending the appeal, except that stay may be granted or the order of abatement may be modified pending such appeal upon the written order of 2 justices of the supreme court.

HISTORY: New 1961, p. 557, Act 236, Eff. Jan. 1, 1963.

CHAPTER 40.

ATTACHMENT AND GARNISHMENT

600.4001 Attachment; jurisdiction.

Sec. 4001. The circuit courts of the state shall have the power by attachment to apply to the satisfaction of a claim due or to become due any interest in things which are subject to the judicial jurisdiction of the state and belonging to the person against whom the claim is asserted whether or not the person himself is subject to the judicial jurisdiction of the state. The courts may exercise the jurisdiction granted in this section only if action is taken in accordance with court rules promulgated to protect the parties and it is asserted that 1 or more of the following situations exists:

(1) that the defendant has absconded or is about to abscond from the state or is concealed therein to the injury of his creditors;

(2) that the defendant has assigned, disposed of, or concealed any of his property with intent to defraud his creditors;

(3) that the defendant is about to assign, dispose of, or conceal any of his property with intent to defraud his creditors;

(4) that the defendant has removed or is about to remove any of his property from the state with intent to defraud his creditors;

(5) that the defendant has fraudulently contracted the debt or fraudulently incurred the obligation respecting which the suit is brought;

(6) that the defendant is not a resident of the state and has not resided therein for 3 months immediately preceding;

(7) that the defendant is a foreign corporation.

HISTORY: New 1961, p. 557, Act 236, Eff. Jan. 1, 1963.

600.4011 Garnishment; jurisdiction.

Sec. 4011. (1) Except as otherwise provided in (2), (3), (4), and (5) of this section, the circuit courts of the state shall have power by garnishment to apply to the satisfaction of a claim evidenced by contract, judgment of this state, or foreign judgment

(a) personal property belonging to the person against whom the claim is asserted but which is in the possession or control of a third person if the third person is subject to the judicial jurisdiction of the state and the personal property to be applied is within the boundaries of this state;

(b) an obligation owed to the person against whom the claim is asserted if the obligor is subject to the judicial jurisdiction of the state; whether or not the state has jurisdiction over the person against whom the claim is asserted. The courts may exercise the jurisdiction granted in this section only if action is taken in accordance with court rules promulgated to protect the parties and it is asserted that the plaintiff is justly apprehensive of the loss of his claim unless garnishment is issued. Except as otherwise provided by court rule, the state of Michigan and every governmental unit therein, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be proceeded against as garnishees in the same manner and with like effect as individuals.

Same; against state or governmental unit; judgment.

(2) No garnishment proceedings are to be commenced against the state of Michigan or any governmental unit therein, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, until after the plaintiff's claim has been reduced to judgment.

Same; labor claim; judgment.

(3) No garnishment proceedings are to be commenced against any person for money owing to a principal defendant on account of labor performed by the principal defendant until after the plaintiff's claim has been reduced to judgment.

Same; sheriff or other public officer.

(4) A sheriff or other public officer is not subject to garnishment for any money or things received or collected by him by virtue of an execution or other legal process in the favor of the principal defendant or because of any money in his hands for which he is accountable merely as a public officer to the principal defendant.

Same; forbidden by statute.

(5) No garnishment proceedings are to be commenced if the commencement of such proceedings is forbidden by a statute of this state.

HISTORY: New 1961, p. 558, Act 236, Eff. Jan. 1, 1963.

600.4021 Venue; attachment.

Sec. 4021. The county in which some of the property attached is situated is a proper county of venue for attachment if

- (1) the county is designated in RJA chapter 16 as a proper county of venue of the action; or
- (2) no county designated in RJA chapter 16 as a proper county of venue is the location of some of the attached property; or
- (3) personal jurisdiction cannot be acquired over the defendant.

HISTORY: New 1961, p. 558, Act 236, Eff. Jan. 1, 1963.

600.4025 Venue; garnishment.

Sec. 4025. The county which would be a proper county of venue as designated in RJA chapter 16 of an action against the defendant who is garnisheed is a proper county of venue for garnishment if

- (1) the county is designated in RJA chapter 16 as a proper county of venue of the action against the principal defendant; or
- (2) there is no common proper county of venue designated in RJA chapter 16 of an action against the principal and garnishee defendant; or
- (3) personal jurisdiction cannot be obtained over the principal defendant.

HISTORY: New 1961, p. 558, Act 236, Eff. Jan. 1, 1963.

600.4031 Exemptions; attachment and garnishment.

Sec. 4031. (1) The provisions of the statutes relating to exemptions from execution, and the manner of levying upon property belonging to a class or species in which exemptions are by law allowed, shall be applicable to the application of property and obligations to claims by attachment and garnishment.

Partial exemptions.

(2) In any garnishment proceeding where the indebtedness of the garnishee to the principal defendant is money owed to the principal defendant on account of

(a) the sale to the garnishee of milk or cream or both produced on the farm or farms of the principal defendant, the garnishee's liability to the plaintiff is limited to 40% of such money;

(b) personal labor performed by the principal defendant or his family, the garnish-
ee's liability to the plaintiff is limited by the exemptions allowed under section 7511.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963.

600.4035 Attachment; effect; personalty, realty.

Sec. 4035. An attachment shall bind goods and chattels from the time they were at-
tached. An attachment of realty or any right or interest therein shall constitute a lien
thereon, effective from the time when a certified copy of the attachment including a
description of the realty shall be deposited in the office of the register of deeds in the
county where the realty is situated.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963.

600.4041 Attachment on realty; discharge.

Sec. 4041. Any attachment on realty or any right or interest therein shall be dis-
charged upon the record thereof by the register of deeds whenever there shall be pre-
sented to him a certificate executed by the sheriff, and approved by the plaintiff, his
personal representatives or assigns, or his attorney of record in said cause, duly ac-
knowledgeed; specifying that the attachment has been removed or otherwise satisfied
or discharged; or upon the presentation to the register of deeds of the certificate of the
circuit court for the county, signed by the sheriff and the clerk of the court and seal
thereof, certifying that it has been made to appear to the court that the attachment
has been duly removed or otherwise settled.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 533, Act 284, Imd. Eff. Jul. 22, 1965.

600.4045 Attachment or garnishment; dissolution by bond.

Sec. 4045. In every case where property is attached or garnishment is served, the at-
tachment or garnishment may be dissolved by the posting of a bond in accordance
with the rules of the supreme court.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963.

600.4051 False answer by garnishee or agent; civil liability.

Sec. 4051. Any person summoned as a garnishee or any officer, agent, or other per-
son who appears and answers for a corporation summoned as a garnishee, who know-
ingly and wilfully answers falsely upon his disclosure or examination on oath is liable
to the plaintiff in garnishment, or to his executors or administrators, to pay out of his
own goods and estate the full amount due on the judgment recovered with interest, to
be recovered in a civil action.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963.

600.4061 Garnishment against state; employees designated to receive process.

Sec. 4061. (1) Garnishment process issued from a circuit court against the state of
Michigan shall be served upon the state treasurer or any other state employee desig-
nated by him to receive such process. The state treasurer shall designate as many such
employees as he deems necessary, at least 2 of whom shall have their offices in Lan-
sing.

Designation of employee, revocation.

(2) The designation of such employees shall be in writing and filed with the secre-
tary of state, and revocation of the designation shall be made in like manner. Ipso
facto revocation of the designation shall occur when any such employee ceases to be
employed by the state.

Service of writ.

(3) The garnishment writ shall be served upon the state treasurer or designated em-
ployee, together with a sworn statement by the plaintiff, his attorney or agent, stating
the full amount including interest and taxed costs, claimed by the plaintiff to be due

upon the judgment against the principal defendant. Within 5 days after such service is accomplished, a copy of the garnishment writ shall be served upon the principal defendant in the manner provided in the rules of the supreme court. A copy of the proof of service upon the principal defendant shall be mailed to the state treasurer.

Disclosure.

(4) Within 15 days after receiving proof of service of the garnishment writ upon the principal defendant, the state treasurer shall make and file in behalf of the state a disclosure of the indebtedness of the state to the principal defendant as of the time of service of the garnishment writ upon the state treasurer or designated employee, over and above any setoff, counterclaim, or other demand of the state against the principal defendant. The disclosure need not be under oath.

Deposit with clerk of court, release of state.

(5) When the disclosure is filed or within a reasonable time thereafter, the state treasurer shall deposit with the clerk of the court the amount of indebtedness so disclosed less the statutory exemptions of the principal defendant as computed by the state treasurer, securing a receipt for the deposit. The deposit and receipt shall release and discharge the state of Michigan and the state treasurer from all liability to the plaintiff, the principal defendant, and any third person having or claiming any interest in the indebtedness. The amount deposited shall not exceed the amount claimed by the plaintiff in his sworn statement.

Notice to principal defendant.

(6) Upon the filing of the disclosure and depositing of the indebtedness by the state treasurer, the clerk of court shall give notice thereof to the principal defendant by mailing or otherwise delivering a copy of the disclosure and receipt to the principal defendant.

Hearing, order.

(7) Upon the presentation of satisfactory proofs at the hearing of the garnishment action, the court may make and enter an order directing the clerk of court to pay to plaintiff the amount deposited, not in excess of the amount found to be actually due plaintiff on his judgment, including interest and taxed costs, as of the time of service of the garnishment writ upon the state treasurer or designated employee. Any residue of the deposit over the amount paid to plaintiff shall be ordered returned to the state treasurer.

Dismissal of writ, return of deposit to state treasurer.

(8) If the garnishment action is dismissed for any reason, the order of dismissal shall direct the clerk of court to return the full amount deposited to the state treasurer.

HISTORY: New 1961, p. 559, Act 236, Eff. Jan. 1, 1963.

600.4065 Evidence in criminal proceedings; disclosure.

Sec. 4065. No disclosure made under the provisions of the garnishment statutes or rules shall be used in evidence upon a criminal prosecution except upon a prosecution of the garnishee for perjury in making his disclosure.

HISTORY: New 1961, p. 560, Act 236, Eff. Jan. 1, 1963.

CHAPTER 43.

HABEAS CORPUS

600.4301 Habeas corpus; provisions of chapter, applicability.

Sec. 4301. The provisions of sections 4301 to 4379 shall be construed to apply to every writ of habeas corpus authorized to be issued under any statute of this state, insofar as they are consistent with the statute granting the right to habeas corpus.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4304 Habeas corpus; power to issue writ.

Sec. 4304. The writ of habeas corpus to inquire into the cause of detention, or an order to show cause why the writ should not issue, may be issued by the following:

- (1) The supreme court, or a justice thereof.
- (2) The court of appeals, or a judge thereof.
- (3) The circuit courts, or a judge thereof.
- (4) The municipal courts of record, including but not limited to the recorder's court of the city of Detroit, common pleas court, or a judge thereof.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963;—Am. 1967, p. 85, Act 65, Imd. Eff. Jun. 20.

600.4307 Habeas corpus; right to bring action.

Sec. 4307. An action for habeas corpus to inquire into the cause of detention may be brought by or on the behalf of any person restrained of his liberty within this state under any pretense whatsoever, except as specified in section 4310.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4310 Habeas corpus; persons not entitled to writ.

Sec. 4310. An action for habeas corpus to inquire into the cause of detention may not be brought by or on behalf of the following persons:

- (1) Persons detained by virtue of any process issued by any court of the United States, or any judge thereof, in cases where such courts or judges have exclusive jurisdiction under the laws of the United States, or have acquired exclusive jurisdiction by the commencement of suits in such courts;
- (2) Persons committed for treason or felony, or for suspicion thereof, or as accessories before the fact to a felony, where the cause is plainly and specially expressed in the warrant of commitment;
- (3) Persons convicted, or in execution, upon legal process, civil or criminal;
- (4) Persons committed on original process in any civil action on which they were liable to be arrested and imprisoned, unless excessive and unreasonable bail is required.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4313 Habeas corpus; refusal to consider; malfeasance of judge.

Sec. 4313. Any judge who wilfully or corruptly refuses or neglects to consider an application, action, or motion for habeas corpus, is guilty of malfeasance in office.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4316 Habeas corpus; granting of writ.

Sec. 4316. Any court or judge empowered to grant the writ of habeas corpus shall, upon proper application, grant the preliminary writ (or an order to show cause) without delay, unless the party applying therefor is not entitled to the writ.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4319 Habeas corpus; custody of child.

Sec. 4319. If the action for habeas corpus is brought by a parent, foster-parent, or other relative of the child, to obtain custody of a child under the age of 16 years from a parent, foster-parent, or other relative of the child, issuance of the writ of habeas corpus is not mandatory.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4322 Habeas corpus; prisoner, definition.

Sec. 4322. The term "prisoner", as used in connection with habeas corpus, means the person on whose behalf the writ is issued, such as an inmate of a penal or mental institution, the child whose custody is sought, and other persons alleged to be restrained of their liberty.

HISTORY: New 1961, p. 561, Act 236, Eff. Jan. 1, 1963.

600.4325 Habeas corpus; person is served, duty to bring body of prisoner.

Sec. 4325. If a writ of habeas corpus is issued, the person on whom it is served shall bring the body of the person in his custody according to the command of the writ, except as provided in section 4328.

HISTORY: New 1961, p. 562, Act 236, Eff. Jan. 1, 1963.

600.4328 Habeas corpus; sickness or infirmity of prisoner.

Sec. 4328. If, from the sickness or infirmity of the prisoner directed to be produced by any writ of habeas corpus, the prisoner cannot, without danger, be brought before the court or judge, the party having custody of the prisoner may state that fact in his answer. The court or judge, if satisfied of the truth of the allegation, and if the answer is otherwise sufficient, shall proceed to dispose of the matter on the record.

HISTORY: New 1961, p. 562, Act 236, Eff. Jan. 1, 1963.

600.4331 Habeas corpus; disobedience, arrest.

Sec. 4331. (1) If the person upon whom the writ of habeas corpus was duly served refuses or neglects to obey the writ without sufficient excuse, the court or judge before whom the writ was to be answered, upon due proof of the service thereof, shall direct the arrest of such person.

Close custody of arrested person.

(2) The sheriff of any county within this state, or other officer, who is directed to make the arrest, shall apprehend such person, and bring him before the court or judge. The person shall be committed to close custody in the jail of the county in which the court or judge is, without being allowed the liberties thereof, until the person complies with the writ.

Proceeding against sheriff; commitment.

(3) If the person ordered arrested is the sheriff of any county, the order may be directed to any coroner or other person, to be designated therein, who has thereby full power to arrest the sheriff. Such sheriff upon being brought up may be committed to the jail of any county other than his own.

Prisoner to be produced.

(4) The person directed to make the arrest shall also bring the prisoner named in the writ of habeas corpus before the court or judge which issued the writ.

Aid in execution, power of county.

(5) In making the arrest the sheriff or other person so directed may call to his aid the power of the county as in other cases.

HISTORY: New 1961, p. 562, Act 236, Eff. Jan. 1, 1963.

600.4334 Arrest in support of writ.

Sec. 4334. If any person attempts wrongfully to carry the prisoner out of the county or state after service of a writ of habeas corpus or order to show cause, the person serving the writ or order to show cause, or other officer, shall arrest the person so resisting, and bring him together with the prisoner before the court or judge issuing the writ or order to show cause.

HISTORY: New 1961, p. 562, Act 236, Eff. Jan. 1, 1963.

600.4337 Warrant for prisoner in lieu of habeas corpus; issuance.

Sec. 4337. Whenever it appears by satisfactory proof, that anyone is held in illegal confinement or custody, and that there is good reason to believe that he will be carried out of the state, or suffer some irreparable injury, before he can be relieved by the

issuing of a writ of habeas corpus, any court or judge authorized to issue such writs may issue a warrant, reciting the facts, and directed to any sheriff, constable or other person, and commanding the officer or person to take the prisoner, and forthwith to bring him before the court or judge, to be dealt with according to law.

HISTORY: New 1961, p. 562, Act 236, Eff. Jan. 1, 1963.

600.4340 Arrest of person having custody of prisoner; warrant.

Sec. 4340. When the proof mentioned in section 4337 is sufficient to justify an arrest of the person having the prisoner in his custody, as for a criminal offense committed in the taking or detaining of the prisoner, the warrant shall also contain an order for the arrest of such person for that offense.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4343 Arrest of person having custody of prisoner; execution of warrant.

Sec. 4343. Any officer or person to whom the warrant is directed shall execute the warrant by bringing the prisoner therein named, and the person who detains him, if so commanded by the warrant, before the court or judge issuing the warrant. The person detaining the prisoner shall make answer as if a writ of habeas corpus had been issued in the first instance.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4346 Arrest of person having custody of prisoner; procedure.

Sec. 4346. If the person having the prisoner in his custody is brought before the court or judge, as for a criminal offense, he shall be examined, committed, bailed or discharged by the court or judge in the like manner as in other criminal cases of like nature.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4349 Custody of prisoner.

Sec. 4349. The court or judge issuing the writ of habeas corpus may commit the prisoner to the custody of such individual or individuals as the court or judge considers proper.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4352 Discharge of prisoner; enforcement of order; obedience by sheriff or other custodian.

Sec. 4352. (1) If no legal cause is shown for the restraint, or for the continuation thereof, the court or judge shall discharge the person restrained from the restraint under which he is held.

(2) Obedience to any order for the discharge of any prisoner may be enforced by the court or judge granting such order, by arrest in the same manner as is herein provided for disobedience to a writ of habeas corpus, and with like effect in all respects. The person guilty of disobedience to an order for the discharge of any prisoner is liable to the party aggrieved in the sum of \$1,000.00 damages, in addition to any special damages the party may have sustained.

(3) No sheriff or other officer is liable to any civil action for obeying any such order of discharge.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4355 Remanding of prisoner.

Sec. 4355. The court or judge shall forthwith remand the person restrained if the person restrained is detained in custody, either:

(1) By virtue of process issued by any court or judge of the United States, in a case where such court or judge has exclusive jurisdiction; or

(2) By virtue of the final judgment or decree of any competent court of civil or criminal jurisdiction, or of any execution issued upon such judgment or decree; or

(3) For any contempt specially and plainly charged in the commitment by some court, officer or body having authority to commit for the contempt so charged; and

(4) The time during which such party may be legally detained has not expired.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4358 Discharge of prisoner in civil cases.

Sec. 4358. If the prisoner is in custody by virtue of civil process from any court legally constituted, or issued by any officer in the course of judicial proceedings before him, authorized by law, the prisoner shall be discharged only if 1 of the following situations exists:

(1) Where the jurisdiction of the court or officer has been exceeded, either as to matter, place, sum or person;

(2) Where, though the original imprisonment was lawful, the party is entitled to be discharged;

(3) Where the process is void;

(4) Where the process, though in proper form, has been issued in a case not allowed by law;

(5) Where the person having the custody of the prisoner is not the person empowered by law to detain him; or

(6) Where the process is not authorized by any judgment, order or decree of any court, nor by any provision of law.

HISTORY: New 1961, p. 563, Act 236, Eff. Jan. 1, 1963.

600.4361 Remanding or commitment of prisoner.

Sec. 4361. If the prisoner is not entitled to his discharge, and is not bailed, the court or judge shall place him under the restraint from which he was taken, if the person under whose restraint he was is legally entitled thereto. If not so entitled, the court or judge shall commit the prisoner to the custody of such officer or person as by law is entitled thereto.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4364 Recommitment of prisoner; causes.

Sec. 4364. No person who has been discharged by the order of any court or judge upon habeas corpus shall be again restrained for the same cause. It is not the same cause if:

(1) He was discharged from a commitment on a criminal charge, and is afterwards committed for the same offense, by the legal order or process of the court wherein he is bound by recognizance to appear, or in which he is indicted or convicted for the same offense; or

(2) After a discharge for defect of proof, or for any material defect in the commitment, in a criminal case, the prisoner is again arrested on sufficient proof, and committed by legal process for the same offense; or

(3) In a civil suit the party was discharged for any illegality in the judgment or process and is afterwards imprisoned by legal process for the same cause of action; or

(4) In any civil suit in which process may lawfully issue against the body, he was discharged from commitment on original process, and is afterwards committed on execution in the same cause, or on original process in any other suit, after such first suit was discontinued.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4367 Recombitment of prisoner; violation of section, penalty.

Sec. 4367. If any person knowingly:

- (1) violates section 4364, or
- (2) causes section 4364 to be violated, or
- (3) aids or assists in the violation of section 4364; he is guilty of a misdemeanor, and is liable to the party aggrieved in the sum of \$1,000.00 damages.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4370 Concealment of prisoner; misdemeanor.

Sec. 4370. Any one having under his power any person who would be entitled to a writ of habeas corpus to inquire into the cause of his detention, or for whose relief any such writ, warrant, or order to show cause was issued, who shall, with intent to elude the service of the writ, or to avoid the effect thereof, place any such prisoner under the power of another, or conceal him, or change the place of his confinement, is guilty of a misdemeanor.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4373 Concealment of prisoner; aiding, misdemeanor.

Sec. 4373. Every person who knowingly aids or assists in the violation of section 4370 is guilty of a misdemeanor.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4376 Concealment of prisoner; misdemeanor, penalty.

Sec. 4376. Every person convicted of any of the misdemeanors specified in sections 4367, 4370 and 4373 shall be punished by a fine not exceeding \$1,000.00, or by imprisonment in the county jail not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1961, p. 564, Act 236, Eff. Jan. 1, 1963.

600.4379 Refusal to deliver copy of authority for detention of prisoner; time; civil liability.

Sec. 4379. Any officer or other person who refuses or neglects for 6 hours to deliver a copy of any order, warrant, process or other authority by which he detains any person, to any one who demands such copy and tenders the lawful fees therefor, is liable to the person so detained in the sum of \$200.00 damages.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

600.4385 Habeas corpus for witness; issuance; transfer of prisoner.

Sec. 4385. (1) The judges of every court of record have the power to issue a writ of habeas corpus for the purpose of bringing before that court, or another court or body authorized to examine witnesses, any prisoner who may be detained in any jail or prison within this state, to be examined as a witness.

(2) The judge may order in the writ that the prisoner be placed in the custody of a designated officer for transportation to the place of examination and return, instead of requiring the person having custody of the prisoner to produce the prisoner at the place of examination.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

600.4387 Habeas corpus; liability of officer for disobedience to writ.

Sec. 4387. Whenever any writ of habeas corpus is issued pursuant to section 4385, the officer on whom the writ is served shall obey the writ in the manner and within the time prescribed by statute or court rule. Every officer who neglects or refuses so to do, is liable in the sum of \$500.00 to:

- (1) the people of this state, if the writ was issued upon the application of the attorney general, or a prosecuting attorney; or

(2) the party upon whose application the writ was issued.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

CHAPTER 44.

MANDAMUS

600.4401 Mandamus; state officers.

Sec. 4401. All actions for mandamus against state officers shall be commenced in the court of appeals or in the supreme court, as provided by rules by the supreme court.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963;—Am. 1967, p. 85, Act 65, Imd. Eff. Jun. 20.

600.4411 Mandamus; violation, penalty.

Sec. 4411. Whenever mandamus is directed to any public officer, body or board, corporation or corporate officer, commanding them to perform any duty, specially enjoined upon them by any provisions of law, in addition to ordering the performance of such duty, if it appears to the court that such officer, or any member of such body or board, has, without just excuse, refused or neglected to perform the duty so enjoined, the court may impose a fine not exceeding \$250.00 upon every such officer or member of such board or body.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

600.4421 Mandamus; payment of fine, bar to action.

Sec. 4421. The payment of such fine shall be a bar to any action for any penalty incurred by such officer, or member of such body or board, by reason of his refusal or neglect to perform the duty so enjoined.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

600.4431 Mandamus; damages, costs, public officer.

Sec. 4431. Damages and costs may be awarded in an action for mandamus. No damages may be allowed in mandamus against a public officer who, in good faith, acted erroneously.

HISTORY: New 1961, p. 565, Act 236, Eff. Jan. 1, 1963.

CHAPTER 45.

QUO WARRANTO

600.4501 Quo warranto; attorney general, private party.

Sec. 4501. The attorney general shall bring an action for quo warranto when the facts clearly warrant the bringing of that action. If the attorney general receives information from a private party and refuses to act, that private party may bring the action upon leave of court.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4505 Usurpation of office; determination.

Sec. 4505. (1) In actions brought against persons for usurpation of office, the judgment may determine the right of the defendant to hold the office. If a party plaintiff alleges that he is entitled to the office, the court may decide which of the parties is entitled to hold the office.

Judgment for relator; proceedings.

(2) If judgment is rendered in favor of a party who is averred to be entitled to the office, he is entitled, after taking the oath of office, and executing any official bond which is required by law, to take the office. Such party shall be given all the books and papers in the custody of the defendant, or within his power, belonging to the office.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4511 Usurpation of office; damages.

Sec. 4511. When an action is brought against a person for usurping an office and the person rightfully entitled to the office is a party and avers his right to it, and judgment is rendered in his favor, he is entitled to any damages sustained because of the usurpation by the defendant of the office from which the defendant has been evicted. The claim for damages may be joined with the claim for quo warranto, or brought separately within 1 year after the judgment in the action for quo warranto.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4515 Usurpation of office; ouster, costs, fine.

Sec. 4515. Whenever any defendant in a quo warranto proceeding is found or adjudged guilty of usurping or intruding into or unlawfully holding or exercising any office, franchise, or privilege, judgment shall be rendered that the defendant be ousted and altogether excluded from that office, franchise, or privilege. In addition to awarding costs against the defendant, the court may, in its discretion, impose a fine upon the defendant found guilty, not exceeding \$2,000.00.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4521 Judgment against corporation; dissolution, fine.

Sec. 4521. If a corporation has, by any misuser, nonuser, or surrender, forfeited its corporate rights, privileges and franchises, the judgment in an action for quo warranto shall oust and exclude such corporation from such corporate rights, privileges and franchises, and may dissolve the corporation. In addition to such judgment or in lieu thereof (except in case of such surrender), the court may impose a fine not exceeding \$10,000.00 upon the corporation. The fine will not prevent further prosecution for any continuance or repetition of the conduct complained of.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4525 Judgment against corporation; collection of fine and costs.

Sec. 4525. If such judgment is rendered or if fine is imposed against any corporation, or against any persons claiming to be a corporation, the court may cause the fine and the costs of the action to be collected by execution against the persons claiming to be a corporation, or against the directors or other officers of any such corporation.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4531 Judgment against corporation; restraint; receiver; accounting; distribution of assets; duty of attorney general.

Sec. 4531. Whenever any such judgment is rendered, any court having equity jurisdiction has the same powers to restrain the corporation against which it is rendered; to appoint a receiver of its property and effects; and to take an account and make distribution thereof among its creditors, as in the case of the voluntary dissolution of a corporation, and the attorney general shall, immediately after the rendering of any such judgment, institute proceedings for that purpose.

HISTORY: New 1961, p. 566, Act 236, Eff. Jan. 1, 1963.

600.4535 Judgment; filing of record of judgment; notice, publication.

Sec. 4535. Whenever any such judgment is rendered against a corporation, a copy of the record of such judgment shall be forthwith filed in the office of the corporation and securities commission. The corporation and securities commission shall forthwith cause notice of the substance and effect of such recovery to be published for 4 successive weeks in some newspaper printed at the seat of government, and in a newspaper printed in the county where the principal office or place of business of such corporation is, if a newspaper is printed there.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

600.4541 Forfeited property; recovery by attorney general.

Sec. 4541. Whenever by the provisions of law or order of the court any property, real or personal, is forfeited to the people of this state or to any officers for their use, an action for the recovery of such property alleging the grounds of such forfeiture may be filed by the attorney general in the circuit court.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

600.4545 Election fraud or error; circuit court.

Sec. 4545. (1) An action may be brought in the circuit court of any county of this state whenever it appears that material fraud or error has been committed at any election in such county at which there has been submitted any constitutional amendment, question, or proposition to the electors of the state or any county, township, or municipality thereof.

Same; time for filing action, plaintiffs, defendant.

(2) Such action shall be brought within 30 days after such election by the attorney general or the prosecuting attorney of the proper county on his own relation, or on the relation of any citizen of said county without leave of the court, or by any citizen of the county by special leave of the court or a judge thereof. Such action shall be brought against the municipality wherein such fraud or error is alleged to have been committed.

Same; procedure.

(3) After such action is brought the procedure shall conform as near as may be to that provided by law for actions for quo warranto.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

CHAPTER 48.

COLLECTION OF PENALTIES, FINES, AND FORFEITED RECOGNIZANCES

600.4801 Penalty; definition.

Sec. 4801. The term "penalty", as used in this chapter, includes fines, forfeitures, and forfeited recognizances.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

600.4805 Penalty; recovery.

Sec. 4805. Unless otherwise specially provided for by law, if a penalty is incurred by any person and the act or omission for which the same is imposed is not also a misdemeanor, such penalty may be recovered in a civil action.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

600.4811 Penalty; amount not specified, action.

Sec. 4811. When a penalty is imposed by law for any act or omission, not exceeding any specified sum, an action may be brought for the highest sum so specified. The jury, or court before whom the trial is had, shall award the sum deemed proportionate to the offense, within the limitation prescribed by law.

HISTORY: New 1961, p. 567, Act 236, Eff. Jan. 1, 1963.

600.4815 Fines and costs; execution.

Sec. 4815. Execution may issue for the collection of fines and costs imposed for misdemeanors, or offenses punishable by fine or imprisonment, or fine and imprisonment, in all cases where no alternative sentence or judgment of imprisonment has been rendered. No person may be imprisoned under and by virtue of such execution for a greater period than 90 days.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4821 Execution on forfeited recognizance; redemption of real estate.

Sec. 4821. If any recognizance to the people of this state is forfeited, judgment shall be for the amount of the penalty of the recognizance. Execution shall be awarded and executed upon such judgment in the same manner as upon judgments in personal actions, and with like effect. If any real estate is sold by virtue of an execution awarded on such judgment, it may be redeemed as in other cases.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4825 Penalty; township officers, notice to prosecuting attorney.

Sec. 4825. Every township officer who knows, or has good reason to believe, that any penalty has been incurred within his township, shall forthwith give notice thereof to the prosecuting attorney of the county.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4831 Penalty; prosecution by prosecuting attorney.

Sec. 4831. (1) Where the prosecuting attorney knows, or has reason to believe, that a penalty has been incurred within his county, or has been notified of such penalty by a township officer, he shall prosecute for such penalty without delay.

(2) If the township supervisor has commenced a suit to recover such penalty, the prosecuting attorney shall, on request by such supervisor, attend to and conduct such suit on behalf of the plaintiff.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4835 Penalty; remission by circuit court.

Sec. 4835. The circuit court for the county in which such court was held, or in which such recognizance was taken, may, upon good cause shown, remit any penalty, or any part thereof, upon such terms as appear just and equitable to the court. But this section does not authorize such court to remit any fine imposed by any court upon a conviction for any criminal offense, nor any fine imposed by any court for an actual contempt of such court, or for disobedience of its orders or process.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4841 Collections; payment to county treasurer.

Sec. 4841. (1) All officers or other persons who collect or receive any moneys on account of any penalty shall pay over the same to the county treasurer on or before the last day of the month following.

(2) Upon learning that any person has neglected to pay over such moneys within such time, the county treasurer shall proceed in the circuit court for the county to collect such moneys.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

600.4845 Moneys from fines and penalties; duties of county treasurer.

Sec. 4845. (1) The county treasurer shall credit all fines for the violation of the penal laws to the library fund and all other penalties to the general fund; and he shall account therefor to the board of supervisors annually.

(2) In case of the sale of any real estate upon an execution upon judgment rendered for the breach of any recognizance in any criminal case the county treasurer shall, in case there are no bidders to the full amount of any such judgment or the value of the property advertised, bid off the same. If the same is not redeemed within the time allowed by law for the redemption thereof, the county treasurer shall sell the same for the best price he can obtain therefor, and place the money received in the general fund.

HISTORY: New 1961, p. 568, Act 236, Eff. Jan. 1, 1963.

CITED IN OTHER SECTIONS: The above section is cited in § 397.37.

600.4851 Moneys from fines and penalties; county law library fund, maximum annual amount.

Sec. 4851. (1) In each county the county treasurer shall credit semi-annually to a fund to be known as the "county law library fund," from the library fund, an amount as follows:

(a) In counties having a population of 250,000 or more, but less than 1,000,000 inhabitants, the sum credited shall not exceed \$4,000.00 in any one year;

(b) In counties having a population of 50,000 or more, but less than 250,000 inhabitants, the sum credited shall not exceed \$3,000.00 in any one year;

(c) In counties of 35,000 or more, but less than 50,000 inhabitants, the sum credited shall not exceed \$2,000.00 in any one year;

(d) In counties of 20,000 or more, but less than 35,000 inhabitants, the sum thus credited shall not exceed \$1,500.00 in any one year;

(e) In counties of 10,000 or more, but less than 20,000 inhabitants, the sum credited shall not exceed \$1,000.00 in any one year; and

(f) In counties of less than 10,000 inhabitants, the sum credited shall not exceed \$750.00 in any one year.

Maximum balance.

(2) At no time shall the balance in such county law library funds exceed the total of 2 annual allotments to such funds.

Payment.

(3) All moneys so credited to the county law library fund shall be paid out by the county treasurer only upon the order of the circuit judge in multiple county circuits or upon the order of the presiding judge in single county circuits for the purpose of establishing, operating, and maintaining a law library for the use of the circuit and probate courts of such county and for the officers of such courts and persons having business in such courts.

Superior court of Grand Rapids law library fund.

(4) Beginning on the first day of January in each year, the clerk of the superior court of Grand Rapids shall credit the fines, penalties, and forfeitures paid for the violation of penal laws in said court to a fund to be designated as "the superior court law library fund," up to, but not exceeding the sum of \$4,000.00 in any one year. All money so credited shall be paid out by the clerk of said court only upon order of the judge of the superior court, for the purpose of operating and maintaining a law library for the use of said court, for the officers of said court, and for the use of all other persons having business with said court. At no time shall the balance in such superior court law library fund exceed the total of 2 annual allotments to such fund.

Annual report.

(5) The county law librarian, or such other person as the circuit or presiding judge shall designate, shall make a detailed report on or before January 1 of each year of the sums expended for books for the county law library. Such report shall be filed with the county clerk.

HISTORY: New 1981, p. 569, Act 236, Eff. Jan. 1, 1983.

CITED IN OTHER SECTIONS: The above section is cited in § 397.37.

CHAPTER 50.

ARBITRATIONS

600.5001 Arbitration agreements; parties; award.

Sec. 5001. (1) All persons, except infants and persons of unsound mind, may, by an instrument in writing, submit to the decision of 1 or more arbitrators, any controversy existing between them, which might be the subject of a civil action, except as herein

otherwise provided, and may, in such submission, agree that a judgment of any circuit court shall be rendered upon the award made pursuant to such submission.

Enforcement; rescission.

(2) A provision in a written contract to settle by arbitration under this chapter, a controversy thereafter arising between the parties to the contract, with relation thereto, and in which it is agreed that a judgment of any circuit court may be rendered upon the award made pursuant to such agreement, shall be valid, enforceable and irrevocable save upon such grounds as exist at law or in equity for the rescission or revocation of any contract. Such an agreement shall stand as a submission to arbitration of any controversy arising under said contract not expressly exempt from arbitration by the terms of the contract. Any arbitration had in pursuance of such agreement shall proceed and the award reached thereby shall be enforced under this chapter.

Collective labor contracts excepted.

(3) The provisions of this chapter shall not apply to collective contracts between employers and employees or associations of employees in respect to terms or conditions of employment.

HISTORY: New 1961, p. 569, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 21, Act 27, Eff. Mar. 28, 1963.

600.5005 Arbitration agreements; real estate.

Sec. 5005. No such submission shall be made respecting the claim of any person to any estate, in fee, or for life, in real estate; but any claim to an interest for a term of years, or for 1 year or less, in real estate, and controversies respecting the partition of lands between joint tenants or tenants in common, or concerning the boundaries of lands, or concerning the admeasurement of dower, may be so submitted to arbitration.

HISTORY: New 1961, p. 570, Act 236, Eff. Jan. 1, 1963.

600.5011 Arbitration agreements; revocation.

Sec. 5011. Neither party shall have power to revoke any agreement or submission made as provided in this chapter without the consent of the other party; and if either party neglects to appear before the arbitrators after due notice, the arbitrators may nevertheless proceed to hear and determine the matter submitted to them upon the evidence produced by the other party. The court may order the parties to proceed with arbitration.

HISTORY: New 1961, p. 570, Act 236, Eff. Jan. 1, 1963.

600.5015 Arbitration agreements; appointment of arbitrators.

Sec. 5015. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party shall appoint 1 or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

HISTORY: New 1961, p. 570, Act 236, Eff. Jan. 1, 1963.

600.5021 Arbitration agreements; conduct of arbitration.

Sec. 5021. The arbitration shall be conducted in accordance with the rules of the supreme court.

HISTORY: New 1961, p. 570, Act 236, Eff. Jan. 1, 1963.

600.5025 Arbitration agreements; circuit courts, enforcement, judgment on award.

Sec. 5025. Upon the making of an agreement described in section 5001, the circuit courts have jurisdiction to enforce the agreement and to render judgment on an award thereunder. The court may render judgment on the award although the relief given is

such that it could not or would not be granted by a court of law or equity in an ordinary civil action.

HISTORY: New 1961, p. 570, Act 236, Eff. Jan. 1, 1963.

600.5031 Arbitration agreement; venue.

Sec. 5031. All proceedings in court under this chapter shall be had in the circuit court of the county provided in the agreement. In the absence of such provision proceedings shall be had

(1) in the circuit court of the county where the adverse party resides or has a place of business, or

(2) if he has no residence or place of business in this state, in the circuit court of the county where the applicant resides or has a place of business, or

(3) if the arbitration involves real property, in the circuit court of the county in which the property, or any part thereof, is located, or

(4) if neither (1), (2), nor (3) is applicable, in the circuit court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

HISTORY: New 1961, p. 571, Act 236, Eff. Jan. 1, 1963.

600.5035 Construction of chapter.

Sec. 5035. Nothing contained in this chapter shall be construed to impair, diminish, or in any manner to affect the equitable power and authority of any court over arbitrators, awards, or the parties thereto; nor to impair or affect any action upon any award, or upon any bond or other engagement to abide an award.

HISTORY: New 1961, p. 571, Act 236, Eff. Jan. 1, 1963.

CHAPTER 52.

ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

600.5201 Common law assignments for the benefit of creditors; requirements for validity.

Sec. 5201. (1) All assignments commonly called common law assignments for the benefit of creditors are void unless the same are without preferences as between such creditors and are of all the property of the assignor not exempt from execution, and the instrument of assignment (or a duplicate thereof), a list of creditors of the assignor, and a bond for the faithful performance of the trust by the assignee are filed in the office of the clerk of the circuit court where said assignor resides, or if he is not a resident of the state, then of the county where the assigned property is principally located, within 10 days after the making thereof.

Bond of assignee, filing, approval.

(2) No such assignment is effectual to convey the title to the property to the assignee until such bond is filed with and approved by said clerk.

Subsequent attachment or execution on assigned property.

(3) No attachment or execution levied upon any assigned property of such assignor after such assignment and before the expiration of the time provided herein for filing such bond, is valid, and does not create any lien upon such property.

Acknowledgment; inventory, contents; list of creditors, contents.

(4) Such assignment shall be acknowledged before some officer authorized to take acknowledgments. Such inventory shall be a detailed statement as near as may be of the general description, value and location of all the property and rights assigned, and in cases of persons engaged in business, specifying the original cost of any goods, wares, merchandise, fixtures and furniture. Such list of creditors shall, as far as the assignor can state the same, contain the name and post office address of each creditor,

the amount due as near as may be over and above all defenses, the actual consideration for the debt, when contracted, and all securities and the value thereof held by each creditor. Such inventory and list of creditors shall be sworn by the assignor to be full, true and correct to the best of his knowledge, information and belief.

Bond of assignee, sureties.

(5) Such bond shall be to the assignor for the joint and several use and benefit of himself and each, any and all of the creditors of such assignor in a penal sum at least double the value of the assigned property as shown by such inventory, and conditioned for the prompt and faithful administration of the trust by the assignee and shall be signed by the assignee and sufficient surety or sureties, who shall, under oath endorsed on said bond, testify that they are worth in the aggregate over and above all exemptions, incumbrances and debts, the penal sum of said bond.

HISTORY: New 1961, p. 571, Act 236, Eff. Jan. 1, 1963.

600.5205 Property conveyed; general powers of assignee.

Sec. 5205. Such assignment shall be deemed to convey to the assignee all property of the assignor not exempt from execution, and all rights legal or equitable of said assignor. The assignee shall also be trustee of the estate of the debtor for the benefit of his creditors and may recover all property or rights or equities in property which might be recovered by any creditor. When more than 1 assignee is appointed, the debts and property of the assignor may be collected and received by 1 of them and when there are more than 2 assignees, every power and authority of the whole may be exercised by any 2 of them. The survivor or survivors of any assignees shall have all their powers and rights and all property in the hands of any assignee at the time of his death, removal or incapacity, shall be delivered to the remaining assignee or assignees if there be any, or to the successor of the one so dying, removed or incapacitated, who may demand and sue for the same.

HISTORY: New 1961, p. 572, Act 236, Eff. Jan. 1, 1963.

600.5211 Specific powers of assignee.

Sec. 5211. Among other things the assignee has the power to:

(1) Sue in his own name as such assignee and recover all the estate, debts and things in action belonging to or due to such assignor in the manner and with like effect as he might or could have done if an assignment had not been made, but no suit seeking equitable relief shall be brought by the assignee involving less than \$500.00 without the consent of the court.

(2) Take into his hands all the estate of such assignor whether delivered to him or afterwards discovered, and all books, vouchers and papers relating to the same;

(3) From time to time sell the assets at public auction or at private sale, as herein provided;

(4) Redeem all mortgages and conditional contracts or other incumbrances and pledges of personal property; or sell such property subject to such incumbrances, contracts or pledges;

(5) Settle all matters and accounts between such assignor and his debtors and creditors and examine, on oath to be administered by him, any person touching such matters and accounts;

(6) Compound with any person indebted to such assignor, under order of said court or judge;

(7) Prosecute or defend suits pending in favor of or against the assignor.

HISTORY: New 1961, p. 572, Act 236, Eff. Jan. 1, 1963.

600.5215 Appraisal of property; sale, notice.

Sec. 5215. As soon as practicable after receiving said assignment, the assignees shall cause an appraisal of such property to be made by 2 disinterested competent persons under oath, and filed with the clerk of the court. Within 10 days after completion of the appraisal, the assignee shall apply to the circuit court or the judge thereof for the exercise of its equitable power to direct the disposition of the assets. Such application shall be by petition, showing what, in the opinion of the assignee, is the most advantageous method of effecting such disposition. Notice of such application of not less than 10 days shall be given by mail to all creditors known to the assignee, and proof thereof filed with the clerk prior to such hearing. The assigned property and assets shall be sold at public or at private sale, in 1 parcel or separately, as said court or judge may direct. At least 14 days' notice of the time and place of any public sale shall be given by publishing the same in a newspaper printed and circulated in the county where the sale shall be made, if there be one, and if not then in such paper as the court shall direct, once in each week for at least 2 successive weeks prior to said sale and by mailing a copy of the same to all creditors. All sales of personal property shall be for cash, but on sales of real property credit may be given for not exceeding 1 year and for not more than 3/4 of the purchase money, which shall be secured by mortgage on the property sold.

HISTORY: New 1961, p. 572, Act 236, Eff. Jan. 1, 1963.

600.5221 Proof of claims; notice, filing; list of creditors.

Sec. 5221. Within 10 days after receiving such trust, the assignee shall give notice to all creditors personally or by mail (accompanied by blank proof of claim) requiring them to prove their claims within 90 days thereafter by a proof of claim to be filed with the assignee, or in default thereof, that the assignee will proceed to distribute the estate as soon as practicable without reference to claims not proved when dividends are paid. It shall not be obligatory upon the assignee to receive proofs of claim after the expiration of said 90 day period except upon order of the court, and the court shall not allow any claim by any creditor so notified to be received after the expiration of 1 year from the date on which the assignment is filed. Within 10 days after the expiration of said 90 day period the assignee shall serve personally or by mail upon each of the creditors a complete list of all creditors who have filed proof of claim giving in each instance the name, post office address and amount claimed. After the expiration of 20 days from the time when said notice is given, the assignee shall file all proofs of claim with the clerk of the court accompanied by any notices of contest which he may decide to make.

HISTORY: New 1961, p. 573, Act 236, Eff. Jan. 1, 1963.

600.5225 Proof of claims; contents, verification.

Sec. 5225. Each proof of claim must be sworn to and must state the actual amount unpaid and owing, the actual consideration thereof, when the same was contracted, when the same has become or will become due, whether any or what securities are held therefor, whether any and what payments have been made thereon, that the sum claimed is justly owing from the assignor to the claimant, and that the claimant has not, nor has any other person for his use, received any security or satisfaction whatever other than that set forth in such proof. When the claim is founded upon an account an itemized statement thereof shall be given and when the claim is founded upon any note or similar instrument, a copy thereof shall be attached and the production of the original may be required by the assignee.

HISTORY: New 1961, p. 573, Act 236, Eff. Jan. 1, 1963.

600.5231 Contest of claims; procedure, costs; filing fee.

Sec. 5231. The assignee may contest any claim. Any creditor desirous of having a claim contested may by writing request the assignee to do so and the service of any such request shall operate to stay the payment of any dividend upon such claim until the further order of the court; or any creditor may petition the court for an order requiring the assignee to contest any claim. The contest of any claim shall be instituted by serving, personally or by mail, a notice upon the claimant stating that such claim will be contested and for what reasons. Upon said proof of claim and proof of such service being filed with the clerk of said court, he shall enter such contest as cause in the name of such creditor against such assignor. The circuit court of such county shall proceed with the trial of said cause in the same manner as in other suits at law and shall have power to cause further pleadings to be filed and to allow new or amended ones as may be deemed necessary. The costs or any part thereof may be awarded to either party as the court may deem just and right under the circumstances. Whenever costs are awarded to the creditor, they shall be taxed and shall be paid by the assignee out of the assets if he has sufficient for that purpose. On the filing of the assignment referred to in section 5201, the assignor shall pay to the clerk of the court filing fee of \$5.00. For all subsequent proceedings, fees shall be due and payable in accordance with the provisions of the statute relating generally to trials in circuit court.

HISTORY: New 1961, p. 573, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 419, Act 240, Eff. Sep. 6.

600.5235 Set-off of mutual debts and credits.

Sec. 5235. In all cases of mutual debts or mutual credits between the estate of an assignor and a creditor, the account shall be stated and 1 debt shall be set off against the other and the balance only shall be allowed or paid. A set-off or counter claim shall not be allowed in favor of any debtor of the assignor which is not provable against his estate, or which was purchased by or transferred to such debtor after the filing of the assignment or prior to the filing thereof with a view to such use and with knowledge or notice that such assignor was insolvent.

HISTORY: New 1961, p. 574, Act 236, Eff. Jan. 1, 1963.

600.5241 Circuit courts; jurisdiction.

Sec. 5241. Circuit courts have original jurisdiction to hear and determine matters concerning assignments, commonly called common law assignments for the benefit of creditors, according to the following provisions.

Supervisory powers.

(1) The circuit court of the county where the assignor resides, or if the assignor is not a resident of the state then the circuit court of the county where the assigned property is principally located, has supervisory power over all matters, questions, and disputes arising under all those assignments commonly called common law assignments for the benefit of creditors, except as otherwise provided.

Specific powers.

(2) Upon the application of the assignee or of any other interested person the proper circuit court may make all necessary and proper orders for:

- (a) the management and disposition of the assigned property;
- (b) the allowance of claims;
- (c) the re-examination of claims;
- (d) the distribution of the assets and avails;
- (e) the recovery of all property claimed by third persons;
- (f) the prevention of any fraudulent transfer or change in the property or effects of the assignor or the allowance or payment of any unjust or fraudulent claims;

(g) the furnishing from time to time of new bonds or sureties who shall qualify under the court rules, and

(h) the removal of any assignee for cause and the appointment of a successor to any assignee who dies, resigns, or is removed.

Examination; assignor and others.

(3) On the application of the assignee or any creditor the judge of this court may require the assignor or any other person to appear before him on reasonable notice and submit to examination under oath upon all matters relating to:

- (a) the disposal of the property of the assignor;
- (b) the assignor's trade and dealings with others and his accounts concerning his trade and dealings with others;
- (c) all debts due or claimed from the assignor;
- (d) any and all other matters concerning the assignor's property and estate or the concealment and embezzlement of his property and estate, and
- (e) the due settlement of the estate according to law.

At the request of any party to the proceedings the examination may be reduced to writing and filed with the clerk of the county.

Same; assignee, orders.

(4) At any time before the final settlement of the accounts of the assignee the judge of the proper circuit court may require the attendance of and examine the assignee as to all matters appertaining to the estate of the assignor or the administration of the trust, and upon the examination he may make any order which he deems proper in regard to costs.

Circuit court commissioner.

(5) No power conferred upon the judge by the above subsections (1) through (4) shall be exercised by a circuit court commissioner except under a special reference made by the court.

HISTORY: New 1961, p. 574, Act 236, Eff. Jan. 1, 1963.

600.5245 Assignee; accounts, reports, completion of duties; extension of time, notice.

Sec. 5245. The assignee shall keep a regular account of all money received by him, to which account every creditor or other interested person shall be at liberty at all reasonable times to have access. Within 3 months after receiving such trust, the assignee shall file a report in said clerk's office of the condition of said estate, containing a statement of all property whatsoever received by him and the disposition made thereof, and of all moneys received, disbursed and on hand, and shall quarterly thereafter make like report covering all matters since the preceding report. It shall be the duty of the assignee to close his trust if practicable within 1 year from the date the assignment is filed, but such court or judge shall have power upon cause shown to extend the time allowed for that purpose, for such further periods as may be reasonably necessary, but in case of application for any such extension, notice thereof by mail or otherwise as said court or judge may direct shall be given to the creditors who shall have the right to appear and be heard with reference thereto.

HISTORY: New 1961, p. 575, Act 236, Eff. Jan. 1, 1963.

600.5251 Payment of claims; order, method, time.

Sec. 5251. (1) Funds available for distribution shall be applied to the payment of the following items and in the following order:

- (a) All taxes legally due and owing by the assignor to the United States, state, county or municipality;

- (b) The cost of administration;
- (c) All labor debts entitled to preference under the laws of this state;
- (d) All other debts which under the laws of the United States or of this state are entitled to priority;
- (e) All other claims preferred and allowed;
- (f) Any remaining surplus to be paid to the assignor, his representatives or assigns.

(2) In case the funds shall be insufficient to pay any class in full, then the same shall be distributed pro rata among such class. No dividend on general claims shall be paid until 20 days after the second notice required by section 5221 has been given and proof of service thereof filed with the clerk. If at the time any dividend is made, any suit or claim be pending in which a demand against such assignor may be established, the assignee shall retain in his hands the proportion which would belong to such demand if established, and the necessary costs and expenses of such suit or proceeding to be applied according to the event thereof or to be distributed in a subsequent dividend. Any creditor, who shall have neglected to make proof of his claim before any dividend but who shall make proof before a subsequent dividend, shall receive the sum or sums he would have been entitled to on any former dividend or dividends before any further distribution be made to other creditors. It shall be the duty of the assignee to endeavor to make payment of all dividends to the persons entitled thereto. If any dividend that shall have been declared shall remain unpaid to the person entitled thereto until the estate is otherwise ready to be closed, the assignee shall consider it relinquished and shall distribute it among the other creditors unless otherwise ordered by the court.

HISTORY: New 1961, p. 575, Act 236, Eff. Jan. 1, 1963.

600.5255 Compensation of assignee; application, notice to creditors.

Sec. 5255. The assignee shall receive for his services, such compensation as may be allowed by the court. In the event of an estate being administered by more than 1 assignee or by successive assignees, the court shall apportion the compensation between them according to the services actually rendered so that there shall not be paid to the assignees for the administering of any estate a greater amount than 1 assignee would be entitled to. The court may in its discretion withhold all compensation from any assignee who has been removed for cause. Ten days' notice by mail shall be given to the creditors of all applications for the allowance to the assignee of compensation and expenses, stating the amount of compensation and the items of expenses for which allowance is asked.

HISTORY: New 1961, p. 575, Act 236, Eff. Jan. 1, 1963.

600.5261 Fraud in assignment; enforcement of trust, receiver.

Sec. 5261. In case there shall be any fraud in the matter of said assignment, or if the assignee shall fail to file the same, or to qualify or to comply with any of the provisions of this chapter, or to promptly and faithfully execute said trust, any person interested therein may bring a civil action in the proper county for the enforcement of said trust. The court in its discretion may appoint a receiver or assignee therein and shall have power to order the summary examination before himself or a circuit court commissioner of any party or witness at any stage of said cause or other proceedings under this chapter, relative to the matters of said trust, and enforce attendance and the giving of testimony. Any such receiver shall have the same rights, powers, duties and compensation and be subject to all the obligations and liabilities of an assignee.

HISTORY: New 1961, p. 576, Act 236, Eff. Jan. 1, 1963.

600.5265 Nature of proceedings.

Sec. 5265. Proceedings under this chapter, except the contest of claims under section 5231, are equitable in nature.

HISTORY: New 1961, p. 576, Act 236, Eff. Jan. 1, 1963.

CHAPTER 53.

RECEIVERSHIP FOR WAGE EARNERS

600.5301 Workers' assignment of future wages; notice to creditors and employer.

Sec. 5301. Any person employed by any person, firm, corporation, a local government or agency, or the state or an agency thereof, who is or may be working for wages or for a salary for others, including those paid on a commission basis or who are paid through any combination thereof, who has debts which he is unable to pay, may file a full and complete list of such creditors with the clerk of the district or municipal court where he lives or where he is employed, and upon making an assignment of all his future wages to the clerk of the court to continue during the pendency of the proceedings as hereinafter set forth, shall be entitled to have a notice served upon each of such creditors. The notice shall set forth the fact that such proceedings are pending and contain a full list of his creditors and the amount alleged to be due to each creditor and shall prescribe a time within which the creditor shall file a sworn proof of claim with the clerk of the court, which time shall not be less than 10 days nor more than 20 days from the date of service of such notice upon such creditor and shall be signed by the clerk of the court, such notice to act as an immediate stay of proceedings by every creditor so served as against the wages, salary or commission so assigned. The clerk of the court shall thereupon also notify the employer of the pendency of such court proceedings in suitable form as prescribed by the court, and such notice shall constitute a notification to the employer to pay any and all moneys due or to become due to the employee from thenceforth, to the clerk of the court, unless and until served with a notice to the contrary. The provisions of this chapter shall not apply to any city having a common pleas court.

HISTORY: New 1961, p. 576, Act 236, Eff. Jan. 1, 1963;—Am. 1969, p. 769, Act 341, Eff. Jan. 1, 1970.

600.5305 List of creditors; contents of petition.

Sec. 5305. The list of creditors above mentioned shall be in the form of a petition under oath and under the pains and penalties of perjury, and shall set forth whether the petitioner is a married man or not and the name, age and relationship of each person depending upon him for support and shall give the name and address of each and every creditor of the petitioner, the amount of the indebtedness, the nature of the claim, and shall contain a statement in addition to the above as to whether or not the claim is disputed by either party as to amount, and in case said claim is disputed it shall give the amount claimed by the creditor and the amount claimed by the debtor.

HISTORY: New 1961, p. 576, Act 236, Eff. Jan. 1, 1963.

600.5311 Exemptions.

Sec. 5311. After the filing of such petition and assignment of wages as aforesaid, the court shall make an order directing the clerk to pay the petitioner his legal exemptions, which shall be as follows:

(1) If the petitioner is a householder having a family, 60% but not less than \$15.00 per week for which such wages, salary or commission are due, and in addition \$2.00 per week for each person other than husband or wife under 21 years of age or incapable of self support because mentally or physically defective and legally dependent upon him for support;

(2) If such petitioner is not a householder having a family, he shall be entitled to 40% but not less than \$10.00 per week.

HISTORY: New 1961, p. 577, Act 236, Eff. Jan. 1, 1963.

600.5315 Exemptions by agreement; support of children.

Sec. 5315. If all creditors sign a written agreement so to do, the debtor may be paid more than the amounts herein provided for. If the petitioner is required by an order of a court of competent jurisdiction to pay money for the support and maintenance of children, then upon the filing with the court of a certified copy of the order, there shall be exempted such further sum as may be required to comply with the order, which the clerk shall forward to the person or official named in the order to receive the same.

HISTORY: New 1961, p. 577, Act 236, Eff. Jan. 1, 1963.

600.5321 Distribution of balance.

Sec. 5321. The court shall further direct the clerk to pay the remainder of any moneys in his possession, over and above the exemptions of the petitioner, to the creditors, to be divided equally among all creditors listed, but the clerk shall not be obliged to make such distribution oftener than once in 60 days and then only if there is at least \$100.00 to be distributed, but when making a distribution to creditors may pay claims or unpaid balances of \$5.00 or less in full and divide the balance of the money equally among the balance of the creditors. Any money not called for by any creditor, or checks returned undelivered and remaining in the clerk's office for 6 months after the proceedings are dismissed, may be paid by the clerk to the petitioner.

HISTORY: New 1961, p. 577, Act 236, Eff. Jan. 1, 1963.

600.5325 Clerk as agent of listed creditors; title to funds.

Sec. 5325. The clerk of the court shall be the agent of each creditor listed, as to funds paid into court to which such creditors are entitled under the provisions of this chapter, and upon payment of any such funds to the clerk of the court the title thereto shall immediately pass to the creditors entitled thereto by the provisions of this chapter and their heirs and assigns, and shall become part of the estate of such creditors. This provision shall not apply to moneys not called for by any creditor or checks returned not delivered and remaining in the clerk's office for 6 months after a petition is dismissed.

HISTORY: New 1961, p. 577, Act 236, Eff. Jan. 1, 1963.

600.5331 Determination of amount of claim; judgment creditors.

Sec. 5331. (1) The justice or judge shall fix the amount of each claim, regardless of whether or not it exceeds the jurisdiction of the court in civil actions, for the purpose of participating in such funds only, and the fixing of any such amounts shall not be or be construed to be a judgment, but any such creditor may at any time during the pendency of such proceeding or afterwards, take any legal action he may desire against said debtor and any means to collect any judgment secured, excepting to garnishee said assigned wages. In the case of a judgment creditor who is such when the petition is filed, the amount fixed shall be the amount of such judgment with costs and legal interest, less any payments thereon. When a creditor reduces his claim to judgment during the pendency of the proceedings, the amount of his claim for participating in said funds shall thereupon be fixed at the amount of such judgment and costs, but in such case payments previously made to creditors shall not be affected.

Disputed claims, notice, hearing.

(2) The justice, judge, debtor, or any creditor, may dispute the claim of any creditor, at any time during the pendency of such proceedings. Upon the determination of the justice or judge to dispute a claim, or upon the filing of a written notice of intention by

the debtor or creditor to do so, the justice or judge shall cause notice of hearing thereon to be served on the debtor, the creditor whose claim is disputed, and the objector, and have a hearing thereon, and may issue subpoenas to compel the attendance of witnesses as in civil actions therein.

Costs, payment.

(3) Any costs incurred by any such hearing may be taxed against either the debtor, the objector, or the creditor whose claim is disputed, as the justice or judge may deem just, and may be deducted from any funds in the custody of the court which would otherwise be paid to such person against whom taxed, and paid to the person in whose favor they are taxed.

Intervention.

(4) Any person claiming to be a creditor of any person taking advantage of this chapter who has not been listed, shall have the right to intervene and prove his claim the same as though his claim had been listed.

HISTORY: New 1961, p. 577, Act 236, Eff. Jan. 1, 1963.

600.5335 Payment of wages by employer.

Sec. 5335. Payment by any employer to the clerk of the court in pursuance of notice from the court to him or it of the filing of a petition by an employee, shall be payment to the employee the same as if received by said employee personally. Any employer who pays any wages, salary or commission to any employee after receiving notice of said assignment, shall be liable for any sums so paid on garnishment proceedings taken by any creditor.

HISTORY: New 1961, p. 578, Act 236, Eff. Jan. 1, 1963.

600.5341 Garnishment; effect.

Sec. 5341. No creditor so named in this proceeding shall have any right to garnishee the petitioner therein, and it shall be the duty of the employer in any case when served with a notice of garnishment against said employee, nevertheless to pay said wages to the clerk of the court aforesaid together with notice that such wages have been garnisheed together with any other pertinent facts pertaining to the case. When and in case any creditor not listed shall garnishee any wages so assigned, he shall have the right to have his cost expended in said garnishment added to the amount due him by proof to the court that said garnishment was instituted in good faith and without knowledge of said assignment proceedings.

HISTORY: New 1961, p. 578, Act 236, Eff. Jan. 1, 1963.

600.5345 Duration of assignment proceedings.

Sec. 5345. Such proceedings shall be continued indefinitely until all debts of said petitioner are paid or they may be dismissed by the court after notice to interested parties upon the petition of the debtor or upon the court's own motion or upon the petition of any creditor who can show by evidence that the debtor is attempting to deceive the court or to be unfair or is in collusion with any person, persons, firm, firms, corporation or corporations, in connection with the receivership.

HISTORY: New 1961, p. 578, Act 236, Eff. Jan. 1, 1963.

600.5351 Secured creditors.

Sec. 5351. Nothing in this chapter shall be construed to deprive the creditor holding security from pursuing his rights under the instrument giving him such security, and no creditor shall be deprived of any remedy given him by the laws of the state except they shall not have the right to garnishee or obtain any interest in the wages, salary or commission of any person claiming the advantages of this chapter.

HISTORY: New 1961, p. 578, Act 236, Eff. Jan. 1, 1963.

600.5355 Notices; manner of giving; change of employment.

Sec. 5355. All notices provided for in this chapter may be given by registered mail with return receipt demanded, and if the return receipt is not received the court may order the same served as process is served in said court, and the cost thereof shall be paid by the petitioner. When and if the petitioner changes his employer he shall notify the clerk of the court and execute a new assignment of his wages and the clerk shall notify the new employer.

HISTORY: New 1961, p. 579, Act 236, Eff. Jan. 1, 1963.

600.5361 Debts incurred after filing petition; not included.

Sec. 5361. The petitioner shall not have the right to file or list any indebtedness incurred after the filing of the petition.

HISTORY: New 1961, p. 579, Act 236, Eff. Jan. 1, 1963.

600.5365 Statute of limitations tolled during pendency of proceedings.

Sec. 5365. The statute of limitations shall not run against any debt or liability of a petitioner during the pendency of the proceedings herein provided for, whether such indebtedness or liability existed at the time of the filing of the petition or was incurred afterwards.

HISTORY: New 1961, p. 579, Act 236, Eff. Jan. 1, 1963.

600.5371 Court fees upon petition; defrayment of incidental expenses.

Sec. 5371. Upon the filing of the petition and assignment of wages as herein provided, said petitioner shall pay to the clerk of said court the sum of 50 cents as a filing fee and the further sum of 50 cents for each creditor named in the petition and each year thereafter the sum of 50 cents for each creditor listed and not paid in full. In the event of any contest between the debtor and any creditor or 1 creditor and another creditor, the moving party in such contest shall before having same determined pay to the clerk of the court the sum of 50 cents as a hearing fee for such service and the court shall have the right to direct the clerk to retain from the exemptions of petitioners such sums as may be necessary to defray the actual costs for providing notices, stamps, clerical help in the clerk's office, and other incidental expenses of paying for the administration of this chapter, and charge the same to the petitioners. The clerk shall deduct from the exemptions of petitioners the fee of 50 cents per creditor above provided for second and subsequent years, unless the petitioner shall pay same when due. All fees herein provided for shall be for the use of the city.

HISTORY: New 1961, p. 579, Act 236, Eff. Jan. 1, 1963.

600.5375 Repealed. 1969, p. 388, Act 209, Eff. Jan. 1, 1970.

Section related to receivership for wage earners; cities to which applicable.

CHAPTER 54.

ASSIGNMENT OF ACCOUNTS RECEIVABLE

600.5401-600.5445 Repealed. 1962, p. 317, Act 174, Eff. Jan. 1, 1964.

Sections related to assignment of accounts receivable act.

CHAPTER 56.

PROCEEDINGS TO RECOVER THE POSSESSION OF LAND IN CERTAIN CASES

600.5601 Entry into lands; peaceable manner.

Sec. 5601. No person may make any entry into lands, tenements or other possessions, except in cases where entry is permitted by law. In such cases, he shall not enter with force, but only in a peaceable manner.

HISTORY: New 1961, p. 582, Act 236, Eff. Jan. 1, 1963.

600.5604 Forcible entry or detainer; restoration.

Sec. 5604. When any forcible entry is made, or when an entry is made in a peaceable manner and the possession is unlawfully held by force, the person entitled to the premises may be restored to the possession thereof in the manner hereinafter provided.

HISTORY: New 1961, p. 582, Act 236, Eff. Jan. 1, 1963.

600.5607 Complaint; jurisdiction of circuit court commissioners and justices of the peace.

Sec. 5607. (1) The person entitled to the possession of the premises, his agent or attorney, may make complaint in writing and on oath, and deliver the same to a circuit court commissioner of the county in which the premises are situated, or to a justice of the peace of the city or township where the premises are located, of any adjoining or contiguous city or township, setting forth that the person complained of, is in possession of the lands or tenements in question, describing them, and that he entered into the same with force, or that he unlawfully holds the same by force, or against the rights of the plaintiff, as the case may be.

(2) Justices of the peace do not have jurisdiction under this chapter when the place of holding court of a circuit court commissioner is situated in the same township or city, unless such circuit court commissioner is absent from the county, or is interested in the case, either as principal, agent or attorney.

HISTORY: New 1961, p. 582, Act 236, Eff. Jan. 1, 1963.

600.5610 Warrant; issuance.

Sec. 5610. Upon receiving such complaint, the officer to whom the same is delivered, shall issue his warrant, directed to the sheriff or any constable of the same county, commanding him to apprehend the person named in such complaint, and to bring him forthwith before such officer, to answer such complaint; or such officer may, at the option of the plaintiff, issue summons against the defendant, as hereinafter provided, in cases of tenants holding over after the expiration of their term, and the same proceedings may be thereupon had as in case of a tenant holding over after the expiration of his lease.

HISTORY: New 1961, p. 582, Act 236, Eff. Jan. 1, 1963.

600.5613 Warrant; execution; notice to plaintiff.

Sec. 5613. The sheriff or constable to whom any such warrant shall be delivered, shall execute the same by arresting the defendant, and bringing him forthwith before the officer issuing such warrant, and shall thereupon notify the plaintiff of such arrest.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5616 Plea of defendant.

Sec. 5616. Upon the defendant being brought before such officer on such warrant, he may plead not guilty to the complaint, or if he neglect or refuse to plead thereto, such officer shall enter such plea for him.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5619 Trial of issues; power of officer.

Sec. 5619. On such issue being joined, the officer issuing the warrant shall possess all the power necessary for the trial and determination thereof, and shall proceed to hear and determine the same; and for that purpose may issue subpoenas for witnesses, and compel their attendance in like manner as justices of the peace are authorized to do in cases within their jurisdiction.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5622 Trial of issues; jury.

Sec. 5622. If, before proceeding to the trial of the issue, either the plaintiff or the defendant requests that the issue be tried by a jury, such jury shall be selected and summoned, and the same proceedings shall be had in all respects as upon the trial of a cause by a jury in a justice's court, except that the sheriff, if present, may perform the same duties in the selecting, summoning, and keeping of the jury in such case, as constables are authorized to perform in cases in justices' courts, and the venire shall be directed to the sheriff or any constable of the county.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5625 Judgment for plaintiff.

Sec. 5625. If such defendant shall be convicted upon a trial before such officer, or by the verdict of such jury, or upon a plea of guilty to such complaint, the officer who issued the warrant shall thereupon enter a judgment that the plaintiff have restitution of the premises; and shall tax the costs and expenses for the plaintiff.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5628 Restoration of plaintiff to possession; execution for costs.

Sec. 5628. The court shall thereupon issue a precept, commanding the sheriff or any constable of the county, to cause the plaintiff to be restored and put into full possession of the said premises; and shall also, in the same precept, or in a separate execution, direct the costs and expenses so taxed to be levied and collected of the defendant, in the same manner as costs are or may be collected on judgments before justices of the peace, in personal actions.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5631 Judgment for defendant; execution for costs.

Sec. 5631. If the plaintiff shall fail to prosecute his complaint, or if on such trial the defendant shall be found not guilty, judgment shall be rendered for the defendant for his costs, which shall be taxed and collected of the plaintiff, in the same manner hereinbefore provided for the collection of costs in favor of a plaintiff recovering judgment.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963.

600.5634 Recovery of possession of premises; summary proceeding.

Sec. 5634. The person entitled to any premises may recover possession thereof in the manner hereinafter provided, in the following cases:

(1) When any person shall hold over any lands or tenements, after the time for which they are demised or let to him, or to the person under whom he holds, or contrary to the conditions or covenants of any executory contract for the purchase of lands or tenements, or any lease or agreement under which he holds, or where rent shall have become due on any such lease or agreement, and demand of the rent or possession of the premises is waived therein, in writing, and not included in the printed form of the lease or agreement. However a tenant or occupant in housing operated by a city, village, township or other unit of local government, as provided in Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698 of the Compiled Laws of 1948, is not deemed to be holding over after the time for which premises were let, or contrary to the conditions or covenants of any agreement or lease, unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission, or by law.

(2) When any rent shall have become due, on any such lease or agreement, and the tenant or person in possession shall have neglected or refused for 7 days after demand of the possession of the premises, unless waived in writing, to deliver up possession of the premises or pay the rent so due.

(3) When a tenant, wilfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered within 90 days prior to the institution of proceedings under this section, and when such tenant neglects or refuses for 7 days after demand of possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(4) When any person shall continue in possession of any premises sold by virtue of any mortgage or execution, after the expiration of the time limited by law for the redemption of such premises, or when any heir or devisee shall continue in possession of any premises sold and conveyed by any executor or administrator under license from the probate court or under authority in the will, to pay the debts of the deceased testator or intestate.

(5) When any tenant at will or by sufferance shall hold over, after the determination of his estate, by a notice to quit, as provided by law.

(6) When a forcible entry is made contrary to law, or when an entry is made in a peaceable manner and possession is unlawfully held by force.

HISTORY: New 1961, p. 583, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 500, Act 297, Eff. Oct. 1.

600.5637 Complaint; contents; executory land contract.

Sec. 5637. (1) In the cases specified in section 5634, the person entitled to the possession of the premises, his agent or attorney, may make complaint in writing and on oath and deliver the same to a circuit court commissioner or to a justice of the peace, when he shall have jurisdiction under this chapter, setting forth that the person complained of is in possession of the lands or tenements in question, describing them, and that such person holds the same unlawfully, and against the rights of the plaintiff. When a person seeks to recover possession of any lands or tenements from any person who shall hold the same contrary to the conditions or covenants of any executory contract for the purchase thereof, the complaint and summons shall so state.

Premises on island.

(2) No proceedings may be instituted under the provisions of this chapter from November 15 to May 1 where the premises described in the complaint are situate upon an island which is more than 10 miles from the nearest portion of the mainland in the same county in which said premises may be located.

Circuit court commissioner, exclusive jurisdiction in certain counties.

(3) In any county having a population of more than 180,000 and less than 1,000,000 the complaint shall be made only to a circuit court commissioner.

Money judgment; counterclaim.

(4) The plaintiff may allege in the complaint that defendant is indebted to him for breach of the lease or land contract or by reason of wrongful possession of the premises for which possession is sought in the complaint. A money judgment may be rendered in such action against any defendant over whom the court has personal jurisdiction. A defendant against whom a claim is made may file a counterclaim against the plaintiff by way of setoff or recoupment. If the claim for money or counterclaim exceeds the jurisdiction of the court, the court shall hear the claim for possession but shall dismiss the claim for money and counterclaim without prejudice to subsequent action thereon.

Judgment on claim for possession.

(5) Upon proper motion for summary judgment on the pleadings, either party may obtain judgment on the claim for possession. The motion shall be determined independently and without prejudice to any other claims or counterclaim. For the purpose of this paragraph a claim for possession for nonpayment of rent is deemed to include, without limitation thereto, the following issues:

(a) That the defendant has paid the rent due.

(b) That the plaintiff has committed a breach of the lease which excuses the payment of rent.

Public housing; complaint.

(6) When proceedings are commenced under this chapter to regain possession of premises in housing operated by a city, village, township or other unit of local government under termination of the lease or agreement, the plaintiff shall allege in the complaint that termination was for just cause and shall further state the facts that gave rise to the allegation and the specific references to local housing commission rules, or to law, which establish the basis for just cause.

HISTORY: New 1961, p. 584, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 501, Act 297, Eff. Oct. 1.

600.5640 Summons; issuance; return date; land contract or premises on island.

Sec. 5640. (1) Upon receiving such complaint, the officer to whom same is delivered, shall issue a summons, except where proof is made by affidavit as hereinafter provided directed to the sheriff or any constable of the same county, commanding him to summon the defendant, if a resident of the county, to be and appear before such officer, at a time and place therein to be specified, not less than 3 nor more than 6 days, and in all counties of this state having a population of 500,000 or over the short summons provided herein shall be returnable in not less than 4 nor more than 10 days, from the issuing thereof to answer such complaint except where plaintiff shall request a summons returnable in not less than 15 days or where complaint made that a person holds possession contrary to the conditions or covenants of any executory contract for the purchase of lands or tenements, or where the person holding possession is a non-resident of the county, or where the premises are situate upon an island more than 10 miles from the nearest portion of mainland in the same county, in which case the summons so issued shall be made returnable in not less than 15 days nor more than 40 days from the issuing thereof.

Original summons; order for appearance.

(2) As many original summons may be issued as the plaintiff may request. If more than 1 original summons is issued the same shall be marked "first original," "second original," and so on respectively, and the copies of each shall be likewise so marked. A summons and an order for the appearance of any defendant or defendants may be issued simultaneously.

HISTORY: New 1961, p. 584, Act 236, Eff. Jan. 1, 1963.

600.5643 Summons; service; alias; adjournment.

Sec. 5643. (1) The officer to whom such summons shall be delivered shall serve the same, if returnable in not more than 6 days, at least 2 days, or if returnable in not more than 10 days, at least 3 days before the time of appearance mentioned therein, by delivering to the defendant, if to be found within the county, a copy thereof, but if the defendant shall not be found, it shall be served, by leaving such copy at the usual place of abode of such defendant, in the presence of some person of suitable age, who shall be informed of its contents, but if it appears by the officer's return that the summons cannot be served by reason of the nonresidence of the defendant or his whereabouts being unknown, then a true copy of the alias summons may be served by leaving same with a person of suitable age, found in possession of the premises described in the complaint, who shall be informed of its contents, but if it appears that on the last day of service of said alias summons that no one is found in possession of said premises, then the officer may attach a true copy of said alias summons in a secure manner to the main entrance of said premises and make a return of his doings. Upon the return day of said alias summons, if said defendant shall appear, said case shall then be heard

in the same manner as mentioned in section 5646. If the defendant fails to appear on the return day of said alias summons, then the officer issuing said alias summons shall adjourn the hearing for 1 week, and on the day to which the hearing shall be adjourned, if the defendant fails to appear, the same proceedings shall be had as if he had appeared at the return of the summons. If the summons shall be returnable in not less than 15 days, the summons shall be served at least 10 days before the time of appearance mentioned therein, by delivering to the defendant, if to be found within the state, a copy thereof, and in cases where the summons may be served outside of the county, a sheriff or constable of any county shall serve same. Service upon any or all of the defendants may be made under any of the original summons, but no more costs shall be taxed in respect to the service of such writs than if but 1 original shall have been issued.

New summons; continuance.

(2) If it appear by the return of the officer that the summons was not served in the manner above provided, the plaintiff may take out a new summons against the defendant, in continuance of his suit, returnable as provided in the case of the original summons, which shall be served in the same manner and within the same period as the original summons. The officer before whom the complaint is filed may continue the cause, from time to time upon proof by affidavit filed with the officer before whom the complaint was filed of any of the following facts:

(a) That the defendant resides out of the state;

(b) That the defendant is a resident of this state, and that process for his appearance has been duly issued and that the same could not be served by reason of his absence from or concealment within this state, or by reason of his continued absence from his place of residence;

(c) That it cannot be ascertained in what state or country the defendant resides.

Order for appearance, contents, publication.

(3) The officer before whom the complaint was filed shall make an order for the appearance of such defendant, within 35 days from the date of said order, which shall contain the time and place set for the hearing of said complaint, the names of the parties in the action, the name of the court before whom the action is pending, and a description of the property set forth in the complaint. Such order shall be published within 12 days after it shall have been made, in some newspaper printed and circulating in the county where the complaint was filed, or such other newspaper as said officer may direct, once in each week for 3 successive weeks. A copy of such order shall be mailed to said defendant at his last known post office address, by registered mail and a return receipt demanded, at least 10 days prior to the time of appearance mentioned therein, and proof by affidavit shall be required of such mailing, and whether or not a return receipt was received, and if one was received, it shall be attached to said affidavit.

HISTORY: New 1961, p. 585, Act 236, Eff. Jan. 1, 1963.

600.5646 Answer of defendant; responsive pleadings; trial; judgment for defendant.

Sec. 5646. (1) Upon the date set for hearing in such summons, if the same be returned duly served, and the defendant appears, such defendant, except as provided in subsections (2), (3), (4), (5) and (6) of this section, may answer by denying the allegation of such complaint. If he neglects or refuses to answer, such officer shall enter such denial for him, and such issue shall be tried and judgment shall be rendered, and the costs shall be taxed and collected in the same manner as in cases of forcible entry or detainer, and with the like effect.

(2) When proceedings are commenced under this chapter to regain possession following the alleged termination of a tenancy, the defendant may file any responsive pleading permitted by court rules.

(3) When proceedings are commenced under this chapter to regain possession following the alleged termination of a tenancy for nonpayment of rent, the defendant, in an appropriate pleading, may state such defense as he may have upon the lease or contract, or against the opposing party.

(4) When proceedings commenced under this chapter are to regain possession of the premises following the alleged termination of a tenancy, if the defendant alleges in a responsive pleading and if it appears by a preponderance of the evidence that any of the following situations exist, judgment shall be entered for the defendant:

(a) That the alleged termination was intended as a penalty for the defendant's attempt to secure or enforce rights under a lease or contract, or under the laws of the state or its governmental subdivisions, or of the United States.

(b) That the alleged termination was intended as a penalty for the defendant's complaint to a governmental authority with a report of plaintiff's violation of any health or safety code or ordinance.

(c) That the alleged termination was intended as retribution for any other lawful act arising out of the tenancy.

(d) That the alleged termination was of a tenancy in housing operated by a city, village, township or other unit of local government, and was terminated without cause.

(5) When proceedings commenced under this chapter are to regain possession of the premises following the alleged termination of a tenancy, if the defendant alleges and it appears by a preponderance of the evidence that the plaintiff attempted to increase the defendant's obligations under the lease or contract as a penalty for such lawful acts as are described in subsection (4), and that the defendant's failure to perform such additional obligations was a material reason for the alleged termination, judgment shall be entered for the defendant on the claim of possession, and all such additional obligations shall be void.

HISTORY: New 1961, p. 586, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 502, Act 297, Eff. Oct. 1.

600.5649 Nonappearance of defendant; adjournment of hearing.

Sec. 5649. If the defendant fail to appear on the return of such summons, and the same be returned duly served, the officer issuing such summons may, in his discretion, adjourn the hearing, not more than 6 days from the return of such summons, and on the day to which the hearing shall be adjourned, if the defendant appear, the same proceedings shall be had as if he had appeared at the return of the summons.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.5652 Default of defendant; entry, hearing, judgment of restitution.

Sec. 5652. If the defendant fail to appear on the return of the summons, and there be no adjournment, or if the defendant fail to appear on the day to which the hearing may be adjourned, the officer shall note such failure in the minutes of his proceedings, and proceed to hear the complaint, and to inquire into the truth thereof; and if such officer shall be satisfied that such complaint is true, and that the plaintiff is entitled to restitution of the premises, he shall render judgment accordingly, and tax the costs for the plaintiff, and issue a writ of restitution, and process for the collection of the costs, as in other cases, and with the like effect.

HISTORY: New 1961, p. 586, Act 236, Eff. Jan. 1, 1963.

600.5655 Adjournment of hearing; cause.

Sec. 5655. After an issue shall be joined upon any complaint in pursuance of the provisions of this chapter, the hearing may be adjourned from time to time, as may be necessary, upon sufficient cause being shown.

HISTORY: New 1961, p. 586, Act 236, Eff. Jan. 1, 1963.

600.5658 Adjournment of hearing; custody of defendant continued; release on bond for costs.

Sec. 5658. If such hearing be adjourned on the application of a defendant, proceeded against by warrant for a forcible entry, or forcible detainer, and the plaintiff shall not consent thereto, such defendant shall continue, during the time of the adjournment, in the custody of the sheriff or constable, unless he shall give bond to the plaintiff, in the penal sum of \$50.00, with sufficient surety to be approved by the officer issuing the warrant, conditioned to pay all such costs as shall be awarded against him in such cause.

HISTORY: New 1961, p. 586, Act 236, Eff. Jan. 1, 1963.

600.5661 Power of officer conducting proceedings.

Sec. 5661. The officer before whom any proceedings shall be had for recovering the possession of lands in pursuance of this chapter, shall possess all the necessary powers for issuing subpoenas, and compelling the attendance of witnesses, and enforcing obedience to all orders and process lawfully made or issued by him.

HISTORY: New 1961, p. 586, Act 236, Eff. Jan. 1, 1963.

600.5664 Nonappearance of juror or witness; penalty.

Sec. 5664. Every person summoned as a juror or subpoenaed as a witness, who shall not appear, or appearing shall refuse to serve or testify in any cause prosecuted by virtue of this chapter, shall forfeit and pay for every such refusal, unless some reasonable excuse be shown, such fine, not exceeding \$10.00, as the officer before whom the proceedings are instituted shall think proper to impose; and such officer is authorized and required to issue an execution for the collection thereof, directed to the sheriff or any constable of the county, in the same manner and with the like effect, as justices of the peace are authorized to do in cases of similar fines imposed by them.

HISTORY: New 1961, p. 587, Act 236, Eff. Jan. 1, 1963.

600.5667 Restitution; damages recoverable by plaintiff.

Sec. 5667. The plaintiff obtaining restitution of any premises under the provisions of this chapter is entitled to a civil action against the defendant, and may recover damages from the time of the forcible entry, or forcible detainer, or of the notice to quit, or demand of possession, as the case may be.

HISTORY: New 1961, p. 587, Act 236, Eff. Jan. 1, 1963.

600.5670 Appeal; bond, amount, condition.

Sec. 5670. (1) Either party conceiving himself aggrieved by the judgment of the officer under this chapter, may appeal therefrom to the circuit court of the same county, in accordance with the court rules.

(2) A bond shall be required for the appeal with a penalty to be fixed at a reasonable amount by the officer. If the appellant is unable to obtain sureties or make a cash deposit in lieu thereof, he may have the bond without sureties or cash deposit upon such reasonable conditions as the officer may determine.

(3) The bond shall be conditioned that the defendant will forthwith pay all rent due or to become due the plaintiff for the premises described in the complaint, or the rental value thereof, together with costs, if the plaintiff prevails.

HISTORY: New 1961, p. 587, Act 236, Eff. Jan. 1, 1963;—Am. 1968, p. 502, Act 297, Eff. Oct. 1.

600.5673 Writ of restitution; issuance, time.

Sec. 5673. No writ of restitution shall be issued under the provisions of this chapter until the expiration of 10 days, or in the case of a proceeding upon any executory contract for the purchase of real estate in consequence of the nonpayment of a sum of money, until the expiration of 90 days after the entry of judgment of restitution; and in case of an appeal within that time, no writ of restitution shall issue until such appeal is determined in the circuit court, or if further appeal is taken to the supreme court, within 90 days after such appeal is determined in the supreme court. In case it is found that the plaintiff is entitled to the possession of the premises, in consequence of the nonpayment of a sum of money, no writ of restitution shall issue if the defendant shall, within not less than 10 days, or within 90 days in the case of a proceeding upon any executory contract for the purchase of real estate after final judgment, pay the amount so found due and the amount of costs awarded to the said plaintiff. If the purchaser has paid over 50% of the purchase price provided for in the contract, no writ of restitution shall issue for 6 months, during which time the defendant may redeem from the forfeiture by paying the amount so found due and the amount of costs awarded to the plaintiff.

HISTORY: New 1961, p. 587, Act 236, Eff. Jan. 1, 1963.

600.5676 Recovery of all or part of premises.

Sec. 5676. On the trial of any cause under the provisions of this chapter, it shall be competent for the jury or officer before whom such trial may be had, to find the defendant guilty or forcibly or unlawfully holding over or detaining the premises described in the complaint, or any part thereof, and judgment may thereupon be rendered in accordance with such finding.

HISTORY: New 1961, p. 587, Act 236, Eff. Jan. 1, 1963.

600.5679 Attorney fee; taxable as costs.

Sec. 5679. In all actions before a circuit court commissioner, based on a complaint that the defendant or defendants hold the lands or tenements described in said complaint contrary to the conditions or covenants of any executory contract for the purchase of lands or tenements, the prevailing party, in addition to all other costs allowed by law, if represented by a regularly licensed attorney and counsellor, shall be entitled to tax the sum of \$5.00 as an attorney fee, which shall be collected in like manner as other taxed costs.

HISTORY: New 1961, p. 588, Act 236, Eff. Jan. 1, 1963.

CHAPTER 58.

LIMITATION OF ACTIONS

600.5801 Limitation of real actions; periods.

Sec. 5801. No person may bring or maintain any action for the recovery or possession of any lands or make any entry upon any lands unless, after the claim or right to make the entry first accrued to himself or to someone through whom he claims, he commences the action or makes the entry within the periods of time prescribed by this section.

Defendant claiming title under fiduciary's deed or court-ordered sale.

(1) When the defendant claims title to the land in question by or through some deed made upon the sale of the premises by an executor, administrator, guardian, or testamentary trustee; or by a sheriff or other proper ministerial officer under the order, judgment, process, or decree of a court or legal tribunal of competent jurisdiction within this state, or by a sheriff upon a mortgage foreclosure sale the period of limitation is 5 years.

Defendant claiming title under tax deed.

(2) When the defendant claims title under some deed made by an officer of this state or of the United States who is authorized to make deeds upon the sale of lands for taxes assessed and levied within this state the period of limitation is 10 years.

Defendant claiming title under will.

(3) When the defendant claims title through a devise in any will, the period of limitation is 15 years after the probate of the will in this state.

Other cases.

(4) In all other cases under this section, the period of limitation is 15 years.

HISTORY: New 1961, p. 588, Act 236, I.H. Jan. 1, 1963.

600.5803 Foreclosure of mortgages.

Sec. 5803. No person shall bring or maintain any action or proceeding to foreclose a mortgage on real estate unless he commences the action or proceeding within 15 years after the mortgage becomes due or within 15 years after the last payment was made on the mortgage. This section limits foreclosure by advertisement and any other entries under the mortgage as well as actions of foreclosure in the courts.

HISTORY: New 1961, p. 588, Act 236, I.H. Jan. 1, 1963.

600.5805 Injuries to person or property.

Sec. 5805. No person may bring or maintain any action to recover damages for injuries to persons or property unless, after the claim first accrued to himself or to someone through whom he claims, he commences the action within the periods of time prescribed by this section.

(1) The period of limitations is 2 years for actions charging assault, battery, and false imprisonment.

(2) The period of limitations is 2 years for actions charging malicious prosecution.

(3) The period of limitations is 2 years for actions charging malpractice.

(4) The period of limitations is 2 years for actions against sheriffs charging misconduct or neglect of office by themselves or their deputies.

(5) The period of limitations is 2 years after the expiration of the year for which a constable was elected for actions based on his negligence or misconduct as constable.

(6) The period of limitations is 1 year for actions charging libel or slander.

(7) The period of limitations is 3 years for all other actions to recover damages for injuries to persons and property.

HISTORY: New 1961, p. 588, Act 236, I.H. Jan. 1, 1963.

600.5807 Damages for breaches of contract; specific performance; fiduciary bonds; deeds; mortgages; surety bonds; appeal bonds; public obligations.

Sec. 5807. No person may bring or maintain any action to recover damages or sums due for breach of contract, or to enforce the specific performance of any contract unless, after the claim first accrued to himself or to someone through whom he claims, he commences the action within the periods of time prescribed by this section.

(1) The period of limitations on actions charging any surety on any bond of any executor, administrator, guardian is 4 years after the discharge of the executor, administrator, or guardian.

(2) The period of limitations is 10 years for actions founded upon bonds of public officers.

(3) The period of limitations on actions founded upon bonds executed under sections 41.80 and 41.81 of the Compiled Laws of 1948, is 2 years after the expiration of the year for which the constable was elected.

(4) The period of limitations is 10 years for actions founded upon covenants in deeds and mortgages of real estate.

(5) The period of limitations is 2 years for actions charging any surety for costs.

(6) The period of limitations is 2 years for actions brought on bonds or recognizances given on appeal from any court in this state.

(7) The period of limitations is 10 years for actions on bonds, notes, or other like instruments which are the direct or indirect obligation of, or were issued by although not the obligation of, the state of Michigan or any county, city, village, township, school district, special assessment district, or other public or quasi-public corporation in the state of Michigan.

(8) The period of limitations is 6 years for all other actions to recover damages or sums due for breach of contract.

HISTORY: New 1961, p. 589, Act 236, Eff. Jan. 1, 1963.

600.5809 Noncontractual money obligations; penalty; forfeiture, judgment.

Sec. 5809. No person may bring or maintain any action to enforce noncontractual money obligations unless after the claim first accrued to himself or to someone through whom he claims he commences the action within the periods of time prescribed by this section.

(1) The period of limitations is 2 years for actions for the recovery of any penalty or forfeiture based on any penal statute brought in the name of the people of this state.

(2) The period of limitations is 10 years for actions founded upon judgments or decrees rendered in any court of record of the United States, or of this state, or of any other state of the United States, from the time of the rendition of the judgment. Within this period an action may be brought upon the judgment for a new judgment, which, in its turn, will be subject to the provision of this section.

HISTORY: New 1961, p. 589, Act 236, Eff. Jan. 1, 1963.

600.5811 Common carriers; charges and overcharges.

Sec. 5811. (1) All actions by common carriers for the recovery of all or any part of their charges arising out of the intrastate transportation of persons or property within the state of Michigan, and all actions against carriers for the recovery of overcharges collected by common carriers for the intrastate transportation of persons or property within the state of Michigan shall be begun within 2 years of the time the claim accrues and not afterwards.

Charges, overcharges, definitions.

(2) The term "charges" as used in this section means the charges applicable for transportation services under the tariffs lawfully on file with the Michigan public service commission; and the term "overcharge" as used in this section means charges for transportation services in excess of the tariffs lawfully on file with the Michigan public service commission.

HISTORY: New 1961, p. 589, Act 236, Eff. Jan. 1, 1963.

600.5813 Other personal actions.

Sec. 5813. All other personal actions shall be commenced within the period of 6 years after the claims accrue and not afterwards unless a different period is stated in the statutes.

HISTORY: New 1961, p. 590, Act 236, Eff. Jan. 1, 1963.

600.5815 Scope of limitations; legal and equitable; laches.

Sec. 5815. The prescribed period of limitations shall apply equally to all actions whether equitable or legal relief is sought. The equitable doctrine of laches shall also apply in actions where equitable relief is sought.

HISTORY: New 1961, p. 590, Act 236, Eff. Jan. 1, 1963.

600.5821 State; recovery of land.

Sec. 5821. (1) No action for the recovery of any land shall be commenced by or on behalf of the people of this state unless it is commenced within 15 years after the right or title of the people of this state in the land first accrued or within 15 years after the people of this state or those from or through whom they claim have been seised or possessed of the premises, or have received the rents and profits, or some part of the rents and profits, of the premises.

Municipal corporations, possession of public highway or ground.

(2) Actions brought by any municipal corporations for the recovery of the possession of any public highway, street, alley, or any other public ground are not subject to the periods of limitations.

State or officer; personal actions.

(3) The periods of limitations prescribed for personal actions apply equally to personal actions brought in the name of the people of this state, or in the name of any officer, or otherwise for the benefit of this state, subject to the exceptions contained in subsection (4) following.

Maintenance, care, and treatment of persons in state institutions.

(4) Actions brought in the name of the state of Michigan, the people of the state of Michigan, or any political subdivision of the state of Michigan, or in the name of any officer or otherwise for the benefit of the state of Michigan or any political subdivision of the state of Michigan for the recovery of the cost of maintenance, care, and treatment of persons in hospitals, homes, schools, and other state institutions are not subject to the statute of limitations and may be brought at any time without limitation, the provisions of any statute notwithstanding.

HISTORY: New 1961, p. 590, Act 236, Eff. Jan. 1, 1963.

600.5823 Counterclaims.

Sec. 5823. To the extent of the amount established as plaintiff's claim the periods of limitations prescribed in this chapter do not bar a claim made by way of counterclaim unless the counterclaim was barred at the time the plaintiff's claim accrued.

HISTORY: New 1961, p. 590, Act 236, Eff. Jan. 1, 1963.

600.5825 Effect of limits running in favor of some joint obligors but not all.

Sec. 5825. (1) In actions commenced against 2 or more joint obligors, or joint executors or administrators of any contractor, if it is shown that the plaintiff's action is barred by the period of limitations as to 1 or more of the defendants but that the plaintiff is entitled to recover against any of the other defendants because of a new acknowledgment, or promise, or for any other reason, then judgment shall be given in favor of the plaintiff against those defendants from whom he is otherwise entitled to recover and against the plaintiff as to those defendants in whose favor the period of limitations has run.

(2) If there are 2 or more joint obligors or joint executors or joint administrators of any obligor, no one of them shall lose the benefit of the provisions of this chapter so as to be chargeable because of any acknowledgment or promise made or signed by any of the others.

(3) If there are 2 or more joint obligors, or joint executors or joint administrators of

any obligor, no one of them shall lose the benefit of the provisions of this chapter so as to be chargeable merely because of any payment made by any of the others.

HISTORY: New 1961, p. 590, Act 236, Eff. Jan. 1, 1963.

600.5827 Accrual of claim.

Sec. 5827. Except as otherwise expressly provided, the period of limitations runs from the time the claim accrues. The claim accrues at the time provided in sections 5829 to 5838, and in cases not covered by these sections the claim accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5829 Accrual of claim; right of entry or recovery of possession of land.

Sec. 5829. The right to make an entry on, and the claim to recover land accrue:

(1) Whenever any person is dispossessed, his right of entry on and claim to recover land accrue at the time of his dispossession;

(2) When he claims as heir or devisee of one who died seised, his claim accrues at the time of the death, unless there is another estate intervening after the death of the ancestor or devisor in which case his claim accrues when the intermediate estate expires or would have expired by its own limitation;

(3) When there is an intermediate estate, and in all other cases where the party claims by force of any remainder or reversion, his claim accrues when the intermediate or precedent estate would have expired by its own limitation, notwithstanding any forfeiture of the intermediate or precedent estate for which he might have entered at an earlier time.

(4) The provision of (3), does not prevent any person from entering when he is entitled to do so by any forfeiture or breach of condition, but if he claims under either of them his claim accrues when the forfeiture is incurred or the condition broken.

(5) In all cases not otherwise provided for, the claim accrues when the claimant or the person under whom he claims first becomes entitled to the possession of the premises under the title upon which the entry or action is founded.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5831 Accrual of claim; mutual and open account current.

Sec. 5831. In actions brought to recover the balance due upon a mutual and open account current, the claim accrues at the time of the last item proved in the account.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5833 Accrual of claim; breach of warranty of quality or fitness.

Sec. 5833. In actions for damages based on breach of a warranty of quality or fitness the claim accrues at the time the breach of the warranty is discovered or reasonably should be discovered.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5834 Accrual of claim; common carriers, charges, overcharges.

Sec. 5834. In actions brought by common carriers to recover for charges arising out of intrastate transportation and in actions brought against common carriers to recover for overcharges arising out of intrastate transportation the claim in respect to each shipment of property accrues upon the delivery or tender of the shipment of property and not afterwards.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5835 Accrual of claim; life insurance, presumption of death.

Sec. 5835. In actions on life insurance contracts where the claim is based on the 7-year presumption of death, the claim accrues at the end of the 7 years, for the purpose of computing the running of the period of limitations.

HISTORY: New 1961, p. 591, Act 236, Eff. Jan. 1, 1963.

600.5836 Accrual of claim; installment contracts.

Sec. 5836. The claims on an installment contract accrue as each installment falls due.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5837 Accrual of claim; alimony.

Sec. 5837. The claims for alimony payments accrue as each payment falls due.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5838 Accrual of claim; malpractice of state licensed professionals.

Sec. 5838. A claim based on the malpractice of a person who is, or holds himself out to be, a member of a state licensed profession accrues at the time that person discontinues treating or otherwise serving the plaintiff in a professional or pseudo-professional capacity as to the matters out of which the claim for malpractice arose.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5839 Limitation of actions against licensed architects; professional engineers and land surveyors.

Sec. 5839. (1) No person may maintain any action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained as a result of such injury against any state licensed architect or professional engineer performing or furnishing the design or supervision of construction of such improvement more than 6 years after the time of occupancy of the completed improvement, use or acceptance of such improvement. This limitation shall not apply to actions against any person in actual possession and control as owner, tenant or otherwise, of the improvement at the time the defective and unsafe condition of such improvement constitutes the proximate cause of the injury or damage for which the action is brought.

(2) No person may maintain any action to recover damages based on error or negligence of a state licensed land surveyor in the preparation of a survey or report more than 6 years after the delivery of the survey or report to the person for whom it was made or his agent.

(3) As used in this section, the term "state licensed architect or professional engineer" or "land surveyor" means any individual so licensed, or any corporation, partnership or other business entity on behalf of whom the state licensed architect, professional engineer or land surveyor is performing or directing the performance of such architectural, professional engineering or land surveying service.

HISTORY: Add. 1967, p. 276, Act 203, Eff. Nov. 2.

600.5841 Accrual of claim; to person other than person bringing action.

Sec. 5841. If the claim first accrues to an ancestor, predecessor, or grantor of the person who brings the action or makes the entry, or to any other person from or under whom he claims, the periods of limitations shall be computed from the time when the claim first accrued to the ancestor, predecessor, grantor, or other person, except as otherwise provided by law.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5843 Accrual of claim; regaining possession of land, subsequent loss, effect.

Sec. 5843. If the person who has a right to make an entry on land or a claim for the possession of land regains possession of it before the period of limitations has run and then loses possession of the premises again, the subsequent loss shall be deemed to give rise to a new claim which has its own period of limitations.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5851 Infancy, insanity, imprisonment; year of grace.

Sec. 5851. (1) If the person first entitled to make an entry or bring any action is under 21 years of age, insane, or imprisoned at the time his claim accrues, he or those claiming under him shall have 1 year after his disability is removed through death or otherwise, to make the entry or bring the action although the period of limitations has run. This section does not lessen the time provided for in section 5852.

Insanity, definition.

(2) The term insane as employed in this chapter means a condition of mental derangement such as to prevent the sufferer from comprehending rights he is otherwise bound to know and is not dependent on whether or not the person has been judicially declared to be insane.

Disability must exist at time of accrual.

(3) To be deemed a disability, the infancy, insanity, or imprisonment must exist at the time the claim accrues. If it comes into existence after the claim has accrued it shall not be recognized under this section for the purpose of modifying the period of limitations.

Successive disabilities.

(4) Successive disabilities shall not be tacked. That is, only those disabilities which exist at the time the claim first accrues and which disable the person to whom the claim first accrues shall be recognized under this section for the purpose of modifying the period of limitations.

All disabilities recognized, year of grace.

(5) All of the disabilities of infancy, insanity, and imprisonment which disable the person to whom the claim first accrues at the time the claim first accrues shall be recognized. That is, the year of grace provided in this section shall be counted from the termination of the last disability to the person to whom the claim originally accrued which has continued from the time the claim accrued, whether this disability terminates because of the death of the person disabled or for some other reason.

HISTORY: New 1961, p. 592, Act 236, Eff. Jan. 1, 1963.

600.5852 Death before period of limitation has run or within 30 days thereafter; action.

Sec. 5852. If a person dies before the period of limitations has run or within 30 days after the period of limitations has run, an action which survives by law may be commenced by or against the executor or administrator of the deceased person or the claim may be proved as a debt against the estate of the deceased person, as the case may be, at any time within 2 years after letters testamentary or letters of administration are granted, although the period of limitations has run, subject to the limitations provided in section 20 of chapter 8 of Act No. 288 of the Public Acts of 1939, being section 708.20 of the Compiled Laws of 1948. But no executor or administrator shall bring an action under this provision unless he commences it within 3 years after the period of limitations has run.

HISTORY: New 1961, p. 593, Act 236, Eff. Jan. 1, 1963.

600.5853 Absence from state.

Sec. 5853. If any person is outside of this state at the time any claim accrues against him the period of limitation shall only begin to run when he enters this state unless a means of service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff. If after any claim accrues the person against whom the claim accrued is absent from this state, any and all periods of absence in excess of 2 months at a time shall not be counted as any part of the time limited for the commencement of the action unless while he was outside of this state a means for service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff.

HISTORY: New 1961, p. 593, Act 236, Eff. Jan. 1, 1963.

600.5854 War; inability to prosecute, period of limitation.

Sec. 5854. If any person is unable to prosecute an action in the courts of this state because he is a citizen or subject of any country at war with the United States or because he is detained in any country at war with the United States or because he is detained by any neutral power or because for any other reason arising out of the war he is unable to use the courts of this state, the time of the continuance of the war shall not be counted as a part of the period limited for the commencement of any action.

HISTORY: New 1961, p. 593, Act 236, Eff. Jan. 1, 1963.

600.5855 Fraudulent concealment of claim or identity of person liable; discovery.

Sec. 5855. If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.

HISTORY: New 1961, p. 593, Act 236, Eff. Jan. 1, 1963.

600.5856 Tolling of statute; filing of summons and complaint; service on defendant.

Sec. 5856. The statutes of limitations are tolled when

(1) the complaint is filed and a copy of the summons and complaint are served on the defendant, or when

(2) jurisdiction over the defendant is otherwise acquired, or when

(3) the complaint is filed and a copy of the summons and complaint in good faith, are placed in the hands of an officer for immediate service, but in this case the statute shall not be tolled longer than 90 days thereafter.

HISTORY: New 1961, p. 593, Act 236, Eff. Jan. 1, 1963.

600.5861 Claims; definition; foreign claims; applicability of act.

Sec. 5861. (1) As used in this section, "claim" means any right of action which may be asserted in a civil action or proceeding and includes, but is not limited to, a right of action created by statute.

(2) The period of limitation applicable to a claim accruing outside of this state shall be either that prescribed by the law of the place where the claim accrued or by the law of this state, whichever bars the claim.

(3) The periods of limitation prescribed in this section apply only to a claim upon which action is commenced more than 1 year after the effective date of this act.

(4) This section shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(5) This section may be cited as the uniform statute of limitations on foreign claims act.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.5865 Endorsement or memorandum of payment; evidence.

Sec. 5865. No endorsement or memorandum of any payment, written or placed upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment was made or was purported to have been made, shall be allowed as evidence of the payment for the purpose of barring the running of the period of limitations. This section merely limits the evidence which may be allowed to be given for the purpose of showing part payment which would bar the running of the period of limitations, and is not to be deemed to have any control over the effect of part payment which is proved by other evidence.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.5866 Revival of barred claim; written acknowledgment of obligor.

Sec. 5866. Express or implied contracts which have been barred by the running of the period of limitation shall be revived by the acknowledgment or promise of the party to be charged. But no acknowledgment or promise shall be recognized as effective to bar the running of the period of limitations or revive the claim unless the acknowledgment is made by or the promise is contained in some writing signed by the party to be charged by the action.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.5867 Presumption as to possession of land; exception.

Sec. 5867. In every action for the recovery or possession of real estate, the person establishing the legal title to the premises is presumed to have been in possession of the premises within the time limited by law for bringing such action, unless it appears that the same has been possessed adversely to such legal title by the defendant or by those from or under whom he claims, or that the grantee, or his assigns, in a contract of purchase have been in possession claiming title by virtue of said contract of purchase for a period of 20 years after the last payment was due on said contract or after the last payment was made on said contract of purchase.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.5868 Entry and possession.

Sec. 5868. No person shall be deemed to have been in possession of any lands, within the meaning of this chapter merely by reason of having made an entry thereon, unless he continues in open and peaceable possession of the premises for at least 1 year next after such entry, or unless an action is commenced upon such entry and seisin, within 1 year after he is ousted or dispossessed of the premises.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.5869 Rights governed by law under which right accrued.

Sec. 5869. All actions and rights shall be governed and determined according to the law under which the right accrued, in respect to the limitations of such actions or right of entry.

HISTORY: New 1961, p. 594, Act 236, Eff. Jan. 1, 1963.

600.6001 Execution; issuance.

Sec. 6001. Whenever a judgment is rendered in any court of record, execution to collect the same may be issued to the sheriff, or other proper officer of any county of this state.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6002 Execution; date.

Sec. 6002. (1) Upon receipt of any execution the sheriff or other officer receiving the execution shall endorse thereon the year, month, day and hour of such receipt and such time shall be the date of the execution.

Return date.

(2) Executions shall be made returnable not less than 20, nor more than 90, days from such date.

Service of execution, completion after return date.

(3) When an officer has begun to serve an execution issued out of any court of record, on or before the return day of such execution, he may complete service and return after the return date.

Incapacity of officer after commencement of service; certificates.

(4) When an officer has begun to serve an execution and dies, or becomes incapable of completing service and return, any other officer who might by law have originally served the execution, may complete the same. If the first officer fails to make a certificate, the second officer shall do so, including the doings of both officers therein. If the first officer makes a certificate, the second officer shall make a certificate as to his own doings in completing service.

Joint or joint and several obligors, note as to jurisdiction.

(5) If there are joint or joint and several obligors and jurisdiction was not acquired over all of them, the names of those over whom jurisdiction was not acquired shall be endorsed on the execution.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6003 Execution; transcript of judgment by justice of the peace.

Sec. 6003. Whenever a transcript of a judgment rendered by a justice of the peace is filed and docketed by the clerk of the circuit court for the county, all executions thereon shall issue out of, and under the seal of, such circuit court in the same form, as near as may be, as other executions issued out of the circuit court.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6004 Execution against realty; contents.

Sec. 6004. Executions against realty shall command the officer to whom they are directed to make execution against the realty of the judgment debtor only after execution has been made against the personal property of the judgment debtor that is in the county, and such personal property is insufficient to meet the sum of money and costs for which judgment was rendered.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6005 Execution; successive, several.

Sec. 6005. Successive or alias executions may be issued one after another upon return of any execution unsatisfied in whole or in part, for the amount remaining unpaid thereon; and several executions may be issued at the same time to sheriffs of different counties and enforced by them therein.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6006 Execution; new.

Sec. 6006. If an execution is returned satisfied in whole or in part, by the sale of any property which afterwards appears not to belong to the judgment debtor, or not to be liable to execution, the court may on the application of such judgment creditor, order a new execution to be issued on such judgment, for the amount then remaining justly and equitably due thereon.

HISTORY: New 1961, p. 595, Act 236, Eff. Jan. 1, 1963.

600.6007 Execution; precedence.

Sec. 6007. If there are 1 or more executions or attachments issued against the same judgment debtor or his property, the execution or attachment first delivered for execution shall have preference; except that if there has been a levy and sale of any goods or chattels before a levy under the first execution or attachment, then such goods or chattels shall not be levied on by virtue of such first execution or attachment.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.6008 Execution; set-off, balance on appeal.

Sec. 6008. (1) Executions between the same parties may be set off one against another, if required by either party as follows:

(a) When 1 of the executions is delivered for service, the person who is the debtor therein may deliver his execution to the serving officer and it shall be applied, as far as it will extend, to the satisfaction of the first execution; and such application shall be indorsed on each execution. Only the balance due on the larger execution may then be collected and paid in the same manner as if there had been no set off.

(b) Such set off shall not be allowed unless all the parties are mutual debtors and creditors. Nor shall set off be allowed where the sum due on the first execution shall have been lawfully assigned to another person before the creditor in the second execution becomes entitled to the sum due thereon, or as to so much of the first execution as may be due to the attorney in that suit for his taxable fees and disbursements.

(2) If, upon an appeal, a recovery for a debt or damages be had by 1 party, and costs be awarded the other, execution shall issue only in favor of the party to whom there shall be a balance due, and for the amount of such balance.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.6009 Execution; officer's security, recovery of expense.

Sec. 6009. Whenever there is any reasonable doubt as to the ownership by a judgment debtor of any personal property, or as to their liability to be taken upon an execution, the officer holding such execution may require of the judgment creditor sufficient security to indemnify him for taking such personal property thereon; and if such security be refused, such officer shall not be liable for omitting to take such personal property. Such judgment creditor upon demand of the officer holding such execution, upon depositing sufficient security to indemnify the officer taking such personal property, shall recover of the defendant, together with the costs of the execution levy, the reasonable cost of indemnity so deposited.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 340, Act 244, Eff. Aug. 28.

600.6010 Execution; return, misconduct of officer, civil liability.

Sec. 6010. The officer who makes any sale on execution shall, in his return on the execution, specify the articles sold, and the sum for which each article or parcel was sold; and if he is guilty of any fraud in the sale, or in the return, or unreasonably neglects to pay any money collected by him on such execution, when demanded by the creditor therein, he shall be liable in a civil action, brought by the party injured, for 5 times the amount of the actual damages sustained by reason of such fraud or neglect.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.6011 Execution; stay of proceedings, effect.

Sec. 6011. When an execution has been issued, an order to stay proceedings thereon, granted by a circuit court commissioner, shall not prevent a levy on property by virtue of such execution, but shall only suspend a sale thereon until the decision of the proper court upon the matter.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.6012 Execution; property bound from time of levy.

Sec. 6012. Whenever an execution issues against the property of any person, his goods and chattels, lands and tenements, levied upon by such execution, shall be bound from the time of such levy.

HISTORY: New 1961, p. 596, Act 236, Eff. Jan. 1, 1963.

600.6013 Execution; interest on judgment, rate; amount; settlement offer.

Sec. 6013. Interest shall be allowed on any money judgment recovered in a civil action, such interest to be calculated from the date of filing the complaint at the rate of 5% per year unless the judgment is rendered on a written instrument having a higher rate of interest in which case interest shall be computed at the rate specified in the instrument if such rate was legal at the time the instrument was executed. In no case shall the rate exceed 7% per year after the date judgment is entered. In the discretion of the judge, if a bona fide written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered and the offer of settlement is substantially identical or substantially more favorable to the prevailing party than the judgment, then no interest shall be allowed beyond the date the written offer of settlement is made.

HISTORY: New 1961, p. 597, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 412, Act 240, Imd. Eff. Jul. 21;—Am. 1966, p. 398, Act 276, Imd. Eff. Jul. 12.

600.6017 Execution; personality.

Sec. 6017. Except as otherwise provided by law, execution may be made against all personal property of the judgment debtor that is liable to execution at common law, including, but not limited to the following:

(1) All abstract books, maps, plats, charts, and other records owned or kept by any person, partnership or corporation for the purpose of furnishing abstracts or information concerning title to lands in this state.

(2) Bills and other evidences of debt, issued and circulated as money unless the creditor accepts them at par value as money collected and paid, in which case they shall not be sold.

(3) Goods or chattels pledged by way of mortgage or otherwise, for the payment of money, or the performance of any contract or agreement, but only as against the pledgor and subject to the lien, mortgage or pledge existing thereon.

(4) In the case of an execution against a corporation, all corporate property.

(5) In the case of an execution against a partnership association, or a member of a partnership association, in that capacity, the personal property of such association or member, but subject to the provisions of section 2 of Act No. 191 of the Public Acts of 1877.

(6) Current money of the United States except that such money shall be taken as money collected and paid, and not sold unless it has a value of more than face value.

(7) Any share or interest of any stockholder in any corporation, that is or may be incorporated under the authority of any law of this state, unless expressly exempted by law.

(8) In the case of an execution against a corporation authorized by law to receive tolls, the franchise and all its rights and privileges, and all the other property of such corporation not otherwise exempted.

(9) The property of joint, and joint and several judgment debtors.

HISTORY: New 1961, p. 597, Act 236, Eff. Jan. 1, 1963.

600.6018 Execution; realty.

Sec. 6018. All the real estate of any judgment debtor, including, but not limited to, interests acquired by parties to contracts for the sale of land, whether in possession, reversion or remainder, lands conveyed in fraud of creditors, equities and rights of redemption, leasehold interests including mining licenses, for mining ore or minerals, but not including tenancies at will, and all undivided interests whatever, are subject to execution, levy and sale except as otherwise provided by law.

HISTORY: New 1961, p. 597, Act 236, Eff. Jan. 1, 1963.

600.6021 Judgments; nonissuance of execution.

Sec. 6021. No execution may issue upon a judgment against:

- (1) Any township, village, city, or against the trustees or common council, or officers thereof where the action is prosecuted by or against them in their name of office;
- (2) Any corporate body or unincorporated board, having charge or control of any state institution;
- (3) Any school district;
- (4) Any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office.

HISTORY: New 1961, p. 597, Act 236, Eff. Jan. 1, 1963.

600.6022 Persons whose property is exempt.

Sec. 6022. Executions shall not issue:

- (1) In the case of a debt due from a deceased person, against the body or property of his executor, administrator, heir, devisee or legatee, except for property of the deceased in their hands.
- (2) Against the sole property of a joint or joint and several judgment debtor over whom jurisdiction was not acquired.

HISTORY: New 1961, p. 598, Act 236, Eff. Jan. 1, 1963.

600.6023 Execution; property, insurance benefits and homesteads; exemption.

Sec. 6023. (a) The following property shall be exempt from levy and sale under any execution:

- (1) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person or family, and provisions and fuel for comfortable subsistence of each householder and his family for 6 months;
- (2) All household goods, furniture, utensils, books and appliances, not exceeding in value \$1,000.00;
- (3) A seat, pew or slip occupied by the judgment debtor or his family in any house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of himself;
- (4) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping such animals and poultry for 6 months;
- (5) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession trade, occupation or business in which he is principally engaged, not exceeding in value \$1,000.00;
- (6) Any moneys or other benefits paid, provided or allowed to be paid, provided or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of any insured person, whether the

debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policies and contracts above specified, except that such exemption does not apply to actions to recover for necessities contracted for after the accrual of such benefits;

(7) The shares held by any member, being a householder, of any association incorporated under the provisions of Act No. 17 of the Public Acts of 1901, relating to mutual building and loan associations to the amount of \$1,000.00 in such shares, at par value, except that such exemption does not apply to any person who has a homestead exempted under the general laws of this state;

(8) A homestead of not exceeding 40 acres of land and the dwelling house and appurtenances thereon, and not included in any recorded town plat, city or village, or, instead, and at the option of the owner, a quantity of land not exceeding in amount 1 lot, being within a recorded town plat, city or village, and the dwelling house and appurtenances thereon, owned and occupied by any resident of this state, not exceeding in value \$3,500.00. This exemption extends to any person owning and occupying any house on land not his own and which such person claims as a homestead. But this exemption does not apply to any mortgage on the homestead, lawfully obtained, except that such mortgage is not valid without the signature of a married judgment debtor's wife unless:

(a) The mortgage is given to secure the payment of the purchase money or a portion thereof; or

(b) The mortgage is recorded in the office of the register of deeds of the county wherein the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in such office during the 25 years following the recording of the mortgage.

(9) An equity of redemption as described in section 6060.

(10) The homestead of a family, after the death of the owner thereof, from the payment of his debts in all cases during the minority of his children.

(b) The exemptions provided in this section shall not extend to any lien thereon excluded from exemption by law.

(c) If the owner of a homestead dies, leaving a widow but no children, such homestead shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

HISTORY: New 1961, p. 598, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd. Ex. Ses., p. 54, Act 40, Imd. Eff. Dec. 27;—Am. 1964, p. 76, Act 73, Imd. Eff. May 12.

600.6024 Exemptions from sale on execution; taxation, exception.

Sec. 6024. (1) Nothing in this chapter shall be considered as exempting real estate from taxation or sale for taxes.

Same; purchase money mortgage sale; effect of sale of property.

(2) No specific piece of property either real or personal, is exempt from levy or sale under execution issued upon a judgment rendered for the purchase money for the same property, and any sale of such property after the commencement of an action to recover the purchase price thereof, and the filing of notice as herein required, shall be null and void as against such an execution. The plaintiff in any such suit shall file or cause to be filed with the register of deeds of the county in which the owner of such property resides, a notice in which he shall state the time when such action was commenced, the amount claimed, that the suit was brought to recover the purchase money for the property, a description of the property, and the name of the defendant. At the time of filing such notice, the party filing the same shall pay to the register of deeds

the fee authorized by law, and said register shall indorse upon such notice the date of filing the same and make the same record as in the case of a chattel mortgage.

HISTORY: New 1961, p. 599, Act 236, Eff. Jan. 1, 1963.

600.6025 Execution; exemptions, inventory, appraisal, expenses.

Sec. 6025. (1) When a levy is made upon property of any class or species, which is exempt by law from execution to a specified number, amount or value, the officer levying such execution shall make inventory of so much of such property belonging to the judgment debtor as is sufficient, in the judgment of such officer, to cover the amount of the exemptions and satisfy the execution, and cause such property to be appraised at its cash value, by 2 disinterested freeholders of the township or city where the property is located, on oath to be administered by him to such appraisers.

(2) Where a homestead is claimed and, in the judgment of the officer or the judgment creditor, exceeds in value \$3,500.00, the officer shall have the homestead appraised by 6 such appraisers.

(3) The appraisers shall make and sign an appraisal of the value of the property and parts thereof if it can be divided and deliver such appraisal to the officer, who shall deliver a copy of the appraisal to the debtor.

(4) Appraisers are entitled to \$2.00 per day each for their services, and 6 cents per mile for traveling, in going only, such amounts to be collected upon execution from the plaintiff in execution.

HISTORY: New 1961, p. 599, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd. Ex. Ses., p. 55, Act 40, Imd. Eff. Dec. 27.

600.6026 Execution; selection; survey.

Sec. 6026. (1) Upon inventory and appraisal, the defendant in execution, or his authorized agent, may select from the inventory the number of items or animals, or the amount of property not exceeding, according to the inventory and appraisal, the number, amount or value exempted by law from execution; but if no such selection is made within 10 days following completion of inventory and appraisal, the officer shall make the same.

(2) Whenever a levy is made upon, or any circuit court commissioner advertises for sale under any judgment upon the foreclosure of any mortgage not valid as against the homestead and so stated in such judgment, the lands and tenements of a householder whose homestead has not been platted and set apart by metes and bounds, such householder shall notify the officer at the time of making such levy or at the time of such advertising for sale what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone is subject to sale under such levy or judgment. If at the time of such levy or advertising for sale such householder fails or neglects to notify the officer making the levy or advertising such property for sale, what he regards as his homestead with a description thereof, the officer making the levy or advertising such property for sale, shall call upon such householder to make his selection of a homestead out of said land, describing the same minutely. If after such notice the owner of the land fails to select his homestead, such officer may select the homestead out of said land for him and the remainder over and above that part selected by the officer or by the owner of the land, as the case may be, alone is subject to sale under such levy or judgment. If the officer making the levy or advertising the property for sale makes the selection of the homestead out of the lands levied upon or advertised for sale, he shall select lands in compact form, which shall include the dwelling house and its appurtenances thereon.

(3) If the plaintiff in execution or in said judgment is dissatisfied with the quantity of land selected and set apart as aforesaid either by the owner of the land or by the officer making the levy or advertising the land for sale, he shall cause the same to be surveyed beginning at a point to be designated by the owner or by the officer making the

levy or advertising for sale, and set off land in compact form including the dwelling house and its appurtenances, to the amount specified in section 6023. The expense of such survey is chargeable on the execution or judgment and collectible thereupon.

(4) After the survey is made, the officer may sell the property levied upon or included in the judgment, and not included in the set off, in the same manner as provided in other like cases for the sale of real estate; and in giving a deed of the same he may describe it according to the original levy or as described in the judgment, excepting therefrom by metes and bounds, according to the certificate of the survey, the quantity as set off as aforesaid.

HISTORY: New 1961, p. 599, Act 236, Eff. Jan. 1, 1963.

600.6027 Homestead valued at more than \$3,500; procedure.

Sec. 6027. If the homestead of any debtor is appraised at a value of more than \$3,500.00, and cannot be divided, the debtor shall not for that reason lose the benefit of the exemption; but in such cases the officer shall deliver a notice, attached to a copy of the appraisal, to the debtor or to some of his family of suitable age to understand the nature thereof, that unless the debtor pay the officer the surplus over and above the \$3,500.00, or the amount due on the execution within 60 days thereafter, the premises will be sold.

HISTORY: New 1961, p. 600, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd. Ex. Ses., p. 55, Act 40, Eff. Dec. 27.

600.6031 Execution sale; notice.

Sec. 6031. No sale of any goods or chattels may be made by virtue of any execution, unless at least 10 days' previous notice of such sale is given, by fastening up written or printed notices thereof, in 3 public places in the city or township where such sale is to be had, and specifying the time and place where the sale is to be had.

HISTORY: New 1961, p. 600, Act 236, Eff. Jan. 1, 1963.

600.6032 Execution sale; personalty.

Sec. 6032. No personal property may be exposed for sale on execution, unless the same is present and within the view of those attending such sale; and it shall be offered for sale in such lots and parcels as shall be calculated to bring the highest price.

HISTORY: New 1961, p. 600, Act 236, Eff. Jan. 1, 1963.

600.6033 Execution; property partially exempt, bond.

Sec. 6033. Whenever a levy is made upon any article, belonging to a class or species which is exempt from execution to a specified amount or value, and the value thereof as determined by the appraisal, is in excess of the amount of the exemption allowed therein to the defendant in execution, levy and sale thereof may be made under the execution in the ordinary way; and unless the amount of the exemption is claimed or set off in other property, or waived, the officer shall pay to the defendant in execution, the amount of such exemption, in money from the proceeds of the sale, and the balance of such proceeds shall be applied towards the satisfaction of the execution. If at the sale no bid is made for such property, in excess of the amount of the exemption allowed therein, such property shall not be sold, but shall be returned to the defendant. If the defendant in execution, before such sale, pays to the officer the difference between the appraised value of such property, and the amount of the exemption therein, not to exceed the amount due on such execution with costs of such levy, to be applied upon the execution, such property shall not be sold, but shall be returned to the defendant: Provided, That if after such officer has completed the levy upon such property, the defendant in execution gives to such officer a sufficient bond, to be approved by him, conditioned that said defendant will deliver said property to such officer or before the time of sale, pay to him the difference between the appraised value of such property, and the amount of his exemption, not to exceed the amount due on such execution with costs accrued, then such officer may permit such defendant to have pos-

session of such property during the period intervening between the making of the levy and the time of sale.

HISTORY: New 1961, p. 600, Act 236, Eff. Jan. 1, 1963.

600.6034 Execution; property subject to chattel mortgage.

Sec. 6034. The purchaser at a sale of goods or chattels pledged by way of mortgage or otherwise shall be entitled to pay, before foreclosure, to the person holding the mortgage or pledge the amount actually due thereon, or otherwise perform before foreclosure, the terms and conditions of the pledge, and on payment or performance, or on full tender thereof, shall acquire all the right, interest, and property which the defendant in execution would have had in such goods and chattels if no pledge or mortgage had been made.

HISTORY: New 1961, p. 601, Act 236, Eff. Jan. 1, 1963.

600.6035 Execution; perishable property, order, notice.

Sec. 6035. (1) Whenever the sheriff of any county by virtue of any execution, issued by a court of record, levies upon any perishable property, he shall proceed to sell the same at such time, place or manner as he may deem most beneficial for the interest of the defendant.

(2) No such sale may be made except upon the written order of the court, from which process has been issued, authorizing such sale at such time, place and manner as said court shall judge most beneficial for the defendant. The court shall direct that notice be given to the defendant, or his agent, of the time and place of such sale, and the manner notice shall be given.

HISTORY: New 1961, p. 601, Act 236, Eff. Jan. 1, 1963.

600.6036 Execution; growing grain or unharvested crops.

Sec. 6036. When a levy is made upon grain while growing, or on any unharvested crops by virtue of any execution, the officer making such levy shall file a notice of said levy in the office of the register of deeds of the county in which such grain or crops are at the time of making such levy; and such register of deeds shall file said notice in his office, in the same manner as he is required by law to file a chattel mortgage; and such notice shall be constructive evidence to all persons of the interest of the plaintiff in the execution, and shall be entitled to the same fees therefor, to be paid by the plaintiff in the execution, and shall be collected as costs in the case, and no sale of said crops or grain may be made until the same are ripe or fit to be harvested, and any levy thereon by virtue of an execution issued from a circuit court, shall be continued beyond the return day thereof, if necessary, and remain in life, and the execution thereof may be completed at any time within 30 days after such grain or other unharvested crops are ripe or fit to be harvested.

HISTORY: New 1961, p. 601, Act 236, Eff. Jan. 1, 1963.

600.6037 Execution; corporate shares; seizure by officer.

Sec. 6037. (1) No attachment or levy upon shares of stock for which a certificate is outstanding, is valid until such certificate is actually seized by the officer making the attachment or levy, or is surrendered to the corporation which issued it, or its transfer is enjoined or restrained.

Corporate officer to furnish certificate of shares held by defendant.

(2) The officer of any company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the stockholders of such corporation and the number of shares held by each or their interest therein, is, upon exhibiting to him the attachment or execution, bound to give the officer a certificate of the number of shares

or amount of the interest held by the defendant named in such attachment or the judgment debtor.

Copy of writ to be left with corporate officer.

(3) Whenever any corporate shares of stock are attached or taken in execution, the officer shall leave a copy of the attachment or execution, certified by him, with the clerk, treasurer, cashier or agent of the corporation, if there is any such officer, and if not, then with any officer or person who has at the time the custody of the books and papers of the corporation within this state.

Record of transfer; purchaser entitled to stock certificate.

(4) A copy of the execution and the return thereon, certified by the officer executing the same, shall, within 14 days after the sale be left with the officer of the company whose duty it is to keep a record of the transfer of shares; and the purchaser shall thereupon be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

Restraint on transfer of stock.

(5) Any court from which any attachment or execution is issued, shall have full power and authority upon motion, and without notice, to make an order restraining the transfer of any such shares of stock, and upon the service of a certified copy of such order, the same shall be fully effectual.

Dividends after levy.

(6) If the shares or interest of the judgment debtor are attached in the suit in which the execution issued, the purchaser is entitled to all the dividends which have accrued after the levying of the attachment.

HISTORY: New 1961, p. 601, Act 236, Eff. Jan. 1, 1963.

600.6038 Execution; franchise of corporation authorized to receive toll; notice.

Sec. 6038. (1) The officer having execution against any corporation authorized to receive tolls, shall, 30 days, at least, before the day of sale of the franchise, or other corporate personal property, give notice of the time and place of sale, by posting up a notice thereof in any township in which the clerk, treasurer, or any one of the directors of such corporation may dwell, and also by causing an advertisement of the sale, expressing the name of the creditor, the amount of the execution, and the time and place of sale, to be inserted 3 weeks successively in some newspaper published in any county in which either of the aforesaid officers may dwell, if any such there be, and if no newspaper is published in any such county, then in a paper published in an adjoining county.

Adjournment.

(2) The officer who may levy any execution, as prescribed in (1), may adjourn the sale from time to time as may be necessary, until the sale is completed.

Person deemed highest bidder.

(3) In the sale of the franchise of any corporation, the person who shall satisfy the execution, with all legal fees and expenses thereon, and shall agree to take such franchise for the shortest period of time, and to receive during that time all such toll as the said corporation would by law be entitled to demand, shall be considered as the highest bidder.

Rights of purchaser; transfer of toll houses and gates.

(4) The officer's return on such execution shall transfer to the purchaser all the privileges and immunities which by law belong to such corporation, so far as relates to the right of demanding toll; and the officer shall, immediately after such sale, deliver to the purchaser possession of all the toll houses and gates belonging to such corporation,

in whatever county the same may be situated; and the purchaser may thereupon demand and receive all the toll which may accrue during the time limited by the terms of his purchase, in the same manner, and under the same regulations, as such corporation was before authorized to demand and receive the same.

Injury to franchise, recovery of penalties.

(5) Any person who purchases, under the provisions of this chapter, the franchise of any turnpike or other corporation, and the assignees of such purchaser, may recover any penalties imposed by law for an injury to the franchise, or for any other cause, which such corporation would have been entitled to recover during the time limited in the said purchase of the franchise; and during that time the corporation shall not be entitled to prosecute for such penalties.

Power, duties and liabilities of corporation.

(6) The corporation whose franchise shall have been sold as aforesaid shall, in all other respects retain the same powers, and be bound to the discharge of the same duties, and liable to the same penalties and forfeitures, as before such sale.

Redemption of franchise.

(7) Such corporation may, at any time, within 3 months after such sale, redeem the franchise, by paying or tendering to the purchaser thereof the sum that he shall have paid therefor, with interest thereon, but without any allowance for the toll which he may have received; and upon such payment or tender, the said franchise, and all the rights and privileges thereof, shall revert and belong to said corporation, as if no such sale had been made.

HISTORY: New 1961, p. 802, Act 236, Eff. Jan. 1, 1963.

600.6041 Execution; fees and charges of sale.

Sec. 6041. The lawful fees and charges of the sale upon any execution in the manner prescribed in this chapter, shall, in all cases, be added to the amount due on the execution, and be considered as a part thereof for all the purposes mentioned in this chapter.

HISTORY: New 1961, p. 803, Act 236, Eff. Jan. 1, 1963.

600.6042 Execution; postponement, notice.

Sec. 6042. If, at the time appointed for the sale of any real or personal property on execution, the officer shall deem it expedient and for the interest of all persons concerned, to postpone the sale for want of purchasers or other sufficient cause, he may postpone the same from time to time until the sale is completed; and in every such case he shall make public declaration thereof at the time and place previously appointed for the sale, and if such postponement is for a longer time than 24 hours, notice thereof shall be given in the same manner as the original notice of such sale is required to be given.

HISTORY: New 1961, p. 803, Act 236, Eff. Jan. 1, 1963.

600.6043 Execution; where more than one levy.

Sec. 6043. In case of levies made on more than 1 of the executions provided for in section 6005, sale shall only be made on 1 execution at a time, and under the direction of the plaintiff's attorney. No more sales of the property may be made than is necessary to satisfy the judgment.

HISTORY: New 1961, p. 803, Act 236, Eff. Jan. 1, 1963.

600.6044 Execution; surplus, disposition.

Sec. 6044. If, after any sale made as herein prescribed there remains in the hands of the officer any surplus money after satisfying the writ or writs of execution on which such property was sold, with the interest thereon, the officer shall pay over such surplus to the judgment debtor or his legal representatives on demand.

HISTORY: New 1961, p. 803, Act 236, Eff. Jan. 1, 1963.

600.6045 Execution; refusal of highest bidder to take property, effect.

Sec. 6045. (1) If the highest bidder for any property at any sale on execution refuses to take and pay for it, he is liable for any loss on resale.

(2) In such case the officer shall sell the property again at the same time, or thereafter, giving notice of the second sale.

(3) The officer conducting the sale may sue to enforce the liability under subsection (1), and may recover in the action the expenses of the second sale, and may tax reasonable attorney fees as costs.

(4) The officer shall account for what he receives on the second sale and for any damages recovered under subsection (1) as for so much received on the execution.

HISTORY: New 1961, p. 803, Act 236, Eff. Jan. 1, 1963.

600.6046 Execution; officer not to purchase or be interested.

Sec. 6046. The sheriff or other officer to whom execution is directed, and the deputies of such officers, shall not directly or indirectly, purchase or be interested in the purchase of any property at any sale by virtue of execution.

HISTORY: New 1961, p. 804, Act 236, Eff. Jan. 1, 1963.

600.6047 Payment by debtor of judgment debtor.

Sec. 6047. After issuing execution to collect a judgment, any person indebted to the judgment debtor may pay to the officer having the execution the amount of his debt, or so much thereof as is necessary to satisfy the execution, and the receipt of the officer having such execution is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid.

HISTORY: New 1961, p. 804, Act 236, Eff. Jan. 1, 1963.

600.6051 Execution against real estate; effect, notice.

Sec. 6051. No levy by execution on real estate is valid:

(1) Against bona fide conveyances made subsequent to such levy, until a notice thereof, containing the names of the parties to the execution, a description of the premises levied upon, and the date of such levy, is filed by the officer making the levy in the office of the register of deeds of the county where the premises are situated. Such levy is a lien thereon from the time when notice is deposited; and the lien thus obtained is, from the filing of such notice, valid against all prior grantees and mortgagees of whose claims the party interested has neither actual nor constructive notice. The register shall record the same in full upon the records of that office, and make an index to the record, in a manner convenient for public reference, of the names of the parties to the execution as stated in the notice. The officer shall receive for making and recording the notice, the sum of 50 cents, and the register of deeds shall receive the same fee as is allowed by law for recording deeds, which fee the serving officer shall add to the costs to be collected by the execution and in like manner, collect the same. When the execution is fully paid, satisfied or discharged, the clerk of the court who issued execution, shall give to the defendant a certificate, signed by the sheriff and under seal of the court, that the execution is satisfied or discharged; and the certificate may be recorded in the same manner as is notice.

Invalid after 5 years.

(2) After the expiration of 5 years from making the levy, unless the real estate is sold thereon or within such period.

HISTORY: New 1961, p. 604, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 534, Act 284, Imd. Eff. Jul. 22;—Am. 1967, p. 546, Act 278, Eff. Nov. 2.

600.6052 Sale of realty; notice, display, publication; adjournment.

Sec. 6052. Prior to the sale of any real estate taken on execution, notice of the time and place of holding the sale, such notice to describe the real estate with common certainty by setting forth the name or number of the township in which it is located, and the number of the lot, or by other appropriate description of the premises shall be given as follows:

(1) A written or printed notice shall be displayed in 3 public places in the township or city where the real estate is to be sold at least 6 weeks prior to the sale, and if the sale is in a township or city other than that wherein the premises are located, notice shall also be displayed in 3 public places in the township or city in which the premises are located;

(2) A copy of the notice shall be published once each week for the 6 successive weeks prior to the sale in a newspaper printed in the county in which the premises are located, or, if there is no such newspaper, in a newspaper printed in an adjoining county.

(3) If the sheriff or other officer adjourns the sale for more than 1 week, he shall give notice to that effect in the newspaper in which the original notice was published and shall continue to publish such notices throughout the adjournment. Notice of adjournment must also be displayed for a like period at the place where the sale is to be held.

HISTORY: New 1961, p. 604, Act 236, Eff. Jan. 1, 1963.

600.6053 Execution; time, place, adjournment.

Sec. 6053. (1) The sale of real estate by virtue of any execution shall be by public sale, between the hour of 9 o'clock in the morning and 4 o'clock in the afternoon, at the court house or place of holding the circuit court in the county in which the real estate is situated.

(2) The sheriff or other officer making the sale has the power to adjourn the sale for reasonable cause and for a reasonable period.

HISTORY: New 1961, p. 604, Act 236, Eff. Jan. 1, 1963.

600.6054 Execution; irregular sale, civil liability.

Sec. 6054. (1) Any officer who sells any real estate, without the previous notice herein directed, or otherwise than in the manner herein prescribed, shall be liable therefor to the party injured, in the sum of \$500.00 damages, in addition to any actual damages which such party may prove on the trial of an action brought for the recovery of the same.

Same; taking down or defacement of notice, civil liability.

(2) If any person takes down or defaces any notice of a sale of real estate, put up by any officer, previous to the day of sale therein specified, unless upon satisfaction of the execution by virtue of which such notice shall have been given, or upon the consent of the party suing out such execution, and of the defendant therein, such person shall be liable therefor to the party in whose favor such execution was issued, in the sum of \$50.00 damages.

Same; irregularities not to invalidate.

(3) The omission of any officer to give the notice of sale required in this chapter, or the taking down or defacing any such notice when put up, does not affect the validity of any sale made to a purchaser in good faith, without notice of such omission, taking down or defacing.

HISTORY: New 1961, p. 805, Act 236, Eff. Jan. 1, 1963.

600.6055 Execution; certificates, contents.

Sec. 6055. (1) Upon the sale of any real estate by virtue of an execution, the officer making the same shall make and subscribe as many certificates of such sale as may be necessary, containing:

- (a) A particular description of the premises sold;
- (b) The price bid for each distinct lot or parcel sold;
- (c) The consideration money paid for each lot or parcel; and
- (d) The time when such sale shall become absolute, and the purchaser will be entitled to a deed, as hereinafter provided, and shall indorse on each of said certificates the rate of interest borne by the judgment upon which said execution issued.

Certificates; filing, disposition.

(2) One of the certificates shall be delivered to each purchaser at the sale and 1 of the certificates shall, within 10 days after the sale, be filed for record by the officer making the sale, in the office of the register of deeds of the county in which the sale is made; and the register of deeds shall cause the certificate to be recorded in a book kept for that purpose.

Same; recording, use as evidence.

(3) The original certificate, or the record thereof, or a transcript of the record, duly certified by the register of deeds shall be prima facie evidence of the facts therein set forth, of the regularity of the sale, and of all proceedings in the cause anterior thereto.

HISTORY: New 1961, p. 805, Act 236, Eff. Jan. 1, 1963.

600.6056 Execution; separate parcels.

Sec. 6056. (1) When any real estate offered for sale by virtue of any execution consists of several known lots, tracts, or parcels, such lots, tracts or parcels shall be separately exposed for sale, and the judgment debtor may direct which piece or parcel shall be first exposed for sale.

Same; satisfaction of execution.

(2) No more of such tracts and parcels may be exposed for sale than appear necessary to satisfy the execution, with the costs and expenses of the sale.

Same; undivided interest.

(3) When any judgment debtor has an undivided interest with the same parties in several parcels of land, the sheriff may levy on, advertise, and sell, as a single parcel, the interest of the judgment debtor in any or all of such undivided and unpartitioned tracts or parcels in his bailiwick.

HISTORY: New 1961, p. 805, Act 236, Eff. Jan. 1, 1963.

600.6057 Execution; leasehold interest; rights of purchaser.

Sec. 6057. (1) When a leasehold interest is sold on execution, the purchaser is entitled to all the rights and privileges of the defendant in and to the leasehold premises, and may immediately obtain possession thereof from the defendant or person holding under him in the manner provided in the case of an unlawful detainer of lands.

Conveyance; deposit, recording.

(2) The officer making the sale shall, within 10 days thereafter, execute to the purchaser a conveyance of the leasehold interest, which conveyance, if the unexpired term of such lease then exceeds 3 years, shall be by deed duly executed and acknowl-

edged, as in the case of a conveyance of real estate, which deed shall be deposited with said register of deeds, but shall not be recorded until the expiration of 1 year after the day of sale, and the officer making the sale shall indorse on such deed the date on which it will be entitled to record.

Filing notice of levy, effect; payment of rent.

(3) The filing of notice of levy on a leasehold, shall be notice of all the rights acquired by the plaintiff and purchaser at the sale, and the plaintiff in execution or his attorney, shall be thereafter entitled to reasonable notice from the lessor in case the lessor intends to forfeit the lease for any default made by the lessee, or person claiming under him, to the end that the plaintiff shall have a reasonable opportunity to comply with the terms of the lease and save a forfeiture. In case the plaintiff or execution purchaser is compelled to pay any rent due at the date of sale on execution or previous thereto, no redemption may be allowed until the amount so paid is refunded to the plaintiff or execution purchaser, with interest, in addition to the amount for which such leasehold interests may be sold on execution.

HISTORY: New 1961, p. 606, Act 236, Eff. Jan. 1, 1963.

600.6058 Execution; vendor interest in land contract; disposition of payments on contract.

Sec. 6058. When any real estate which has previously been contracted to be sold by the owner thereof in writing, by valid agreement, is sold on execution, the written agreement existing at the time of such sale, it shall be lawful for the person holding such contract to make any payment thereon becoming due prior to the expiration of the time for making redemption, and prior to a redemption by the debtor, by depositing the payment with the register of deeds in whose office the certificate of sale must be filed for record, taking the register's receipt therefor. In case the premises are redeemed, the payment so deposited shall be delivered by the register to the debtor or his assignee. If the premises are not redeemed, the payment shall be delivered to the person acquiring the premises under the sale. Payment so made and deposited shall have the same effect for the benefit of the person making payment under the contract as if made to either of the parties entitled thereto when the payment was deposited.

HISTORY: New 1961, p. 606, Act 236, Eff. Jan. 1, 1963.

600.6059 Execution; homestead, sale in case surplus not paid.

Sec. 6059. In case the surplus, or the amount due on the execution or judgment is not paid according to the provisions of section 6027 of this chapter, it shall be lawful for the officer to advertise and sell the said premises, and out of the proceeds of said sale to pay such debtor the sum of \$3,500.00, which shall be exempt from execution for 1 year thereafter, and apply the balance on said execution. No sale may be made in the case last mentioned, unless a greater sum than \$3,500.00 is bid therefor, in which case the officer may return said execution for want of property, or report the facts to the court in which said judgment was rendered, as the case may require.

HISTORY: New 1961, p. 606, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd. Ex. Ses., p. 55, Act 40, Imd. Eff. Dec. 27.

600.6060 Execution; not made on equity of redemption on certain judgment.

Sec. 6060. (1) When judgment is recovered for a debt or any part of a debt secured by mortgage of real estate, there can be no sale of the equity of redemption in such estate, by virtue of any execution upon such judgment.

Endorsement on execution; direction to officer.

(2) Whenever any execution against the property of the defendant is issued on such a judgment, the plaintiff or his attorney shall indorse on such execution a brief description of the mortgaged premises with a direction not to levy upon said premises or any

part thereof and if execution cannot be collected from the other property of the defendant, the officer shall return the same unsatisfied.

HISTORY: New 1961, p. 607, Act 236, Eff. Jan. 1, 1963.

600.6061 Execution; rights of purchaser.

Sec. 6061. When any sale, by virtue of any execution, or attachment, becomes absolute, the purchaser at such sale acquires all the rights and interests that the debtor had in and to the realty sold at the time of the levy by virtue of the execution or attachment; including in either case the right to enforce specific performance of any contract upon performing the conditions thereof as stipulated therein by the debtor.

HISTORY: New 1961, p. 607, Act 236, Eff. Jan. 1, 1963.

600.6062 Redemption of real estate; time.

Sec. 6062. (1) Within 1 year from the time when sale on execution is made, the real estate so sold or any distinct lot, tract or portion that is separately sold or the interest in real estate so sold, may be redeemed by payment to the purchaser, his personal representatives or assigns, or to the officer who makes such sale, or to the register of deeds in whose office such certificate is recorded, for the use of such purchaser, of the sum of money bid on the sale of such lot or tract, together with the interest on that sum from the time of sale, computed at the rate per cent per annum borne by the judgment under which such sale was made.

Same; persons entitled to make.

(2) Redemption may be made by:

(a) The person against whom the execution is issued, and whose right and title are sold in pursuance thereof; or

(b) If such person is dead, by his devisee of the premises sold, if the same have been devised; and if the same have not been devised, by the executor or administrator with the approval of the judge of probate; or by the heirs of such person; or

(c) By any grantee of such person who acquires an absolute title by deed, sale under mortgage, or under an execution, or by any other means, to the premises sold, or to any lot, tract, parcel or portion which is separately sold; or

(d) The purchaser of the title and right of redemption of the person against whom the execution issues, or

(e) Any heir or devisee of such person, or any grantee of such heir or devisee, who acquires an absolute title to a portion of the estate sold, or to a portion of any lot, tract or parcel that is separately sold, or the executor or administrator of such person, with the approval of the judge of probate; and such person has the same remedy to enforce contribution from those who own the residue of the lot, tract, or parcel, as if the sum required to be paid by him to effect redemption was collected by a sale of the portion belonging to such grantee; or

(f) Each of several persons having undivided shares, as joint tenants or tenants in common, in the premises sold, or in any particular lot or tract sold, by paying to the purchaser or officer a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to the whole number of shares of the premises, lot, or tract, together with the interest on such sum; or

(g) A defendant lessee where the unexpired term of the lease exceeds 3 years at the date of sale on execution; and on such redemption, the defendant is entitled to repossess, recover and enjoy the premises from the execution purchaser or his assigns.

Same; effect on sale and certificate.

(3) Upon payment being made by any person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificate of such sale and deed to the extent of the premises or shares so redeemed, shall be null and void.

HISTORY: New 1961, p. 607, Act 236, Eff. Jan. 1, 1963.

600.6063 Acquisition of interest of original purchaser; time.

Sec. 6063. (1) In case the persons entitled as hereinbefore provided, omit to redeem the premises so sold, or any part of them, within the year prescribed, then the interest vested in the purchaser by such sale may be acquired within 3 months after the expiration of such year, by the persons, and on the terms hereinafter prescribed.

Same; by creditor of execution defendant.

(2) Any creditor of a person against whom such execution issues having in his own name, or as assignee, representative, trustee or otherwise, a judgment under which execution has issued and levied upon the real estate so sold, or a judgment which is a lien without execution and levy, or any purchaser at a subsequent sheriff's sale under a junior levy, whose title has not become absolute, at any time before the expiration of 15 months from the time of such sale, by paying the sum of money which was paid on the sale of such premises, together with the interest thereon, computed at the rate borne by the judgment under which such sale was made, from the time of such sale, shall thereby acquire all the rights of the original purchaser, subject to be defeated in the manner hereinafter mentioned.

Same; by creditor with lien on parcel sold separately.

(3) If the execution issued and levied under the creditor's judgment, or such judgment is a lien upon any lot, tract or parcel, that has been separately sold, the creditor having the same by paying as before provided the sum bid for such lot, tract, or parcel, with interest as above mentioned, shall thereby acquire all the rights of the original purchaser to such lot, tract, or parcel, subject to be defeated as hereinafter provided.

Same; by creditor with lien on specific portion of parcel sold separately.

(4) If the execution so levied, or such judgment, is a lien only on a specific portion of a lot, tract or parcel so sold, the creditor having the same may acquire the title of the purchaser to the whole of such lot, tract or parcel, in the same manner as if such lien extended to the whole.

Same; by holder of lien on undivided interest.

(5) Any such creditor having such judgment or execution so levied or any purchaser at a subsequent sheriff's sale under a junior levy, whose title has not become absolute, which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms, and in the same manner, acquire the title of the original purchaser to such share or interest by paying such part of the whole purchase money of such real estate as shall be in just proportion to such share or interest.

Same; by certain mortgagee.

(6) Any creditor having a mortgage of any lands sold on execution, his representatives or assigns, where the mortgage was executed subsequent to the levy in pursuance of which the mortgaged premises were sold, has the right to acquire the interest vested in the purchaser at the sale, on the terms provided in subsection (2) of this section.

Same; by creditors in order of their liens.

(7) Creditors shall be allowed to acquire the right of the original purchaser in the order of their liens.

HISTORY: New 1961, p. 608, Act 236, Eff. Jan. 1, 1963.

600.6064 Acquisition of interest of original purchaser; purchase by second creditor from first creditor.

Sec. 6064. (1) Whenever any creditor, or purchaser, acquires the title of the original purchaser, pursuant to the foregoing provisions, any other creditor who might have acquired such title according to such provisions may become a purchaser thereof from the first creditor who acquired the same, upon the following conditions:

(a) By reimbursing to such first creditor, his personal representatives or assigns, the sum which may have been paid by him to acquire such title, together with interest thereon, computed as hereinbefore provided, from the time of such payment to the time of such reimbursement;

(b) If the levy under the execution or judgment, by virtue of which the first creditor acquired the title of the original purchaser, be prior to the levy or judgment of such second creditor, then such second creditor shall also pay to such first creditor the amount due on his judgment;

(c) But if such levy under the execution or the judgment of the first creditor, at the time of his acquiring the title of the original purchaser, shall have ceased to be a lien as against such second creditor, it shall not be necessary to pay the amount thereof.

Same; purchase by third and other creditors.

(2) In the same manner any third or other creditor or purchaser at subsequent sheriff's sale under a junior levy, whose title has not become absolute, who might, according to the foregoing provisions, acquire the title of the original purchaser, may become a purchaser thereof, from the second, third, or any other creditor, who may have become such purchaser from any other creditor upon the same terms and conditions specified in (1).

Same; re-acquisition by original purchaser.

(3) If the original purchaser of any premises so sold, is also a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser, according to the preceding provisions, he may avail himself of his judgment in the same manner, and on the same terms herein prescribed, to acquire the title which any creditor may have obtained.

Same; right of execution plaintiff.

(4) The plaintiff under whose execution any real estate has been sold, shall not be authorized to acquire the title of the original purchaser, or of any creditor, to the premises so sold, by virtue of the judgment on which such execution issued; but if he has any other judgment which would entitle him to acquire such title, according to the preceding provisions, he may avail himself of such other judgment, in the same manner, and on the same terms as any other creditor.

Same; acquisition from mortgagee.

(5) Creditors may acquire the interest of the original purchaser acquired by a mortgagee under subsection (6) of section 6063, except that unless an execution has been issued on such creditor's judgment and a levy made by virtue thereof on the mortgaged premises, previous to the execution of the mortgage, a creditor acquiring the right of the original purchaser from such mortgagee, his representatives or assigns, shall pay to the mortgagee, his representatives or assigns, the amount due on the mortgage, and be thereby subrogated to the rights of the owner thereof; such creditor shall also reimburse, with interest, the amount paid by such mortgagee, his representatives or assigns, to acquire the rights of the original purchaser.

HISTORY: New 1961, p. 609, Act 236, Eff. Jan. 1, 1963.

600.6065 Acquisition of interest of original purchaser; evidence of right of creditor to purchase.

Sec. 6065. To entitle any creditor to acquire the title of the original purchaser, or to become a purchaser from any other creditor, he shall present to and leave with such purchaser or creditor, or the officer who made the sale, or with the register of deeds in whose office the certificate of sale is recorded, the following evidence of his right:

- (1) A certified copy of the judgment under which he claims the right to purchase;
- (2) A true copy of all the assignments of such judgment, which are necessary to establish his claim, verified by his affidavit, or the affidavit of some witness thereto;
- (3) An affidavit by such creditor, his agent or attorney, of the true sum due on such judgment, at the time of claiming such right to purchase.

HISTORY: New 1961, p. 609, Act 236, Eff. Jan. 1, 1963.

600.6066 Acquisition of interest of original purchaser; transfer of title.

Sec. 6066. (1) The sums required to be paid by the foregoing provisions, to acquire the title of the original purchaser, or to become a purchaser from any creditor, may be paid to such purchaser or creditor, his representatives or assigns, or to the officer who made the sale, or to the register of deeds in whose office the certificate of sale is recorded, for the use of the purchaser or creditor entitled to the same.

(2) If the purchaser of any equity of redemption, or any creditor having acquired the rights of such purchaser, shall pay the debt due on the mortgage, or the amount of any sale of said premises sold on execution, or any part thereof, the amount so paid on the mortgage or execution sale shall be paid, with interest, to such purchaser or creditor, in redeeming the premises, or purchasing the rights of such purchaser or creditor, as the case may be according to the provisions of this chapter.

(3) Upon such payment being made, the title of the original purchaser shall be thereby transferred to the creditor acquiring the same pursuant to the foregoing provisions, and from such creditor to any other creditor becoming a purchaser thereof as hereinbefore provided.

HISTORY: New 1961, p. 610, Act 236, Eff. Jan. 1, 1963.

600.6067 Right to deed; assignments.

Sec. 6067. When the premises mentioned in any sheriff's certificate of sale of real estate under execution is not redeemed, the legal holder of such certificate is entitled to a deed therefor at any time within 10 years from the expiration of the time of redemption. But before any assignee or his personal representative shall be entitled to such deed, every assignment under which he claims title, shall be executed and acknowledged or proved, in the same manner that deeds are required to be executed, acknowledged, or approved, to entitle the same to be recorded, and such assignee shall cause the same to be recorded in the office of the register of deeds in the county where the real estate so sold is situated. When such deed is not taken and recorded in the time limited by this chapter, the certificate of purchase shall become null and void.

HISTORY: New 1961, p. 610, Act 236, Eff. Jan. 1, 1963.

600.6068 Vesting of title.

Sec. 6068. (1) The right and title of the person against whom execution was issued, to any real estate sold thereon, shall not be divested by such sale until the expiration of 15 months from the time of such sale.

Action for injury to realty by grantee in deed.

(2) If such real estate is not redeemed, and a deed is executed in pursuance of a sale, the grantee in such deed shall be deemed vested with the legal estate from the time of such sale for the purpose of maintaining an action for injury to such real estate.

Action for waste, injury or removal of realty or fixtures.

(3) If, at any time after a sale of real estate on execution, and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person, commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights, may have and maintain, against the person doing the injury and against any other person who has the buildings, fences or fixtures in his possession after such removal, the same actions which the absolute owner of the premises would be entitled to.

Same; for benefit of person acquiring rights.

(4) After the commencement of any such action as mentioned in subsection (3) of this section, if any other creditor shall acquire the rights of the purchaser at such sale in pursuance of the provisions of this chapter, such action shall not thereby be abated or in any way affected; but the same may be prosecuted in the name of the plaintiff therein to final judgment, for the benefit of the person acquiring such rights after the commencement of the action, if he shall choose to prosecute the same, and if not, such plaintiff may continue the same for his own benefit.

HISTORY: New 1961, p. 610, Act 236, Eff. Jan. 1, 1963.

600.6069 Conveyance of premises; time, effect.

Sec. 6069. (1) After the expiration of 15 months from the time of the sale of any real estate, if any part of the premises sold shall remain unredeemed by the person against whom the execution issued, or by any person entitled to redeem the same within 1 year from the time of such sale, according to the provisions of this chapter, the officer making such sale, or his successor in office, shall complete the same, by executing, in due form of law, a conveyance of the premises so remaining unredeemed, either to the original purchaser or to the creditor who may have acquired the title of such original purchaser, or to the assigns of such purchaser, or to the creditor who may have purchased such title from any other creditor, as the case may be; which conveyance shall be valid and effectual to convey all the right, title and interest which was sold on such execution.

Same; to executor, administrator, or person equitably entitled.

(2) In case the person who would be entitled to a conveyance of any real estate sold by virtue of an execution dies before the execution of the conveyance, the officer shall execute and deliver such conveyance to the executor or administrator of the person so deceased. In any case under this section, where the rights of the person or persons entitled to such real estate, or any interest therein, shall render it necessary, the circuit court of the county in which the officer who made the sale resided, on a hearing of the parties interested, properly brought before it by complaint, may direct the conveyance to be made to the person or persons equitably entitled thereto, in such manner as shall be just; and such conveyance shall have the same effect as provided in subsection (1) of this section.

Same; real estate held in trust.

(3) The real estate so conveyed to any such executor or administrator shall be held in trust for the use of the heirs of such deceased person, subject to the dower of his widow, if there be any; but the same may be sold for the payment of debts and legacies, in the same manner as lands whereof the deceased died seized.

HISTORY: New 1961, p. 611, Act 236, Eff. Jan. 1, 1963.

600.6070 Redemption; discharge of levy; judgment, or mortgage; fee.

Sec. 6070. In all cases of redemption of lands sold on execution, or in all cases of the sale of lands on mortgage foreclosure, whether by advertisement or sale under court order, or in all cases of payment of judgments where the record shows a levy, or any

other lien by mortgage levy, or *lis pendens*, it shall and may be lawful and it is hereby made the duty of the officer making such sale, or the person receiving such money, or his attorney, to discharge such levy, judgment, or mortgage from the record of the register of deeds, in the proper county in which such sale is made. The fee for recording shall be the same as provided by law for the recording of discharges of mortgages.

HISTORY: New 1961, p. 611, Act 236, Eff. Jan. 1, 1963.

600.6071 Contribution among several judgment debtors.

Sec. 6071. (1) When lands and tenements, in the hands of several persons, are liable to satisfy any judgment, and the whole of such judgment, or more than a due proportion thereof, is levied upon the lands of 1 or more of such persons, the persons so aggrieved, or their personal representatives, may compel a just and equal contribution by all the persons whose lands and tenements ought to contribute to the satisfaction of such judgment.

Same; order of contribution.

(2) Such lands and tenements are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed;

(b) If they were sold under execution against the defendant, they are also liable in succession, commencing with the lands sold under the last and youngest judgment;

(c) If there be lands so liable, which were conveyed by the defendant in the execution and also lands which have been sold under execution against such defendant, they are respectively liable in succession, according to the order hereinbefore prescribed.

Same; enforcement.

(3) If a complaint is filed to enforce such contribution, the person aggrieved shall be entitled to use the original judgment, and by virtue thereof, to pay the amount which ought to be contributed by the lands and tenements subject to such judgment; and for that purpose, such judgment shall remain a lien and charge upon such lands and tenements, for the term of 5 years after a certified copy thereof shall have been filed and entered in the office of the register of deeds in the county where the lands are situated, to the extent of the sum which ought to be so contributed, notwithstanding such sum or any part thereof, may have been paid by the party seeking such contribution.

Same; lien of original judgment, affidavit.

(4) But such original judgment does not remain a lien upon any lands, nor are they subject to an execution as herein provided, unless the person aggrieved files for record an affidavit with the register of deeds in whose office a certified copy of such judgment has been recorded, stating the sum paid, and his claim to use such judgment for the reimbursement thereof, or of some portion of the same.

Same; recording of affidavit.

(5) The register of deeds shall record such affidavit and make an entry in the margin of the entry of the certified copy of such judgment, stating the sum so paid, and that such judgment is claimed to be a lien to that amount.

HISTORY: New 1961, p. 611, Act 236, Eff. Jan. 1, 1963.

600.6072 Eviction of purchaser; recovery of purchase price.

Sec. 6072. (1) If the purchaser of any real estate, sold by virtue of an execution, his heirs or assigns, shall be evicted from the possession of such real estate, or if in an action for the recovery thereof, judgment shall be rendered against him or them, in consequence:

(a) Of any irregularity in the proceedings concerning such sale; or

(b) Of the judgment upon which such execution issued being vacated or reversed;

such purchaser, his heirs or assigns, may recover of the party for whose benefit such real estate was sold, the amount paid on the purchase thereof, with interest.

Same; further execution for benefit of purchaser.

(2) The party for whose benefit such real estate was sold, and his personal representatives, upon such recovery being had against him in consequence of any irregularity in the proceedings concerning the sale, may have further execution upon the judgment by virtue of which such sale was made, to levy the amount paid on such sale, with interest.

Same; validity of original judgment.

(3) Such judgment shall be deemed valid and effectual for the purpose specified in subsection (2) of this section, against the defendant therein, his personal representatives, heirs, and devisees, but not against any purchaser in good faith, or any incumbrancer by mortgage, judgment or otherwise, whose title or incumbrance shall have accrued before the levy of such further execution.

HISTORY: New 1961, p. 612, Act 236, Eff. Jan. 1, 1963.

600.6075 Civil arrest; grounds.

Sec. 6075. Except as otherwise provided by law, no person is liable to arrest or imprisonment on any civil process unless:

- (1) In a proceeding for contempt of court; or
- (2) On an action to recover a fine or penalty; or
- (3) After a judgment against such person, the judgment creditor provides satisfactory evidence showing 1 or more of the following circumstances:
 - (a) The judgment debtor has property which he fraudulently conceals or which he unjustly refuses to apply to the judgment against him, and such judgment belongs to such judgment creditor; or
 - (b) The judgment debtor is about to remove his property out of the jurisdiction of the court in which suit was brought, with the intent to defraud his creditor; or
 - (c) The judgment debtor has, or is about to dispose of some or all of his property with intent to defraud his creditor.

HISTORY: New 1961, p. 613, Act 236, Eff. Jan. 1, 1963.

600.6076 Civil arrest; prerequisite.

Sec. 6076. Except in a contempt proceeding, no warrant for civil arrest shall issue unless:

- (1) Execution has been made and returned against all the property of the judgment debtor in that county and such property is not sufficient to satisfy such judgment; and
- (2) Such warrant issues within 30 days from the return of the execution.

HISTORY: New 1961, p. 613, Act 236, Eff. Jan. 1, 1963.

600.6077 Civil arrest; warrant, issuance, contents, accompanying affidavit, execution.

Sec. 6077. (1) Upon satisfactory proof of any of the grounds for civil arrest named in subsections (2) and (3) of section 6075, any judge of the court which rendered the judgment, any circuit court judge or circuit court commissioner, or any justice of the peace who rendered judgment, shall issue a warrant to arrest the judgment debtor.

(2) The warrant shall issue under the hand of such officer in behalf of the people of this state and shall be directed to the sheriff or constable of the county within which the issuing officer resides. It shall state the nature of the judgment and command that the judgment debtor be arrested and brought before the officer issuing the warrant, without delay.

(3) The warrant shall be accompanied by a copy of each affidavit, if any, on which

the warrant was issued, such copies to be certified by the officer who issued the warrant, and delivered to the judgment debtor at the time of serving the warrant.

(4) The warrant shall be executed by the arrest of the judgment debtor and his delivery to the officer issuing the warrant, or, some other officer having jurisdiction of the case, and the holding of the judgment debtor until he is committed or discharged according to law.

HISTORY: New 1961, p. 613, Act 236, Eff. Jan. 1, 1963.

600.6078 Civil arrest; hearing, commitment.

Sec. 6078. (1) Upon delivery of the judgment debtor to the officer, such officer shall hold a hearing and, after hearing the proofs, the allegations of the judgment creditor are substantiated and the proof of the grounds for civil arrest as described in subsections (2) and (3) of section 6075 has been given, he shall direct that the judgment debtor be committed to the jail of the county in which the hearing is held, to be there detained until he shall be discharged according to law, and the judgment debtor shall be detained accordingly.

Same; controverting facts on which warrant is based; examination; recognizance.

(2) A person arrested on civil process and brought before the proper officer for hearing, may controvert any of the facts and circumstances on which the warrant issued, and may, at his option, verify his allegations by his own affidavit; and in case of his so verifying the same, the plaintiff may examine such defendant on oath, touching any fact or circumstance material to the inquiry, and the answers of the defendant on such examination shall be reduced to writing, and subscribed by him; and the officer conducting such inquiry shall also receive such other proofs as the parties may offer, either at the time of such first appearance, or at such other time as such hearing shall be adjourned to; and in case of an adjournment, such officer may take a recognizance, with surety, from the defendant, for his appearance at the adjourned meeting, and conditioned that said defendant will not meanwhile secrete, destroy, dispose of, or in any manner make away with, or put out of his possession, any of his property not exempt from sale on execution, and in case the said defendant refuses to enter into such recognizance, he shall be committed to the county jail, and there to remain until such time as the said hearing is completed.

Same; power of officer conducting inquiry; jury.

(3) The officer conducting such inquiry has the same authority to issue subpoenas for witnesses and to enforce obedience to such subpoenas, and to punish witnesses refusing to testify, as is conferred by law upon such officers in cases of other proceedings before them, and the defendant is entitled to a jury of 6 jurors, if he demand one, to try the issue joined in the matters charged or alleged against him in the affidavit or affidavits exhibited to or before the said officer conducting such inquiry, which jury shall be selected and summoned in the same manner, as near as may be, as in the trial of criminal cases before justices of the peace, and the said officer has the same power in relation to the selection, summoning and swearing such jury and conducting such jury trial, as near as may be, as is given to justices of the peace in the trial of criminal cases before them.

HISTORY: New 1961, p. 613, Act 236, Eff. Jan. 1, 1963.

600.6079 Civil arrest; discharge.

Sec. 6079. The judgment debtor may avoid commitment or be discharged from commitment by:

- (1) Paying the amount due on the judgment with interest and costs; or
- (2) Making a general assignment of all his property for the benefit of his creditors; or

(3) Obtaining a judgment in his favor on appeal of the judgment creditor's judgment; or

(4) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 30 days of the hearing the judgment debtor will file a petition for adjudication in bankruptcy, under the federal bankruptcy law, and diligently prosecute the same until he obtains a discharge, and that he will not, before obtaining such discharge in bankruptcy, in any way dispose of any money, property, or rights in action, or interest in any public or corporate stock, or evidence of debt, or anything valuable whatever, which he possessed at the time of such arrest, not exempt from execution; or

(5) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 6 months of the hearing, the judgment debtor shall pay the judgment, interest and costs; or

(6) Posting bail as prescribed in section 6080; or

(7) The failure of the judgment creditor to pay the judgment debtor's board in advance as required by section 6082; or

(8) The expiration of 90 days if the arrest was to recover a fine or penalty.

HISTORY: New 1981, p. 614, Act 236, Eff. Jan. 1, 1983.

600.6080 Civil arrest; bail.

Sec. 6080. (1) Any person arrested on civil process is entitled to bail during the time within which he may appeal the proceeding on which the arrest was made, or until a final determination of his appeal has been made.

(2) In a contempt proceeding, the amount of bail shall be set by the judge or officer presiding over such proceeding.

(3) In all other cases, the amount of bail shall be twice the amount of the judgment, fine or penalty on which the arrest was made.

HISTORY: New 1981, p. 614, Act 236, Eff. Jan. 1, 1983.

600.6081 Civil arrest; bail, bond, forfeiture, release.

Sec. 6081. (1) If, within the time prescribed in subsection (1) of section 6080, the judgment debtor is not discharged, and fails to surrender himself for commitment, his bail is forfeited and the judgment creditor shall have satisfaction out of such bail.

(2) If, within the time prescribed in subsection (5) of section 6079, the judgment debtor is not discharged and fails to pay the judgment, interest and costs, his bond is forfeited and the judgment creditor shall have satisfaction out of such bond.

(3) Bail is released by the release of the judgment or upon the surrender of the judgment debtor for commitment within the prescribed period.

(4) Bond is released by the release of a judgment or upon the payment of the judgment, interest and costs, within the prescribed period.

HISTORY: New 1981, p. 615, Act 236, Eff. Jan. 1, 1983.

600.6082 Imprisonment; segregation from criminals; payment of board.

Sec. 6082. (1) Those persons committed on civil process shall be segregated from those committed on criminal process.

(2) The board of any person committed under civil process, except for contempt or for collection of fines and penalties, shall be paid in advance by the judgment creditor to the sheriff or keeper of the jail. On failure to pay such board, the judgment debtor shall be released and shall no longer be liable to civil arrest on the judgment under which he was committed.

(3) In the case of collection of fines or penalties, the board of the prisoner shall be added to the amount of such fines or penalties and collected as part of the original judgment.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6083 Imprisonment; sheriff's liability for escape.

Sec. 6083. (1) All prisoners committed on civil process shall be actually confined in jail until discharged according to law; and if any sheriff or keeper of jail permits any prisoner to leave confinement before such time, such sheriff or keeper is liable to the judgment creditor for the damages sustained and shall be guilty of a misdemeanor.

(2) But if the prisoner is returned to custody before commencement of an action based on the liability herein described, then such liability shall be null and void.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6084 Imprisonment; discharge, effect.

Sec. 6084. Discharge of the judgment debtor from imprisonment only bars further civil arrest of the judgment debtor on the same judgment, and does not preclude the judgment creditor from any other action on the same judgment.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6085 Removal or concealment of property to avoid execution; misdemeanor.

Sec. 6085. Any person who removes any of his property out of any county, with intent to prevent the same from being levied upon by an execution or who secretes, assigns, conveys, or otherwise disposes of any of his property, with intent to defraud any creditor, or to prevent such property from being made liable for the payment of his debts and any person who receives such property with such intent, shall, on conviction thereof, be deemed guilty of a misdemeanor.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6086 Transfer of property by judgment debtor after commitment; validity.

Sec. 6086. Transfers by the judgment debtor of any property, except property exempt from execution, made after the judgment debtor's commitment, or while he is free on bail, are void except as to bona fide purchasers from the transferee for value without notice.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6091 Sale of real estate pursuant to judgment; notice, method, fees.

Sec. 6091. Any circuit court commissioner, or other officer authorized by law, or any person duly authorized by an order of the court to sell real estate in pursuance of any judgment, except as otherwise provided by order of the court or by a rule of court, shall give notice of, and conduct such sale as in the case of sale of real estate on execution; and the person making the sale shall have the same power and authority and be subject to the same liability as in the case of sale of realty on execution. All lawful fees for advertising and conducting such sale shall be added to the amount due on such judgment and collected therewith.

HISTORY: New 1961, p. 615, Act 236, Eff. Jan. 1, 1963.

600.6092 Judgment against absent, concealed or nonresident defendant; sequestration of realty or personalty.

Sec. 6092. (1) In the case of a judgment against an absent, concealed, or nonresident defendant, process may issue to compel the performance of such judgment either by sequestration of the real and personal estate of the defendant, or such part thereof as is deemed sufficient; or where any specific estate or effects are demanded by the com-

plaint by causing possession of the property so demanded to be delivered to the plaintiff.

Same; delivery of possession of property.

(2) Such possession shall not be delivered until the plaintiff gives security, in such sum as the court directs, to abide the order of the court touching the restitution of the estate or effects delivered, in case the defendant appears and is admitted to defend the suit.

Same; satisfaction out of estate and effects sequestered.

(3) Upon like security being given, the court, when a sequestration has issued, may order the judgment to be satisfied out of the estate and effects sequestered; but if such security has not been given, the estate and effects sequestered shall remain under the direction of the court, to abide its further orders.

HISTORY: New 1961, p. 616, Act 236, Eff. Jan. 1, 1963.

600.6093 Collection of judgment; against township, village, or city.

Sec. 6093. (1) Whenever judgment is recovered against any township, village, or city, or against the trustees or common council, or officers thereof, in any action prosecuted by or against them in their name of office, the justice of the peace rendering such judgment, if in a justice's court at any time after the time for appealing has elapsed, or the clerk of the court, if such judgment is rendered in a court of record and has not been reversed, shall, on the application of the party in whose favor such judgment is rendered, his attorney, executor, administrator, or assigns, make and deliver to the party so applying a certified transcript of such judgment, showing the amount and date thereof, with the rate of interest thereon, and of the costs as taxed under the seal of the court, if in a court having a seal. The party so obtaining such certified transcript may file the same with the supervisor of the township, if such judgment is against the township, or with the assessing officer or officers of the city or village, if such judgment is against a city or village. The supervisor or assessing officer receiving any such certified transcript or transcripts of any judgment shall proceed to assess the amount thereof with the costs and interests from the date of rendition of judgment to the time when the warrant for the collection thereof will expire upon the taxable property of the township, city or village, as the case may be, upon the then next tax roll of such township, city or village, without any other or further certificate than such certified transcript as a part of the township, city or village tax, adding the total amount of such judgment as the case may be, to the other township, city or village taxes and assessing the same in the same column with the general township, city or village tax.

Such supervisor or assessing officer shall set forth in the warrant attached to such tax roll each judgment separately, stating the amount thereof and to whom payable, and the same shall be collected and returned in the same manner as other taxes. Such supervisor or assessing officer, at the time when he delivers such tax roll to the treasurer or collecting officer of any such township, city or village, shall deliver to the township clerk or to the clerk or recording officer of any such city or village, a statement in writing under his hand, setting forth in detail and separately such judgment stating the amount with costs and interest as herein provided, and to whom payable. Such treasurer or collecting officer of any such township, city or village, shall collect and pay said judgment to the owner thereof or his attorney, on or before the date when such tax roll and warrant shall be returnable. In case any supervisor, treasurer, or other assessing or collecting officer neglects or refuses to comply with any of the provisions of this section he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$100.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 3 months, or by both such fine and imprisonment in the discretion of the court. Nothing herein contained

shall be construed to exclude other remedies given by law for the enforcement of such judgment.

Same; against village having no assessing officer.

(2) In any case where a judgment is recovered against any such village which, by reason of holding no municipal elections, or for any other reason has no available assessing officer within the jurisdiction of the court wherein such judgment is rendered, the owner of such judgment or any person knowing the facts, acting on behalf of such owner, may make an affidavit showing that the village against which any such judgment is pending and unsatisfied, has no available assessing officer within the said jurisdiction, and file the same with the clerk of the circuit court wherein said judgment is written. The officer who makes the certified transcript shall attach thereto a copy of said affidavit, the correctness of which copy shall also be certified to in said certificate. Any party receiving such certified transcript of judgment and affidavit may file the same with the supervisor of the township in which any such village, having no assessing officer is located. The supervisor shall assess the amount of said judgment with costs and interest, upon the taxable property of said village, which is without an assessing officer, and thereafter the same steps and proceedings shall be had in the premises as though it were a judgment against the township within which said village is located, save that it shall be assessed against the property within the corporate limits of said village only.

Same; against county or county officer.

(3) When judgment is recovered against any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office, the same, unless reversed, shall be levied and collected as other county charges, and when so collected shall be paid by the county treasurer to the person to whom the same shall have been adjudged, upon the delivery of a proper voucher therefor.

HISTORY: New 1961, p. 616, Act 236, Eff. Jan. 1, 1963.

600.6094 Collection of judgment; against school district.

Sec. 6094. (1) Whenever any final judgment is obtained against the school district, if the same is not removed to any other court, the treasurer of the district shall certify to the supervisor of the township and to the director of the district the date and amount of such judgment, with the name of the person in whose favor the same was rendered, and if the judgment is removed to another court, the treasurer shall certify the same as aforesaid immediately after the final determination thereof against the district.

(2) If the treasurer fails to certify the judgment, the party obtaining the same, his executors, administrators, or assigns, may file with the supervisor the certificate of the justice or clerk of the court rendering the judgment, showing the facts which should have been certified by the treasurer.

(3) If the district against which any such judgment is rendered is situated in part in 2 or more townships, a certificate thereof shall be delivered as aforesaid to the supervisor of each township in which such district is in part situated.

(4) The supervisor or supervisors receiving either of the certificates of a judgment as aforesaid shall proceed to assess the amount thereof, with interest from the date of the judgment to the time when the warrant for the collection thereof will expire, upon the taxable property of the district, placing the same on the next township assessment roll in the column for school taxes; and the same proceedings shall be had, and the same shall be collected and returned in the same manner as other district taxes.

HISTORY: New 1961, p. 617, Act 236, Eff. Jan. 1, 1963.

600.6095 Collection of judgment; against state institution.

Sec. 6095. When any judgment or decree is obtained against any corporate body, or unincorporated board, now or hereafter having charge or control of any state institution, the amount thereof shall be included and collected in the state tax and paid to the person entitled thereto.

HISTORY: New 1961, p. 618, Act 236, Eff. Jan. 1, 1963.

600.6096 Township judgment bonds.

Sec. 6096. (1) Any organized township in the state of Michigan is authorized and empowered to issue bonds upon the faith and credit of such township, and to use or negotiate the same for the purpose of raising money to pay any claim against such township, placed in judgment in any court of competent jurisdiction in this state upon the conditions and under the circumstances, and in the manner herein provided.

Same; petition.

(2) Whenever any person or corporation has a valid judgment against any organized township in the state of Michigan, such person or corporation, or his or its duly authorized agent, may present a petition to the township board for such township setting forth the facts of the rendition of such judgment, together with a statement of the date and amount thereof and the court in which such judgment is rendered, and shall attach to such petition a duly authenticated copy of such judgment, and thereupon the said township board shall have the power to provide for the issuing of bonds to be used for the purpose of paying such judgment in the manner hereinafter provided.

Same; election.

(3) No such bonds may be issued unless a 2/3 vote of the qualified electors of said township, voting at a township meeting, a general election or a special election duly called, and held at a time fixed by said township board not more than 90 days after said board acts upon the petition mentioned in subsection (1) of this section which election shall be held at the same place as the last preceding township election was held and conducted in the manner herein provided, shall so determine and the said township boards are authorized and empowered to submit the question of said bonding to the qualified electors of such township, giving due notice thereof by causing the date, place of voting and object of said election to be stated in printed or written notices to be posted in 5 public places in said township at least 20 days before the time fixed by said board for such election, which notice shall state the amount of money proposed to be raised by such bonding and the purpose or purposes to which it shall be applied. Where it appears by the petition or petitions above mentioned that more than 1 valid judgment is outstanding against such township, it is competent to provide for the bonding for the payment of said judgments in the aggregate, but in such case the action of the town board in submitting the question of the bonding and in the publication of the notices of election the question shall be so submitted as to cause a vote to be taken upon the proposition to bond for the payment of each of such judgments separately and so that when the vote is cast each voter is privileged to vote for or against the bonding for the payment of any one of the judgments which may be mentioned in such notice.

Same; form of ballot, canvass, certificate.

(4) The vote upon such proposition shall be by a printed ballot, and shall be in the following words:

"For the issuing of township bonds to pay judgment of

Yes ☐

"For the issuing of township bonds to pay judgment of

No ☐

Provided, however, That where the payment of more than 1 judgment is contemplated the question as to each judgment shall be stated on said ballot in the manner herein provided, and it is the duty of each of such township boards to provide at the polls of such election during the whole time while the same shall be open, a sufficient number of ballots as shall be necessary to supply all the electors desiring to vote thereon. The election shall be conducted, and the votes canvassed in all respects as in other township elections, and immediately upon the conclusion of such canvass the inspectors of election shall make and sign a certificate showing the whole number of votes cast upon such proposition and upon each of them, and the number for and against each of said propositions respectively. And said inspectors shall indorse upon such certificate a declaration in writing of the result of such election, which certificate and declaration shall then be filed with the clerk of said township and a copy of said certificate and declaration certified to by said township clerk, shall be filed by him with the county clerk of the county in which such township is situated.

Same; issuance, terms, limitation.

(5) If such loan is authorized by 2/3 of such electors, said bonds may be issued in such sums not exceeding the amount of the judgment or judgments for which said bonds were intended to pay including interest and costs and payable at such time and place, not exceeding 10 years from the date of such bonds and with such rate of interest not exceeding 6% per annum, as the said township board, by resolution, directs. Said bonds shall be signed by the township board, countersigned by the treasurer, and negotiated by and under the directions of said board, and the moneys arising therefrom shall be used for the purpose of paying the judgments which have been referred to in the notices of election and the ballots cast at such election and for no other purpose: Provided however, That no such bonds may be issued to an amount exceeding 3% of the assessed valuation of any such township: And provided further, That no such township shall issue a second series of bonds in and by virtue of this act.

Same; taxation for retirement.

(6) It is the duty of the said township board to provide for the raising by tax upon the taxable property of such township such sums of money as are sufficient to pay the amount of said bonds and the interest thereon as fast as the same become due.

Same; par value.

(7) No bonds issued under and by virtue of this section may be used or negotiated at less than their par value.

HISTORY: New 1961, p. 618, Act 236, Eff. Jan. 1, 1963.

600.6097 City and village judgment bonds; terms.

Sec. 6097. (1) Whenever any judgment of any court is rendered against any city or village, it is lawful for the common council of such city or village to issue the certificates of indebtedness or bonds of such city or village for the purpose of raising money to pay such judgment, in an amount not exceeding the sum of such judgment, and the costs and interest thereon, and all cost in connection with issuing such certificates of indebtedness or bonds, which certificates of indebtedness or bonds may be made payable at such time and place, and such rate of interest not exceeding 6% per annum, as the common council prescribes. Such certificates of indebtedness or bonds shall be sold and disposed of at not less than par value, in a manner deemed advisable by such common council.

Same; law inapplicable.

(2) The authorization, issuance, and selling of the bonds are not subject to the provisions of subsection (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 619, Act 236, Eff. Jan. 1, 1963.

CHAPTER 61.

PROCEEDINGS SUPPLEMENTARY TO JUDGMENT

600.6101 Proceedings supplementary to judgment.

Sec. 6101. A proceeding under this chapter may be maintained until the judgment is satisfied, vacated, or barred by the statute of limitations.

HISTORY: New 1961, p. 619, Act 236, Eff. Jan. 1, 1963.

600.6104 Proceedings supplementary to judgment; powers of court.

Sec. 6104. After judgment for money has been rendered in an action in any court of this state, the circuit judge may, on motion in that action or in a subsequent proceeding:

(1) Compel a discovery of any property or things in action belonging to a judgment debtor, and of any property, money, or things in action due to him, or held in trust for him;

(2) Prevent the transfer of any property, money or things in action, or the payment or delivery thereof to the judgment debtor;

(3) Order the satisfaction of the judgment out of property, money, or other things in action, liquidated or unliquidated, not exempt from execution;

(4) Appoint a receiver of any property the judgment debtor has or may thereafter acquire; and

(5) Make any order as within his discretion seems appropriate in regard to carrying out the full intent and purpose of these provisions to subject any nonexempt assets of any judgment debtor to the satisfaction of any judgment against the judgment debtor.

The court may permit the proceedings under this chapter to be taken although execution may not issue and other proceedings may not be taken for the enforcement of the judgment. It is not necessary that execution be returned unsatisfied before proceedings under this chapter are commenced.

HISTORY: New 1961, p. 619, Act 236, Eff. Jan. 1, 1963.

600.6107 Installment payments from income.

Sec. 6107. (1) Whether or not the judgment creditor has resorted to any remedy available under the garnishment or execution statutes, the court may order the judgment debtor to pay to the judgment creditor or apply on the judgment, in installments, such portion of his income, however or whenever earned or acquired, as the court may deem proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the judgment debtor under any legal process.

Same; reasonable value of services to relative, earning ability.

(2) Where the judgment debtor claims or is proved to be rendering services to or employed by a relative or other person or by a corporation owned or controlled by a relative or other person, without salary or compensation, or at a salary or compensation so inadequate as to satisfy the court that such salary or compensation is merely colorable and designed to defraud or impede the creditors of such debtor, the court may direct such debtor to make payments on account of the judgment, in installments, based upon a reasonable value of the services rendered by such judgment debtor under his said employment or upon said debtor's then earning ability.

Same; modification of order.

(3) The court may, from time to time, modify an order made under this section upon application of either party upon notice to the other.

Same; moneys awarded in matrimonial action.

(4) An order under this section, where the income sought to be reached consists in whole or in part of moneys awarded in a matrimonial action for the support of the judgment debtor by a court of this state, may be made only by such court. To enable the judgment creditor to apply for such an order, a proceeding under this chapter instituted in another court may be transferred to such court on order of such other court, without prejudice to the proceedings theretofore taken therein.

Same; statute of limitations.

(5) The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this section.

HISTORY: New 1961, p. 620, Act 236, Eff. Jan. 1, 1963.

600.6110 Discovery of assets; circuit court commissioner.

Sec. 6110. (1) The judge may refer the discovery of assets to a circuit court commissioner.

Examination of judgment debtor or his debtor.

(2) Upon an affidavit, showing to the satisfaction of the judge or commissioner that any person has money or property of the judgment debtor, or is indebted to him, the judge or commissioner may issue a subpoena requiring the judgment debtor or such person or both to appear at a specified time and place, and be examined on oath concerning the same, and to produce for examination any books, papers or records in his or its possession or control which have or may contain information concerning the property or income of the debtor.

Corporation; examination; adjournment.

(3) A corporation must attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge or commissioner may adjourn any proceedings under this chapter from time to time as he thinks proper.

Witnesses; use of answers; immunity.

(4) A party or witness examined under these provisions may not be excused from answering a question on the ground that his answer will tend to show him guilty of the commission of a fraud, or prove that he has been a party or privy to, or knowing of a conveyance, assignment, transfer, or other disposition of property for any purpose, or that he or another person claims to have title as against the judgment debtor or to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. But an answer cannot be used as evidence against the person so answering in any criminal proceeding or action.

HISTORY: New 1961, p. 621, Act 236, Eff. Jan. 1, 1963.

600.6113 Hearings; place; jury trial; mileage; expenses.

Sec. 6113. (1) Proceedings under this chapter are special proceedings, and shall be heard by the judge or commissioner without a jury, except as provided in subsection (3) of section 6128. Hearings may be held in chambers.

(2) A judgment debtor may be required to attend outside the county where he resides but the court may make such order as to mileage and expenses as is just.

HISTORY: New 1961, p. 621, Act 236, Eff. Jan. 1, 1963.

600.6116 Transfer of debtor's property; duration of restraint.

Sec. 6116. (1) An order for examination of a judgment debtor may contain a provision restraining the judgment debtor from making or suffering any transfer or other disposition of, or interference with any of his property then held or thereafter acquired by or becoming due to him not exempt by law from application to the satisfaction of the judgment, until further direction in the premises, and such other provisions as the court may deem proper.

(2) Unless previously vacated by order of the court or by stipulation of the parties in writing, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date thereof, at which time it shall be deemed vacated for all purposes unless extended by order of the court for good cause shown.

HISTORY: New 1961, p. 621, Act 236, Eff. Jan. 1, 1963.

600.6119 Transfer of property by third party; prohibition.

Sec. 6119. (1) When a third party having in his or its possession property or moneys belonging to the judgment debtor or who is indebted to the judgment debtor is subpoenaed or ordered to attend and be examined as authorized in this chapter, such third party is hereby forbidden to make or suffer any transfer or other disposition of, or to interfere with, any property belonging to the judgment debtor or to which he may be entitled or which may thereafter be acquired by or become due to said judgment debtor, or to pay over or otherwise dispose of any moneys due or to become due to such judgment debtor, not exempt by law from application to the satisfaction of the judgment, until the further order of the court except that such third party is not obliged to withhold the payment of any moneys beyond double the amount claimed in such subpoena by the judgment creditor. To effect such restraining provision, a copy of this section must be indorsed on or attached to the copy of the subpoena or order served on the third party.

Same; violation, contempt, civil liability.

(2) Any person served with said subpoena or order, who violates the provisions of such restraining provision, is subject to punishment by the court for contempt, and is liable to the judgment creditor for any damages sustained.

Same; transfer of property apparently belonging to others.

(3) The restraining effect of a subpoena served upon a third party shall not, however, apply to any property, money or indebtedness which appears from the books or records of the third party to belong to or to be due to a person or corporation other than the judgment debtor, unless the third party has knowledge or reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor; but the court may by order at any stage of the proceeding grant a restraining provision applicable to any such property, money or indebtedness, which is specified in the order, where it is shown to the court's satisfaction by affidavit or other written proof that there is reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor.

Same; duration of restraint.

(4) Unless previously vacated by order of the court or unless released in writing filed in the cause by the judgment creditor, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date of the service of the subpoena, at which time it is deemed vacated for all purposes unless extended by order of the court for good cause shown.

HISTORY: New 1961, p. 621, Act 236, Eff. Jan. 1, 1963.

600.6122 Transfer of property by third party; rights of judgment creditor; negotiable instruments.

Sec. 6122. (1) Every transfer by the judgment debtor by assignment or otherwise of any property held by, or debt due from a third party upon whom there has previously been served an order or subpoena containing an injunction as provided in section 6119, is subject to such rights and remedies as the judgment creditor would have had if such transfer had not been made, unless the transferee is a bona fide purchaser for value and without notice, in which case the judgment creditor shall have such rights and remedies in the property only if the value paid is returned to the bona fide purchaser.

(2) The foregoing provisions of (1) do not apply to:

(a) A transfer of a debt evidenced by a negotiable instrument which has been transferred to a transferee in good faith and for value, or

(b) Transfer of property which has been delivered, or for which a negotiable warehouse receipt, negotiable bill of lading or other negotiable document of title has been delivered, to a transferee in good faith and for value.

HISTORY: New 1961, p. 622, Act 236, Eff. Jan. 1, 1963.

600.6125 Injunction; vacation, bond.

Sec. 6125. Any person restrained by any injunction under this chapter from transferring or disposing of any property or paying any moneys or indebtedness, may move to vacate the injunction. The court shall vacate the injunction if the person gives bond with sureties approved by the court, the bond containing conditions specified by the court including:

(1) An undertaking to pay the judgment and costs of the proceeding if the judgment creditor or receiver is successful; or

(2) An undertaking in the sum equal to the value of the property or moneys to be released from restraint, to be paid to the judgment creditor or receiver if they are successful.

HISTORY: New 1961, p. 622, Act 236, Eff. Jan. 1, 1963.

600.6128 Trying title to debt or property; third party claimant; jury.

Sec. 6128. (1) Where it appears to the court that:

(a) The judgment debtor may have an interest in or title to any real property, and such interest or title is disclaimed by the judgment debtor or disputed by another person;

(b) The judgment debtor may own or have a right of possession to any personal property, and such ownership or right of possession is substantially disputed by another person; or

(c) A third party is indebted to the judgment debtor, and the obligation of the third party to pay the judgment debtor is disputed; the court may, if the person or persons claiming adversely is a party to the proceeding, adjudicate the respective interests of the parties in such debt or real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor, or that the debt is owed the judgment debtor.

(2) If the person claiming adversely to the judgment debtor is not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for early hearing.

(3) Any person so made a party, or any party to the original proceeding, may have

such issue determined by a jury upon demand therefor and payment of a jury fee as in other civil actions if such person would be entitled to a jury trial if the matter was adjudicated in a separate action.

HISTORY: New 1961, p. 623, Act 236, Eff. Jan. 1, 1963.

600.6131 Trying title to debt or property; burden of proof.

Sec. 6131. (1) The complaint shall make a prima facie case by introducing in evidence the judgment against the principal defendant, the execution with the levy thereon indorsed, and proof of the conveyance complained of. The burden of proof is then on the judgment debtor, the person claiming through him, or the person whom it is claimed holds the property in trust for him, to show that the transaction is in all respects bona fide or that such person is not holding as trustee of the judgment debtor.

Same; proceedings before sale on execution.

(2) In case of a levy on the equitable interest of a judgment debtor, the judgment creditor, may, before the sale on execution, institute proceedings under this chapter to ascertain and determine the rights and equities of the judgment debtor in the property levied on. Where no such proceedings are instituted prior to the sale on execution, they must be instituted within 1 year thereafter.

Same; transfers within 1 year before action; burden of proof.

(3) Where it appears that the judgment debtor at any time within 1 year prior to the date of the commencement of the action in which the judgment is entered has had title to or has paid the purchase price of any real or personal property to which at the time of the examination his wife, or any relative or any person on confidential terms with the judgment debtor may claim title or right of possession, the burden of proof shall be upon such judgment debtor, or person claiming title or right of possession, to establish that such transfer or gift from him was not made for the purpose of delaying, hindering and defrauding creditors.

HISTORY: New 1961, p. 623, Act 236, Eff. Jan. 1, 1963.

600.6134 Fraudulent transfers.

Sec. 6134. For the purposes of this chapter a person is deemed to be indebted to the judgment debtor, although any debt in question has been assigned, charged or encumbered by the judgment debtor, if the assignment, charge or encumbrance is fraudulent as against creditors or is otherwise voidable.

HISTORY: New 1961, p. 623, Act 236, Eff. Jan. 1, 1963.

600.6137 Payment by debtor of judgment debtor.

Sec. 6137. Any person indebted to a judgment debtor may pay to the clerk of the court the amount of his debt, or so much thereof as is necessary to satisfy the judgment and costs. The receipt of the clerk is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid. The clerk shall apply such amount to the satisfaction of the judgment and costs, and any surplus shall be paid to the judgment debtor.

HISTORY: New 1961, p. 624, Act 236, Eff. Jan. 1, 1963.

600.6140 Orders affecting alienability of land; recording.

Sec. 6140. Any order under this chapter which affects or may limit the alienability of real property, or a certified copy thereof, may be filed for record in the office of the register of deeds of the county in which such real property is situated together with a description of the real property involved. The register of deeds shall record such notice as if filed under Chapter 27 and it shall have the same effect.

HISTORY: New 1961, p. 624, Act 236, Eff. Jan. 1, 1963.

600.6143 Scope of chapter.

Sec. 6143. This chapter is in addition to and does not affect enforcement of judgments or proceedings supplementary thereto, by any other methods now or hereafter provided by law.

HISTORY: New 1961, p. 624, Act 236, Eff. Jan. 1, 1963.

CHAPTER 62.

INSTALLMENT JUDGMENTS

600.6201 Judgment; payment by installments; jurisdiction, retroactive application.

Sec. 6201. (1) The judge of any court having civil jurisdiction, or any justice of the peace, at the time of the rendition of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a written order permitting the defendant to pay such judgment in installments, at such times and in such amounts as in the opinion of such judge or justice, the defendant is able to pay.

(2) Any such judge or justice may make a written order permitting the defendant to pay any judgment previously rendered in or transcribed to his court in installments, upon compliance by the defendant with the provisions of this chapter and the rules of court.

HISTORY: New 1961, p. 624, Act 236, Eff. Jan. 1, 1963.

600.6205 Judgment; payment by installments; petition, notice, affidavit, garnishment.

Sec. 6205. (1) At any time after the rendition of a judgment or the filing of a transcript of a judgment the defendant may file a petition with the justice of the peace, justice clerk, or clerk of the court in which the judgment was rendered, or transcript filed, requesting the justice or clerk to issue a notice, directed to the plaintiff personally, or if said plaintiff's action was filed by an agent or attorney or acted upon by an agent or attorney either at the time of the rendition of the judgment, or after, as shown by the court files in said cause, such notice may be directed to the said plaintiff with the name of such agent or attorney designated, and served on said agent or attorney of record and have the same force and effect as a notice served on said plaintiff personally.

(2) Such notice shall notify the plaintiff that on a certain day and time to be therein specified, the defendant will move the court for an order permitting the payment of the judgment in installments.

(3) Such petition of said defendant shall be supported by the affidavit of the moving party setting forth his inability to pay said judgment with funds other than those earned by him as wages, and setting forth the name and address of his employer, the amount of said wages and the date of payment thereof.

(4) No garnishment may issue on said judgment after the filing of the petition herein mentioned excepting upon the written order of the judge or justice.

HISTORY: New 1961, p. 624, Act 236, Eff. Jan. 1, 1963.

600.6211 Judgment; payment by installments; service of notice; hearing; garnishment.

Sec. 6211. (1) Such notice shall be served at least 4 days before the date set for hearing the motion, by placing the same in the United States mail in an envelope properly stamped and addressed to the plaintiff, his agent or attorney.

(2) Unless the motion is heard and ruled upon within 14 days from the time of filing

the petition, subsection (4) of section 6205 shall not apply unless otherwise ordered by the court.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6215 Judgment; payment by installments; hearing and order; stay of garnishment.

Sec. 6215. (1) On the date set for the hearing, the plaintiff may have an opportunity to cross-examine the moving party as to the facts set forth in said motion, and the judge or justice may then enter an order requiring said defendant to pay to the clerk of the court or to the plaintiff direct, a certain sum of money weekly, biweekly or monthly, to apply on said judgment.

(2) The order shall stay the issuance of any writ of garnishment for work and labor during the period that said defendant complies with said order. The order shall not stay garnishment if the defendant fails to comply with its terms.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6221 Judgment; payment by installments; alteration of amounts and times of payment of installments.

Sec. 6221. The judge or justice may, on motion of either party, following due notice to the other, alter the amounts and times of payment of such installments from time to time when he may deem it advisable and fair.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6225 Judgment; payment by installments; agreement.

Sec. 6225. A written agreement for the payment of a judgment in installments, signed by the parties, their attorneys or authorized agents of record in the judgment file in their behalf, and filed with the clerk of the court or justice, shall have the same force and effect as an order made by the judge or justice.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6231 Judgment; payment by installments; garnishment, validity.

Sec. 6231. The garnishment of any money due or to become due for the personal work and labor of the defendant upon a judgment made payable in installments either by the court order or agreement of parties, is hereby prohibited, excepting upon the written order of the judge or justice; and any writ of garnishment issued without such order is void; but any such order may be made following due notice to the defendant if installments are due.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6235 Judgment; payment by installments; statute of limitations.

Sec. 6235. The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this chapter.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6241 Judgment; payment by installments; court with more than one judge; court rules.

Sec. 6241. In any court having more than 1 judge or justice, all powers granted and duties imposed by this chapter may be executed in accordance with the rules of said court.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6245 Judgment; payment by installments; collection of judgment, other methods.

Sec. 6245. Nothing contained in this chapter shall be construed to prohibit and shall not prohibit a plaintiff from taking any legal means for the collection of a judgment excepting the garnishment of money due or to become due the defendant for the personal work and labor of the said defendant.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

600.6251 Judgment; payment by installments; record; affidavit for transcript, contents.

Sec. 6251. Every proceeding instituted by a judgment debtor pursuant to this chapter shall appear upon and as part of the record of the judgment. No transcript of such judgment shall issue out of the court pending the hearing upon any motion instituted under this chapter. Every affidavit for a transcript of any judgment rendered by the court shall contain an averment by the affiant either that a stay order has issued and is in effect, or, that no proceeding under this chapter has been instituted upon the judgment, or, if a proceeding has been instituted, that a stay order was finally denied after a hearing pursuant to the provisions of this chapter, or, if a stay order has issued, that the order was vacated under the provisions of this chapter.

HISTORY: New 1961, p. 625, Act 236, Eff. Jan. 1, 1963.

CHAPTER 64.

COURT OF CLAIMS

600.6401 Court of claims; short title.

Sec. 6401. This chapter shall be known and may be cited as "the court of claims act".

HISTORY: New 1961, p. 626, Act 236, Eff. Jan. 1, 1963.

CITED IN OTHER SECTIONS: Sections 600.6401 to 600.6475 are cited in § 691.1410.

600.6404 Court of claims; designation of judge absence or disability.

Sec. 6404. (1) The court of claims is hereby created. The supreme court administrator shall, from time to time, designate 1 or more of the circuit judges of the state to sit in said court as the judge thereof. Not more than 1 judge shall sit at the city of Lansing at any time. Any circuit judge so designated to sit as the judge of the court of claims who is not a resident of the city within which the court is held shall be compensated for the actual and necessary expenses incurred by him in traveling to and from the place of holding such court and during his stay there, to be paid out of the appropriation made therefor by the legislature.

(2) In case of the disability or absence from the place of holding court of any circuit judge before whom while sitting as the judge of the court of claims any case has been tried or motion heard, any other circuit judge designated to sit as the judge of the court of claims is hereby authorized to continue, hear, determine and sign all matters that his predecessor could have continued, heard, determined, and signed.

(3) In case a circuit judge so designated to sit as the judge of the court of claims shall die before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues therein involved, any successor of his as judge of the court of claims shall be and he is hereby authorized and empowered to proceed with said suit in a manner consistent with said finding or opinion and he is hereby given the same powers as he would have had if said finding of fact had been made or said opinion had been rendered by such successor himself.

HISTORY: New 1961, p. 626, Act 236, Eff. Jan. 1, 1963.

600.6407 Court of claims; sessions, place; court officer.

Sec. 6407. The court shall hold at least 4 sessions in each year. Each of such sessions shall be held in the city of Lansing, except that if the judge or the supreme court administrator determines that the hearing of a particular case could be held at less expense in some other place in the state, he may designate the time and place of holding such session accordingly, giving due notice to all interested parties. In such case the sheriff of the county within which such case is heard, or 1 of his deputies, shall serve as court officer without additional compensation therefor. The department of administration shall furnish the court with suitable space and equipment in the city of Lansing.

HISTORY: New 1961, p. 626, Act 236, Eff. Jan. 1, 1963.

600.6410 Court of claims; clerk and stenographer; compensation, expenses; court officer, service of process.

Sec. 6410. (1) The supreme court administrator shall, under the direction of the supreme court, appoint or remove 1 person who shall act as both clerk and stenographer of said court. The person designated as such shall receive such salary as shall be appropriated by the legislature, payable semimonthly. For making copies of records, proceedings and testimony and furnishing the same at the request of the claimant, or any other person, he shall be entitled in addition to the salary, to the same fees as are by law provided for court stenographers in the circuit court of this state. No charge shall be made against the state for services rendered by him as clerk or stenographer or for furnishing copies of records, proceedings or testimony or other papers to the attorney general and he shall receive no compensation for such services other than the salary provided for herein. In case of necessity the judge may appoint another person to act temporarily as clerk and stenographer of such court.

(2) The clerk shall furnish the court with such clerical and stenographic assistants as may be necessary and shall determine the compensation to be paid therefor, which shall be reasonable for the services rendered and shall be paid out of the appropriation made therefor by the legislature.

(3) Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of a circuit court.

(4) The clerk and stenographer and other clerical and stenographic assistants shall be paid their actual expenses incurred while in the discharge of their respective duties outside the city of Lansing.

HISTORY: New 1961, p. 626, Act 236, Eff. Jan. 1, 1963.

600.6413 Court of claims; salaries and expenses, payment.

Sec. 6413. The clerk shall have authority to sign vouchers under the direction of the court for the expenses and salaries of the officers and employees of the court, which shall be paid as are other state appropriated funds.

HISTORY: New 1961, p. 627, Act 236, Eff. Jan. 1, 1963.

600.6416 Court of claims; representation of state by attorney general or assistants.

Sec. 6416. The attorney general, or his assistants, shall appear for and represent the interests of the state in all matters before the court.

HISTORY: New 1961, p. 627, Act 236, Eff. Jan. 1, 1963.

600.6419 Court of claims; jurisdiction; claims less than \$100; counterclaims.

Sec. 6419. (1) Except as provided in section 6440, the jurisdiction of the court of claims as conferred upon it by this chapter over claims and demands against the state or any of its departments, commissions, boards, institutions, arms or agencies, shall be

exclusive. The state administrative board is hereby vested with discretionary authority upon the advice of the attorney general, to hear, consider, determine and allow any claim against the state in an amount less than \$100.00. Any claim so allowed by the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the said allowed claim by the secretary of the state administrative board to the clerk of the court of claims. The court has power and jurisdiction:

(a) To hear and determine all claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state and any of its departments, commissions, boards, institutions, arms or agencies.

(b) To hear and determine any claims or demands, liquidated or unliquidated, ex contractu or ex delicto, which may be pleaded by way of counterclaim on the part of the state or any department, commission, board, institution, arm or agency thereof against any claimant who may bring suit in such court. Any such claim of the state or any department, commission, board, institution, arm or agency thereof may be pleaded by way of counterclaim in any action brought against the state, or such or any other department, commission, board, institution, arm or agency of the state.

Same; judgment; counterclaims; process.

(2) The judgment entered by the court of claims upon any such claim, either against or in favor of the state or any department, commission, board, institution, arm or agency thereof, upon becoming final shall be res adjudicata of such claim. Upon the trial of any cause in which any demand is made by the state or any department, commission, board, institution, arm or agency thereof, against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each of such claims or demands and if the court shall find a balance due from the claimant to the state it shall render judgment in favor of the state for such balance. Writs of execution or garnishment may issue upon said judgment the same as from one of the circuit courts of this state. The judgment entered by the court of claims upon any such claim, either for or against the claimant shall be final unless appealed from as herein provided.

Same; jurisdiction, workmen's compensation, national guard, peace officers.

(3) The court of claims shall not have jurisdiction of any claim for compensation under the provisions of either:

(a) Act No. 10 of the Public Acts of the First Extra Session of 1912, as amended;

(b) Act No. 93 of the Public Acts of 1929, being sections 17.91 and 17.92 of the Compiled Laws of 1948, as amended; or

(c) Act No. 329 of the Public Acts of 1937, as amended.

Same; jurisdiction, circuit courts, sales tax, other statutory claims; review of unemployment claims.

(4) This chapter shall not be construed so as to deprive the circuit courts of this state of jurisdiction over actions brought by the taxpayer under the provisions of Act No. 167 of the Public Acts of 1933 or any other actions against state agencies based upon the statutes of the state of Michigan in such case made and provided, which expressly confer jurisdiction thereof upon the circuit courts, nor of the proceedings to review findings as provided in Act No. 1 of the Public Acts of the Extra Session of 1936, or any other similar proceedings expressly authorized by the statutes of the state of Michigan in such case made and provided.

HISTORY: New 1961, p. 627, Act 236, Eff. Jan. 1, 1963.

600.6422 Court of claims; practice and procedure.

Sec. 6422. Practice and procedure in the court of claims shall be in accordance with the statutes and court rules prescribing the practice in the circuit courts of this state, except as herein otherwise provided. The supreme court shall have power to make special rules for said court.

HISTORY: New 1961, p. 628, Act 236, Eff. Jan. 1, 1963.

600.6425 Court of claims; depositions.

Sec. 6425. The statutes and rules governing the taking of depositions in suits in the circuit courts of this state shall govern in the court of claims, except that it is not sufficient that the witness resides more than 50 miles from the place of holding court to enable the deposition to be used for any purpose.

HISTORY: New 1961, p. 628, Act 236, Eff. Jan. 1, 1963.

600.6428 Court of claims; witnesses, power to compel attendance.

Sec. 6428. The court of claims is hereby given the same power to subpoena witnesses and require the production of books, papers, records, documents and any other evidence and to punish for contempt as the circuit courts of this state now have or may hereafter have. The judge and clerk of said court may administer oaths and affirmations, and take acknowledgments of instruments in writing.

HISTORY: New 1961, p. 628, Act 236, Eff. Jan. 1, 1963.

600.6431 Court of claims; notice of intention to file claim, contents, time, verification, copies.

Sec. 6431. (1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.

(2) Such claim or notice shall designate any department, commission, board, institution, arm or agency of the state involved in connection with such claim, and a copy of such claim or notice shall be furnished to the clerk at the time of the filing of the original for transmittal to the attorney general and to each of the departments, commissions, boards, institutions, arms or agencies designated.

(3) In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action.

HISTORY: New 1961, p. 628, Act 236, Eff. Jan. 1, 1963.

CITED IN OTHER SECTIONS: The above section is cited in § 691.1404.

600.6434 Court of claims; pleading, copies.

Sec. 6434. (1) Except as provided herein, the pleadings shall conform to the rules for pleadings in the circuit courts.

(2) The complaint shall be verified. The pleadings of the state need not be verified.

(3) With each paper, including the original complaint filed by the claimant, 2 copies thereof shall be furnished the clerk who shall immediately transmit 1 such copy to the attorney general and the other to the department, commission, board, institution, arm or agency involved in such litigation.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6437 Court of claims; judgment on stipulated facts.

Sec. 6437. The court may order entry of judgment against the state or any of its departments, commissions, boards, institutions, arms or agencies based upon facts as stipulated by counsel after taking such proofs in support thereof as may be necessary to satisfy the court as to the accuracy of such facts and upon being satisfied that such judgment is in accordance with applicable law.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6440 Court of claims; remedy in federal court as bar to jurisdiction.

Sec. 6440. No claimant may be permitted to file claim in said court against the state nor any department, commission, board, institution, arm or agency thereof who has an adequate remedy upon his claim in the federal courts, but it is not necessary in the complaint filed to allege that claimant has no such adequate remedy, but that fact may be put in issue by the answer or motion filed by the state or the department, commission, board, institution, arm or agency thereof.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6443 Court of claims; trial by court without jury; new trial.

Sec. 6443. The case shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit courts of this state, in a case at law without a jury.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6446 Court of claims; appeal to supreme court, procedure.

Sec. 6446. Appeals shall lie from the court of claims to the supreme court in all respects as if said court were one of the circuit courts of this state.

The procedure for the taking of appeals to the supreme court from the court of claims shall be governed by the statutes and court rules governing the taking of appeals from the circuit courts of this state to the supreme court in a case at law, without a jury.

The clerk of the court of claims shall forthwith furnish the parties to every action with a notice of entry of any final order or judgment, and the time within which an appeal as of right may be taken shall be governed by the Michigan court rules as now or hereafter adopted.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6449 Court of claims; costs, security for costs on appeal.

Sec. 6449. (1) If the state shall put in issue the right of claimant to recover, the court may, in its discretion, allow costs to the prevailing party from the time of the joining of such issue. Such costs, however, shall include only witness fees and officers' fees for service of subpoenas actually paid, and as attorney fees the same amount as is provided for trial of cases in circuit courts.

(2) Costs upon an appeal to the supreme court shall be allowed in like amounts and for the same items as in a case appealed to the supreme court from one of the circuit courts of this state.

(3) In the case of costs allowed against a claimant, judgment shall be entered thereon and writs of execution or garnishment may issue as from one of the circuit courts of the state.

(4) In the event of an appeal to the supreme court by a claimant the judge may in his discretion, upon motion by the attorney general, require security for costs from the claimant in connection with such an appeal.

HISTORY: New 1961, p. 629, Act 236, Eff. Jan. 1, 1963.

600.6452 Court of claims; filing of claim, time, limitation of actions.

Sec. 6452. (1) Every claim against the state, cognizable by the court of claims, shall be forever barred unless the claim is filed with the clerk of the court or suit instituted thereon in federal court as authorized in section 6440, within 3 years after the claim first accrues.

Same; limitation of actions.

(2) Except as modified by this section, the provisions of RJA chapter 58, relative to the limitation of actions, shall also be applicable to the limitation prescribed in this section.

Attorney general; petition for administration of estate of a deceased person.

(3) The attorney general shall have the same right as a creditor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the granting of letters of administration of the estate of any deceased person.

Same; petition for appointment of guardian of minor or person under disability.

(4) The attorney general shall have the same right as a superintendent of the poor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the appointment of a guardian of the estate of a minor or any other person under disability.

HISTORY: New 1961, p. 630, Act 236, Eff. Jan. 1, 1963.

600.6455 Court of claims; judgment, interest.

Sec. 6455. No interest shall be allowed upon any claim up to the date of the rendition of judgment by the court, unless upon a contract expressly stipulating for the payment of interest. All judgments from the date of the rendition thereof shall carry interest at the rate of 5% per annum, except that judgment upon a contract expressly providing for interest shall carry interest at the rate provided by said contract in which case provision to that effect shall be incorporated in the judgment entered.

HISTORY: New 1961, p. 630, Act 236, Eff. Jan. 1, 1963.

600.6458 Court of claims; judgment against state, payment.

Sec. 6458. (1) In rendering any judgment against the state, or any department, commission, board, institution, arm or agency thereof, the court shall determine and specify in such judgment the department, commission, board, institution, arm or agency from whose appropriation such judgment shall be paid.

(2) Upon any judgment against the state or any department, commission, board, institution, arm or agency thereof becoming final, or upon allowance of any claim by the state administrative board and upon certification thereof by the secretary of the state administrative board to the clerk of the court of claims, he, the clerk of the court shall certify to the auditor general the fact that such judgment was entered or that such claim was allowed and the same shall thereupon be paid from the unencumbered appropriation of the department, commission, board, institution, arm or agency: Provided, however, That the auditor general determines the funds therein are sufficient for such payment. In the event that funds are not available to pay any such judgment or allowed claim, the auditor general shall instruct the clerk of the court of claims to issue a voucher against an appropriation made by the legislature for the payment of judgment claims and allowed claims. In the event that funds are not available to pay any such judgment or allowed claim, such fact, together with the name of the claimant, date of judgment, date of allowance of claim by the state administrative board and amount thereof shall be reported to the legislature at its next session, and said judgment or allowed claim shall be paid as soon as moneys are available for such purpose. The clerk shall not certify any judgment to the auditor general until the period

for appeal from such judgment shall have expired, unless written stipulation between the attorney general and the claimant or his attorney, waiving any right of appeal or new trial, is filed with the clerk of the court.

(3) The clerk shall approve vouchers under the direction of the court for the payment of the several judgments rendered by said court. All warrants issued in satisfaction of said judgments shall be transmitted to the clerk for distribution; and all warrants issued in satisfaction of claims allowed by the state administrative board shall be transmitted to the secretary of said board for distribution.

HISTORY: New 1961, p. 630, Act 236, Eff. Jan. 1, 1963.

600.6461 Court of claims; clerk's report to legislature, auditor general and budget director.

Sec. 6461. (1) At the commencement of each session of the legislature and at such other times during the session as he may deem proper, the clerk of the court shall report to the legislature the claims upon which the court has finally acted, with a statement of the judgment rendered in each case.

(2) The clerk shall submit a detailed statement of the amount of each claim allowed by the court to the auditor general and the budget director.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

600.6464 Court of claims; judgment, discharge.

Sec. 6464. The payment of any amount due as found by the judgment of the court of claims, including interest and costs, shall operate as a discharge of such judgment.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

600.6467 Court of claims; state agencies to furnish information upon request.

Sec. 6467. The court shall have power to call upon any officer, department, institution, board, arm or agency of the state government for any examination, information or papers pertinent to the issues involved in any case then pending before the court. No state employee shall receive any additional fees or compensation for rendering such services or appearing as a witness before the court upon behalf of the state.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

600.6470 Court of claims; fraud in connection with claim; forfeiture.

Sec. 6470. Any person who corruptly practices, or attempts to practice, any fraud against the state of Michigan, in the proof, statement, establishment, or allowance of any claim or of any part of a claim, against the state, shall thereby forfeit the same to the state and it shall be the duty of the court of claims in such case to find specifically that such fraud was practiced, or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to the state and that the claimant be forever barred from prosecuting the same.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

600.6475 Court of claims; actions involving negligent operation of motor vehicles or aircraft; defense of governmental function.

Sec. 6475. In all actions brought in the court of claims against the state to recover damages resulting from the negligent operation by an officer, agent or employee of the state of a motor vehicle or an aircraft, other than a military aircraft, of which the state is owner, the fact that the state, in the ownership or operation of such motor vehicle or aircraft, was engaged in a governmental function shall not be a defense to such action. This act shall not be construed to impose upon the state a liability other or greater than the liability imposed by law upon other owners of motor vehicles or aircraft.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

CHAPTER 66.

JURISDICTION, POWERS AND DUTIES OF JUSTICES OF THE PEACE

600.6601 Justices of the peace; jurisdiction; place of court.

Sec. 6601. (1) Every justice of the peace elected in any township or city of this state and duly qualified, according to law, shall have original jurisdiction of all civil actions, including actions for the recovery of penalties and forfeitures wherein the debt or damages do not exceed the sum of \$100.00, and concurrent jurisdiction in all civil actions wherein the debt or damages do not exceed \$300.00, except as provided in section 6615, and to hear, try and determine the same according to law.

(2) No justice of the peace may hold court or try any cause, civil or criminal, in any other township or city than that in which he was elected and qualified, except in cases where special provision is otherwise made by law.

(3) Nothing in this act shall decrease the jurisdiction of a justice of the peace having higher jurisdiction in civil or criminal actions under the city charter of an incorporated city.

HISTORY: New 1961, p. 631, Act 236, Eff. Jan. 1, 1963.

600.6605 Justices of the peace; jurisdiction against school districts.

Sec. 6605. Justices of the peace shall have jurisdiction in all cases of assumpsit, trespass on the case and replevin against school districts, when the amount claimed, or matter in controversy shall not exceed \$100.00; and the parties shall have the same right of appeal as in other cases.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6611 Justices of the peace; general powers.

Sec. 6611. Justices' courts are hereby vested with all such powers, for the purpose of exercising jurisdiction conferred by this chapter, as are usual in courts of record, except the power of setting aside a verdict and arresting judgment thereon.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6615 Justices of the peace; jurisdiction, restrictions.

Sec. 6615. No justice of the peace may have cognizance of the following actions:

(1) Real actions, actions for a disturbance of a right of way or other easement, actions for libel or slander, malicious prosecution or false imprisonment, and actions against executors or administrators as such, except in the cases specially provided by law;

(2) Where the title to real estate shall come in question except as hereinafter mentioned;

(3) Actions against life insurance companies, cooperative and mutual benefit associations, fraternal beneficiary societies, for any liability arising out of any policy or benefit certificate contract, except that jurisdiction is hereby expressly given to justices of the peace over any action arising out of any such policy or contracts issued or made in respect to sick and/or accident benefits, subject to restrictions prescribed in section 6601.

(4) Actions against municipal corporations, except in cases especially provided for by law.

Justices of the peace may have jurisdiction in actions for damages resulting from obstructions to highways, subject to the restrictions prescribed in section 6601.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6621 Justices of the peace; actions against corporations.

Sec. 6621. All actions against corporations, except as otherwise provided, shall be cognizable before a justice of the peace in like manner and with like restrictions as the

same are or may be by law before a justice of the peace when brought against an individual.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6625 Justices of the peace; action by county.

Sec. 6625. Any action in favor of a county, which, if prosecuted by an individual, could be prosecuted before a justice of the peace, may be prosecuted by such county in like manner before any such justice.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6631 Justices of the peace; assumpsit on bond.

Sec. 6631. Whenever any cause of action accrues to any person by reason of a breach of the condition of any bond, where the amount of damages claimed does not exceed the jurisdiction of any justice's court in actions upon a contract, an action of assumpsit may be brought on such bond in such justice's court, and the recovery therefor shall not be a bar to a subsequent suit for further breaches of the condition of such bond.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6635 Justices of the peace; effect of consanguinity or other interest.

Sec. 6635. No justice may take cognizance of any cause or do any judicial act when he is related within the fourth degree (civil law) of affinity or consanguinity to either party in any such matter, or has been of counsel, or is directly or indirectly interested in such cause or matter, or when he is related within the third degree (civil law) of consanguinity to either of the attorneys, counselors or agents of either party to said cause, unless the parties interested in such cause, or their agents or attorneys, shall, with full knowledge of such disability, expressly consent that such justice may take cognizance of such cause or do such act.

HISTORY: New 1961, p. 632, Act 236, Eff. Jan. 1, 1963.

600.6641 Justices of the peace; court not to be in barroom.

Sec. 6641. No justice of the peace may hold any court in any barroom, or any other place where any intoxicating liquors shall be sold.

HISTORY: New 1961, p. 633, Act 236, Eff. Jan. 1, 1963.

600.6645 Justices of the peace; venue, exception as to certain cities; common pleas court.

Sec. 6645. Every action commenced in such court shall be brought before some justice of the peace of the city or township where:

- (1) The plaintiffs or any of them reside; or
- (2) Where the defendants or any of them reside; or
- (3) Before some justice of another township or city in the same county, next adjoining the residence of the plaintiff or defendant or 1 of the plaintiffs or defendants. Justices of the peace in cities having a population of 10,000 or more shall have exclusive jurisdiction, concurrent jurisdiction of courts of record excepted, in causes or proceedings where all the parties to the same reside in said city at the time of the commencement of the proceeding or cause, and in cases where the original cause of action existed in favor of a plaintiff and against a defendant, both residents of said city, and has been assigned to a nonresident of said city; or
- (4) Before some justice of a city in the same county formed from a township or townships next adjoining the residence of the plaintiff or defendant, or 1 of the plaintiffs or defendants; or
- (5) Where the defendant is a foreign corporation, if service of process cannot be had in the county of the plaintiff's residence, suit may be brought before any justice of the peace of any county in which service of process may be had; but nothing herein con-

tained shall change or limit the jurisdiction of a justice of the peace, where the same has been prescribed by the charter of an incorporated city; or

(6) In any county now or hereafter having a population of less than 50,000 by the latest federal census, and in which the plaintiffs, or any of them, or the defendants, or any of them, reside, such action may be brought before any justice of the peace in the township or city in which is located the county seat of such county, except as provided in subdivision (3) of this section.

(7) Common pleas courts shall have exclusive jurisdiction except for concurrent jurisdiction of courts of record in all civil causes or proceedings where the defendant is a resident of the city where the court is located at the time of the commencement of the action unless the cause or proceeding is brought in a municipal court of the same county in a city in which one of the parties resides or in a court of competent jurisdiction at the place where the cause of action arose.

HISTORY: New 1961, p. 633, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 402, Act 187, Imd. Eff. May 24.

600.6651 Justices of the peace; venue of action involving absconded, absent or nonresident defendant.

Sec. 6651. If a defendant has absconded from his residence, or has been continuously absent therefrom for a period of 90 days, such action may be brought before any justice of the township or city in which such defendant or his property may be; and if the plaintiffs are all nonresidents of the county, or if the defendant is a nonresident of the county, then such action may be brought before any justice of the township or city where such plaintiffs or defendants, or either of them, may be.

HISTORY: New 1961, p. 633, Act 236, Eff. Jan. 1, 1963.

600.6655 Justices of the peace; forms of actions.

Sec. 6655. (1) The following forms of actions at law are retained for justice courts so far as such courts have jurisdiction of such actions; actions of assumpsit, trespass on the case, replevin, ejectment, certiorari, mandamus and quo warranto. All other forms of actions at law are abolished. In all cases where the actions of covenant or debt would be otherwise maintainable, the action of assumpsit shall hereafter be brought, and in all cases where actions of trespass or trover would be otherwise maintainable, the action of trespass on the case be brought.

(2) In cases of trespass on lands and in cases where an action on the case for fraud or deceit may by law be brought, and in cases of the conversion of personal property into money, the plaintiff may bring and maintain either an action of assumpsit, or an action of trespass on the case. In all cases not otherwise specially provided for by law, where a pecuniary penalty or forfeiture shall be incurred by any person, and the act or omission for which the same is imposed, shall not also be a misdemeanor, such penalty or forfeiture may be recovered in an action of assumpsit. In all such cases where assumpsit is brought, a promise shall be implied by law to pay all just damages sustained by plaintiff and may be so declared upon.

HISTORY: New 1961, p. 633, Act 236, Eff. Jan. 1, 1963.

600.6661 Justices of the peace; jurisdiction in cities in replevin and attachment.

Sec. 6661. In all cities where the jurisdiction of justices of the peace in civil actions upon contract has been increased to \$500.00 by charter or otherwise, such justices of the peace shall have original jurisdiction in all cases of replevin and attachment wherein the value of the property involved does not exceed \$100.00 and concurrent jurisdiction in all such cases wherein the value of the property involved does not exceed \$500.00.

HISTORY: New 1961, p. 634, Act 236, Eff. Jan. 1, 1963.

CHAPTER 67.

COMMENCEMENT OF ACTIONS AND SERVICE OF PROCESS IN JUSTICE COURT

600.6701 Security for costs; discretion of justice; nonresidents.

Sec. 6701. (1) Any justice of the peace may, either before or after the issuing of any process, in his discretion, require security of the plaintiff for any costs which may be adjudged against him in any action. The person becoming such security shall sign an undertaking, in writing, to that effect, upon the docket of said justice, or he may sign a separate undertaking which shall be filed with the justice.

(2) In all cases, except as provided in section 6703, the court shall require plaintiffs who are not residents of the county in which the suit is brought, to give such security upon demand therefor by the defendant. If any plaintiff, after commencing an action in the county in which he resides, shall remove from said county, the justice shall require such plaintiff to give security for all costs which have accrued and may accrue in the action.

(3) If a judgment is rendered against the plaintiff in any case for costs, an execution may issue against said plaintiff and the person becoming security for said costs; and in case the defendant recovers against said plaintiff any sum besides costs a separate execution may issue for the collection of the same.

HISTORY: New 1961, p. 634, Act 236, Eff. Jan. 1, 1963.

600.6703 Security for costs; action for personal work and labor.

Sec. 6703. In any suit brought to recover for the personal work and labor of the plaintiff, security for costs shall not be ordered in case the plaintiff shall make and file with the court an affidavit that he has a good and meritorious cause of action and is unable to procure security for costs.

HISTORY: New 1961, p. 634, Act 236, Eff. Jan. 1, 1963.

600.6705 Commencement of actions.

Sec. 6705. Suits may be instituted before a justice either by the voluntary appearance of the parties or by process; and when by process, it shall be either a summons, a warrant, an attachment, or writ of replevin; but no process shall contain the names of the defendants in more than 1 action.

HISTORY: New 1961, p. 634, Act 236, Eff. Jan. 1, 1963.

600.6707 Process; signature, seal, address, contents.

Sec. 6707. All process issued by a justice of the peace shall be signed by him, and may be under seal or without seal. Such process shall have the name of the justice of the peace and the address of the place of holding court printed or typewritten legibly below his signature. It is not necessary in any process to recite any of the contents or conditions of any bond or affidavit required to be made or filed before the issue of such process, but in any case the statement in such process that such affidavit or bond has been made or filed is sufficient.

HISTORY: New 1961, p. 634, Act 236, Eff. Jan. 1, 1963.

600.6709 Clerk of justice court; signature on process and papers, form.

Sec. 6709. (1) In all justices' courts in this state authorized by law to appoint or elect a clerk, or where said clerk is otherwise appointed or elected, the name of the justice of the peace of said court may be written upon all summonses and garnishee summonses, transcripts, returns on appeal, appointments of next friend and subpoenas in the following form:

John Doe, Justice of the Peace,

By

Clerk or Deputy Clerk.

Same; effect of signature.

(2) The clerks or the deputy clerks of said courts are hereby authorized to sign the name of the justice of the peace upon all such documents, papers and process and the same, when so signed, shall have full force and effect as if signed by the justice of the peace of such court.

Same; signatures permitted by rule of court.

(3) In justices' courts having a clerk and deputies and 3 or more justices, the clerk or any of his deputies may be authorized by rule of the court to sign documents and executions in the same manner and with like effect as is provided for above for signing subpoenas and other papers.

Court rules in courts with 3 or more justices; organization and procedure; publication; printing.

(4) In justices' courts having a clerk and 3 or more justices, such justices may, by a majority vote, adopt rules providing for the organization of such courts and the procedure and practice therein. Such rules shall not, except as hereinafter provided, be inconsistent with general or special acts applicable in the premises. Such rules shall not become effective until they have been printed in some newspaper circulating in the township or municipality in which such court is established at least 6 days in succession, and placed in the hands of the clerk for distribution for 6 days, who, upon application, shall furnish, without charge, a copy of said rules with amendments thereto. The expense of such printing shall be borne and audited in the same manner as other printing bills of such court.

Same; presiding justice; assignment of cases; supervision of court business.

(5) Such rules shall be observed and enforced uniformly by all the justices in said courts. The justices may provide, in such rules, for the selection from their number of a presiding justice and fix his term and provide that all cases commenced shall be assigned by the clerk to him, to be in turn assigned by such presiding justice to one of the associate justices of such court at such time and in such manner as the rules shall provide for. Such rules may further empower such presiding justice to have general superintendence and supervision over the business of said court and the justices thereof and to impose in such presiding justice powers and duties which would otherwise by law rotate among the justices thereof.

Same; first and alias summons, signatures.

(6) In justices' courts having a clerk and 3 or more justices, the first summons or other process issued may be made returnable not more than 21 days from the date of the issuance of the same. When a new or alias summons or other process is authorized by law, in such court, the same may be made returnable not more than 21 days from the issuance thereof. The rules of the court may provide that, if it appear by the return of the constable that the summons was not personally served, alias or pluries summons or process may be issued over the signature of the clerk or deputy clerk, as provided for above, upon application to the clerk by the plaintiff on or before the return day of such process. The rules may limit the number of successive pluries summons or writs that may be issued upon the signature of the clerk. The rules may provide for the expeditious handling of such alias and pluries process by the clerk with a view to relieving the justices, where legally possible, of the routine and clerical work connected with the same.

Service of summons; filing of return; garnishment of wages, return day of summons in principal case.

(7) In justices' courts having a clerk and 3 or more justices the service of any writ or summons may be legally made any time prior to 3 days before the return day thereof. Constables shall file their returns with the clerk at least 48 hours prior to the time mentioned for the appearance of defendant. In such courts, where the defendant's wages or salary is garnisheed, the return day of the summons or alias in the principal case shall not occur more than 7 days after issuance thereof.

HISTORY: New 1961, p. 635, Act 236, Eff. Jan. 1, 1963.

600.6711 Confession of judgment.

Sec. 6711. If any debtor appears before a justice of the peace without process, and confesses in writing, signed by him in the presence of the justice, that he is indebted to another upon contract in a certain specified sum, the justice may, with the consent of the creditor, enter judgment on such confession against the debtor for any sum not exceeding the jurisdiction of such justice.

HISTORY: New 1961, p. 636, Act 236, Eff. Jan. 1, 1963.

600.6713 Suits to commence; time.

Sec. 6713. Suits shall be considered as commenced at the times following:

- (1) Upon process by warrant, at the time of the arrest of the defendant;
- (2) Upon process by attachment, writ of replevin, or summons, on the day when process is delivered to the constable; but if 2 or more suits are commenced by summons or attachment on the same day, the suit in which the process was first served is deemed to have been first commenced;
- (3) When the suit is instituted without process, at the time when the parties shall appear before the justice and join issue.

HISTORY: New 1961, p. 636, Act 236, Eff. Jan. 1, 1963.

600.6714 Long summons; contents; service in certain cities.

Sec. 6714. The first process except as hereinafter directed, shall be a summons directed to any constable of the county in which the justice resides, commanding him to summon the defendant to appear before the justice who issued the same, at a time and place to be named in such summons, not less than 6 nor more than 21 days from the date of the same, except as hereinafter provided, to answer the plaintiff in a plea in the same summons to be mentioned. No writ, process, or order shall be served by any constable of any township issued out of any court in any city having a population of 25,000 or more in a county having a population of 500,000 inhabitants or more according to the last federal decennial census. In such case process shall only be executed or served by duly elected and qualified constables of the city in which said court is situated.

HISTORY: New 1961, p. 636, Act 236, Eff. Jan. 1, 1963.

600.6715 Long summons; service.

Sec. 6715. A summons shall in all cases, except as hereinafter otherwise provided, be served at least 6 days before the time of appearance mentioned therein, and if the defendant be found, it shall be served by delivering to him a copy thereof. But if the defendant shall not be found it shall be served by leaving a copy thereof at the defendant's last place of abode, in the presence of some one of the family of suitable age and discretion, who shall be informed of its contents. Such summons may be served by any competent disinterested person to be designated on the writ by the justice issuing the same, and proof thereof by such person, by affidavit filed in the cause, shall have the same effect as if served by any constable.

HISTORY: New 1961, p. 636, Act 236, Eff. Jan. 1, 1963.

600.6717 Long summons; service by disinterested person.

Sec. 6717. Every justice who shall issue any process authorized by this chapter, whenever he shall judge it expedient, on the request of a party, may, by written authority indorsed on such process, empower any proper person being of lawful age, and not a party or interested in the suit to execute the same.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6719 Long summons; authority of disinterested process server.

Sec. 6719. The person so empowered shall possess all the authority of a constable in relation to the execution of such process, and shall be subject to the same obligations, but shall not receive any fee or reward for his services thereon.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6721 New summons; attachment in case defendant not found.

Sec. 6721. If it appear by the return of the constable that the summons was not personally served, and the defendant shall not appear on the return day thereof, the plaintiff may thereupon take out a new summons against the defendant, in continuation of his suit, returnable not less than 3 nor more than 21 days from the date thereof, which shall be served at least 2 days before the time of appearance mentioned therein; and if such summons be returned that the defendant cannot be found after diligent inquiry, the plaintiff may, in further continuance of his suit, have an attachment against the defendant, in actions upon contract, on filing an affidavit as to the amount claimed to be due, and executing a bond as in other cases.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6723 Short summons; nonresident plaintiff.

Sec. 6723. If the plaintiff is a nonresident of the county a summons may be made returnable not less than 2 nor more than 6 days from the date thereof, and shall be served at least 2 days before the time of appearance mentioned therein.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6725 Short summons; nonresident defendant.

Sec. 6725. If the defendant is a nonresident of the county a summons shall be made returnable and be served as prescribed by section 6723.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6727 Summons; one of several joint defendants is nonresident.

Sec. 6727. When an action shall have been or shall be brought before any justice of the peace of this state against 2 or more joint defendants, 1 or more of whom shall not reside or be found in the county where the suit shall be brought, and 1 or more of the defendants shall be served with process in the county where suit is commenced, and due proof of such service shall be filed with the justice of the peace before whom such suit is pending upon application of the plaintiff in such action, on the return day of the writ by which such action was commenced, the justice shall issue 1 or more alias writs of summons or other writ whereby such suit was commenced, returnable not less than 3 nor more than 21 days from the date of issue, directed to the sheriff or any constable of the county or counties where such defendant or defendants not so served may be found; and the justice shall indorse on such alias writ or writs what defendant or defendants have been served in the county where such suit is commenced, as shown by the proof of service filed with such justice; and it shall be the duty of such sheriff or constable to serve such process not less than 3 days from the return day thereof, and

make return thereof to the justice of the peace issuing the same: Provided, That it shall be the duty of the justice of the peace, on the return day of the first writ, to continue the cause upon his own motion, and without pleadings, until the return day of the alias writ or writs.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6729 Names in process; use of initials or contractions.

Sec. 6729. In all actions on promissory notes or other instruments in writing, any of the parties to which are designated by the initial letter or letters, or contraction of the Christian or first name or names, it shall be sufficient in any affidavit to arrest or obtain an attachment, and in any process or declaration, to designate such persons by the same initial letter or letters, or contraction of the Christian or first name or names, instead of stating the Christian or first name or names in full.

HISTORY: New 1961, p. 637, Act 236, Eff. Jan. 1, 1963.

600.6731 Action by or against partnership; amendment as to names.

Sec. 6731. In all cases where a suit is commenced for or against a copartnership, and the names of all the several partners are not known, such suit may be commenced in the partnership name of said plaintiffs or defendants; and the plaintiffs or defendants shall have the right at any time before the pleadings are closed to amend the same, by inserting the names of the parties composing such copartnership.

HISTORY: New 1961, p. 638, Act 236, Eff. Jan. 1, 1963.

600.6733 Action against unknown defendant; amendment as to name.

Sec. 6733. When the name of any defendant shall not be known to the plaintiff, he may be described in the process and proceedings by a fictitious name, and if a motion to dismiss be interposed by such defendant, or his name be otherwise ascertained, the justice before whom the suit is pending, shall amend the proceedings according to the truth of the matter, and shall thereafter proceed therein, in like manner as if the defendant had been sued by his right name.

HISTORY: New 1961, p. 638, Act 236, Eff. Jan. 1, 1963.

600.6735 Service of process; corporation, association, party operating under assumed name.

Sec. 6735. Process against a corporation, partnership association, individuals operating under an assumed name, individuals operating as a copartnership, or unincorporated voluntary association may be served upon any officer, director or agent thereof, or by leaving same at the office of such corporation, partnership association, individuals operating under an assumed name, individuals operating as a copartnership, or unincorporated voluntary association, with any person in charge thereof, and upon the return of such service being made, such corporation shall be deemed to be in court and the like proceedings, as near as may be, shall be thereupon had as in cases of suits between individuals.

HISTORY: New 1961, p. 638, Act 236, Eff. Jan. 1, 1963.

600.6737 Service of process; transportation lines.

Sec. 6737. (1) Whenever it is necessary to serve any process, notice or writing upon any company or corporation, owning or operating any steam, electric or street railway, or any individual, motor bus or transportation company, operating a line for the transportation of passengers or freight in the state of Michigan, it shall be sufficient to serve the same upon any station agent, or ticket agent, at any station or depot along the line, or at the end of the road of such company, or upon any conductor in charge of any train or car of such company, or upon the driver or chauffeur of any passenger bus or freight truck of such individual, motor bus or transportation company, along the line of, or at the end of the road of such company, and such service shall be deemed as

good and effectual as if made on the officers, directors or other agents of such company.

Service shall not be made upon conductors of street cars or upon drivers or chauffeurs of any passenger bus or freight truck of such individual, motor bus or transportation company in cities where the home office of the corporation is located, or in cities where such individual, motor bus or transportation company has his or its home office.

Same; counties; municipal and public corporations and boards.

(2) In suits or proceedings against municipal and public corporations, and certain unincorporated boards, service of process may be made as follows:

(a) Against counties, upon the chairman of the board of supervisors or the county clerk;

(b) Against the superintendents of the poor of counties, upon any of the said superintendents;

(c) Against cities, upon the mayor, city clerk or city attorney;

(d) Against villages, on the president or clerk of the village, or in their absence upon any of the trustees thereof;

(e) Against townships, upon the supervisor or township clerk;

(f) Against school districts, upon the president of the board of education, director, moderator or treasurer of such district;

(g) Against any corporate body or unincorporated board, now or hereafter having charge or control of any state institution, where the right to bring such suit or proceeding is conferred by law upon the president, secretary or any member of the governing body thereof;

(h) Notices, writs, or other process in judicial proceedings may be served upon any common council, board, commission, or other public body organized or existing under any law of this state, when by statute no other method of service is specially provided, by delivering the same or a certified or verified copy thereof to the president or chairman of such council, board, commission or body, or to the clerk or secretary thereof, and it shall be the duty of the officer upon whom such service shall be made, at its next meeting, to inform such common council, board, commission, or other public body of such service, and it shall not be necessary to serve notices, writs, or other process upon the individual members of such common council, board, commission, or other public body, and such council, board, commission, or other public body may appear and answer or plead in such proceedings in such manner as it may direct.

Same; defunct corporations.

(3) When it may be necessary to institute suits against any corporation, which may have ceased to do business, or to keep up its organization by the appointment of officers or otherwise, or the term of whose existence may have expired by limitation, it shall be competent to serve any writ, declaration or other process in such suit, on either of the persons who may have been the last presiding officer, president, cashier, secretary or treasurer thereof; and such service shall be as effectual to all intents and purposes as if made on such corporation.

Same; exemption of state legislator.

(4) Subsection (1) of section 1821 is applicable in like cases to the service of process issued out of any justice's court.

HISTORY: New 1961, p. 638, Act 236, Eff. Jan. 1, 1963.

600.6739 Return of process.

Sec. 6739. The constable serving a summons, warrant, attachment, or other process, shall return thereon, in writing, signed by him, the time and manner of executing the

same; and, in case of a warrant, he shall in such return state the fact whether he has or has not notified the plaintiff.

HISTORY: New 1961, p. 639, Act 236, Eff. Jan. 1, 1963.

600.6741 Infant or mentally incompetent plaintiff; next friend or guardian.

Sec. 6741. No process shall be issued for an infant plaintiff, nor for a plaintiff who is insane or otherwise mentally incompetent, nor shall any issue joined by such plaintiff without process be heard until a next friend of such plaintiff shall be appointed. In case such plaintiff has a guardian of his estate, it shall be competent for such guardian to bring such action.

HISTORY: New 1961, p. 639, Act 236, Eff. Jan. 1, 1963.

600.6743 Infant or mentally incompetent; appointment of next friend, liability for costs.

Sec. 6743. Whenever requested the justice shall appoint some suitable person who will consent thereto in writing, to act as next friend of the plaintiff in such suit, who shall be responsible for the costs therein.

HISTORY: New 1961, p. 639, Act 236, Eff. Jan. 1, 1963.

600.6745 Infant or mentally incompetent defendant; appointment of guardian.

Sec. 6745. After the service of process against an infant defendant, or against a person who is insane or otherwise mentally incompetent, the suit shall not be any further prosecuted until a guardian for such defendant be appointed; and the justice, upon the request of such defendant, shall appoint some suitable person, who will consent thereto in writing, to be guardian of the defendant in the defense of the suit. In case such defendant has a guardian of his estate, it shall be competent for such guardian to defend such action.

HISTORY: New 1961, p. 639, Act 236, Eff. Jan. 1, 1963.

600.6747 Infant or mentally incompetent defendant; nonappearance, appointment of guardian.

Sec. 6747. If such defendant, or the guardian of his estate, shall not appear on the return day of the process, or if the defendant neglect or refuse to nominate a guardian, or if the person so nominated shall be deemed by the justice to be unsuitable, the justice may appoint any discreet person to be such guardian.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

600.6749 Next friend or guardian; consent to appointment; liability for costs.

Sec. 6749. The consent of every such next friend or guardian shall be filed with the justice; and the guardian so appointed for the defendant shall not be liable for any costs in the suit.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

600.6751 Person may appear and conduct own action or defense; attorney, constable as advocate.

Sec. 6751. Every plaintiff of full age may appear and conduct his suit or defense, either in person or by attorney; but the constable who served either the original or jury process in the cause, shall not appear and advocate for either party at the trial.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

7947 JUSTICE COURT—ADJOURNMENTS, TRANSFER OF CAUSES § 600.6815

600.6753 Attorney's authority.

Sec. 6753. The authority to appear as attorney for any party may be either written or verbal; and such authority shall be proved by the attorney or other competent testimony, in all cases where requested by the opposite party, or where the opposite party shall not appear.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

600.6755 Writs; issuance, service, or execution on Sunday, legal holiday or election day.

Sec. 6755. Upon sufficient cause being shown by affidavit, to the satisfaction of any justice of the peace, or municipal judge, such justice of the peace or municipal judge may authorize the issuance of any writ on Sunday, or any legal holiday, or election day, and may authorize the service or execution thereof on any such day.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

CHAPTER 68.

ADJOURNMENTS AND THE TRANSFER OF CAUSES IN JUSTICE COURT

600.6801 Adjournment; return day.

Sec. 6801. At the time of the return of a summons against a resident of the county, in favor of one who is also a resident, or an attachment personally served, or of a writ of replevin, or of joining issue without process, either party shall be entitled to an adjournment as a matter of course, but such adjournment shall not exceed 2 weeks without the consent of the parties, or the justice may, in his discretion, and with or without the consent of the parties, adjourn the cause not exceeding 6 days.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

600.6805 Adjournment; postponement up to three months.

Sec. 6805. After the first adjournment, if either party to the suit shall make it appear to the satisfaction of the justice, by his own oath, or the oath of any other person, that he cannot safely proceed to trial for the want of some material testimony or witness, and that he has used reasonable diligence to procure such testimony or witness since the last preceding adjournment, the justice shall postpone the trial for such reasonable time, and so often as he shall deem it proper, not exceeding in all 3 months, unless by consent of the parties to such suit, a longer time shall be stipulated therefor in writing, to be signed by the parties or their attorneys and filed with the justice.

HISTORY: New 1961, p. 640, Act 236, Eff. Jan. 1, 1963.

600.6811 Observers of seventh day; defending action, necessity.

Sec. 6811. No person who conscientiously believes the seventh day of the week ought to be observed as the Sabbath, and actually refrains from secular business and labor on that day, shall be compelled to defend any civil suit in the justices' courts of this state on that day.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963.

600.6815 Observers of seventh day; process returnable on seventh day, procedure.

Sec. 6815. Whenever any person is served with any process returnable on the seventh day of the week, such person may make affidavit before any person authorized to administer oaths, setting forth the fact that a summons has been issued, naming the day when the same was issued, when returnable, by whom issued, and in whose favor, and against whom the same was issued; and also that said affiant conscientiously believes that the seventh day of the week ought to be observed as the Sabbath and that the said affiant actually refrains from secular business and labor on said day, and may

at any time after service of such process, and before the return day thereof, file such affidavit with the justice before whom said cause shall be pending.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963.

600.6821 Observers of seventh day; justice to adjourn.

Sec. 6821. It shall be the duty of any justice of the peace before whom any cause shall be pending, in which such affidavit shall be filed regularly, to call such cause on the return day thereof, as in other cases, and upon his own motion to adjourn the same without pleadings, to such time as he shall see fit: Provided, The same shall not be adjourned to the seventh or the first day of the week: And provided also, That the said cause shall not be so adjourned more than 10 days, for the cause aforesaid.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963.

600.6825 Adjournment; temporary vacancy in office, transfer of cause.

Sec. 6825. In case of the sickness of any justice, or of his absence from the township or city in which he was elected, or his inability from any cause, temporarily or negligently, to perform the duties of his office, any such matter or cause pending before him shall stand continued before him 2 weeks, at the end of which time, unless said justice shall be able to attend the same, such cause or matter shall stand transferred to the justice of the same township or city, whose term of office shall soonest expire, and be heard or tried before him in the same manner and time as in case of a vacancy: Provided, That this section shall not be construed to prevent the transfer of causes by justices under the existing provisions of law.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963.

600.6831 Transfer in case of absence; delivery of papers, notice to parties.

Sec. 6831. If any justice of the peace shall be absent when there shall be pending before him any matter or suit undetermined, he may deliver over all the papers relating to such matter or suit, with a minute of his proceedings therein, to some neighboring justice of the same city or township, who may thereupon proceed to hear, try and determine such matter or suit, in the same manner as if such matter or suit had been commenced before him, and with like effect; but the parties to such matter or suit, their agents or attorneys, shall be notified of such transfer previous to any hearing or trial of such matter or suit.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963.

600.6835 Disqualified justice; affidavit; transfer of cause; subsequent procedure, costs.

Sec. 6835. If, at any time prior to trial in any cause, any party to the cause, or his agent or attorney, shall make and file with the justice an affidavit, stating that the justice, before whom the same is pending, is a material witness for any party to the cause, without whose testimony he cannot safely proceed to the trial thereof, and shall state in the affidavit the facts he expects to prove by the justice, or shall make and file an affidavit that the justice has advised or counseled with any party to the cause in respect to the subject matter of the cause, the justice shall forthwith make in his docket an entry of the filing of such affidavit, and an order that the suit and all papers relating thereto be transferred to one of the nearest justices of the peace in the same county who is not of kin to either party, sick, absent or interested in the suit, either as counsel or otherwise, which justice shall be named in the order and such transfer shall forthwith be made by such justice. The justice to whom such transfer shall be made shall thereupon proceed to hear, try and determine the cause in the same manner as if the suit had been originally commenced before him, and with like effect, or the justice may in the order postpone the hearing of the cause to such time as he shall see fit, not exceeding 5 days, at which time the justice to whom the cause is transferred shall attend and proceed to hear, try and determine the cause. The party filing the affidavit

shall pay to the justice making such order of transfer the costs which have so far accrued and as taxed by the justice, together with 50 cents for such transcript, and the sums so paid shall be recovered by the parties in addition to their other costs, when they finally prevail in the cause.

HISTORY: New 1961, p. 641, Act 236, Eff. Jan. 1, 1963;—Am. 1965, p. 14, Act 13, Imd. Eff. Apr. 13.

600.6841 Transfer in case of vacancy; time for hearing.

Sec. 6841. In case a vacancy from any cause shall occur in the office of a justice of the peace, all causes and matters pending before him at the time such vacancy shall occur shall stand transferred to the justice of the same township or city whose term of office shall soonest expire: Provided, That the hearing or trial of the same shall not be had within 10 days after such vacancy shall occur.

HISTORY: New 1961, p. 642, Act 236, Eff. Jan. 1, 1963.

CHAPTER 69.

PLEADINGS IN JUSTICE COURT

600.6901 Time for making pleadings and joining issue.

Sec. 6901. At the time of the first appearance of the parties before the justice, either upon the return of process or their voluntary appearance to join issue, the pleadings of the parties shall be made, unless the justice shall allow further time upon cause shown, and when both parties have appeared, an issue shall be joined before an adjournment shall be had, except as aforesaid; and when the defendant shall have appeared upon a warrant the pleadings shall be made within such reasonable time as the justice shall allow for that purpose.

HISTORY: New 1961, p. 642, Act 236, Eff. Jan. 1, 1963.

600.6903 Pleadings; written or verbal; general issue; notice of defense; motion to dismiss; execution of written instrument.

Sec. 6903. The pleadings in a suit before a justice of the peace may be either written or verbal, at the discretion of the party making the same, except in case of notice of title to land; when written, they shall be filed with the justice; when verbal, the justice shall enter in his docket the substance thereof; the declaration shall be sufficient if conformable at the time, to the rules of pleading applicable to the circuit court; the plea of the general issue shall be in the same form as in that court, and notice of any defense not admissible under the general issue, shall be given with such plea; no demurrer or plea in abatement shall be allowed, but all questions heretofore raised by demurrer or plea in abatement shall be raised by a motion to dismiss; and the execution of a written instrument filed with the justice, shall not be denied, except under oath as hereinafter provided.

HISTORY: New 1961, p. 642, Act 236, Eff. Jan. 1, 1963.

600.6905 Action on open account.

Sec. 6905. Plaintiffs, in actions founded on open accounts, shall embrace all claims then due on account, or failing so to do, shall not recover costs in any subsequent suit on claims not so embraced.

HISTORY: New 1961, p. 642, Act 236, Eff. Jan. 1, 1963.

600.6907 Failure or want of consideration as defense.

Sec. 6907. A failure or want of consideration in whole or in part, may be shown in defense to any action or set-off, upon or arising out of any bond or promissory note or other instrument in writing, except negotiable notes, negotiated before falling due; to any person not having at the time it was negotiated, knowledge of such defense.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6909 Pleading; judgment of court or officer of special jurisdiction.

Sec. 6909. In pleading a judgment or decision of a court or officer of special jurisdiction, it shall be sufficient to allege generally, that judgment or decision was duly given or made.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6911 Pleading; performance of condition precedent in contract.

Sec. 6911. In pleading the performance of a condition precedent in a contract, it shall be sufficient to allege generally that the party performed all the conditions on his part; if the allegation be denied, the facts showing the performance must be proved on the trial.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6913 Joinder of counts; limits of total recovery.

Sec. 6913. Two or more counts, where proper to be joined, may be joined in a declaration even though the aggregate amount of damages claimed on all the counts exceeds the jurisdiction of the justice's court, if there is a general conclusion to the declaration limiting the total amount for which recovery is claimed to an amount within the jurisdiction of said court.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6915 Bill of particulars; claim, set-off; evidence.

Sec. 6915. In cases before a justice, where a bill of particulars of the demand of the party may be required in a court of record, the plaintiff may be required by the justice to file such bill of particulars of his demand; and the defendant, if required by the plaintiff, shall file a like bill of particulars of his claim as a set-off; and the evidence on the trial shall be confined to the items set forth in said bill.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6917 Bill of particulars; amendment.

Sec. 6917. Such bill may be amended at any time before the trial, to supply any deficiency or omission in the items, when by such amendment, substantial justice will be promoted.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6919 Bill of particulars; payment of costs, condition of amendment.

Sec. 6919. The justice may, in his discretion, require as a condition of an amendment, the payment of costs to the adverse party, to be fixed by the justice; but such payment cannot be required, unless an adjournment is made necessary by the amendment.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6921 Set-off; cases in which allowed.

Sec. 6921. In the following cases, and under the following circumstances, a defendant may set off demands which he has against the plaintiff.

(1) It must be a demand arising upon judgment or decree, or upon contract, express or implied whether such demand be liquidated or not and whether such contract be written or unwritten, sealed or without seal and if it be founded upon a bond or other contract having a penalty, the sum equitably due by virtue of its condition only, shall be set-off;

(2) It must be due to him in his own right, either as being the original creditor or payee, or as being the assignee or owner of the bond;

(3) It must have existed at the time of the commencement or [sic] the suit, and must then have belonged to the defendant;

(4) It can be allowed only in actions founded on demands which could themselves be the subject of set-off according to law;

(5) If there be several defendants, the demand set-off must be due to all of them jointly, except where other provision is expressly made by law;

(6) It must be a demand existing against the plaintiff in the action, unless the suit be brought in the name of a plaintiff who has no real interest in the contract upon which the suit is founded; in which case, no set-off of a demand against the plaintiff shall be allowed, unless as hereinafter specified;

(7) If the action be founded upon contract (other than a negotiable promissory note or bill of exchange) which has been assigned by the plaintiff, a demand existing against such plaintiff, or any assignee of such contract, at the time of the assignment thereof, and belonging to the defendant in good faith before notice of such assignment, may be set-off to the amount of the plaintiff's debt, if the demand be such as might have been set-off against such plaintiff or such assignee while the contract belonged to him;

(8) If the action be upon a negotiable promissory note or bill of exchange which has been assigned to the plaintiff after it became due, a set-off to the amount of the plaintiff's debt may be made of a demand existing against any person or persons who shall have assigned or transferred such note or bill after it became due, if the demand be such as might have been set-off against the assignor while the note or bill belonged to him;

(9) If the plaintiff be a trustee for another, or if the suit be in the name of a plaintiff who has no real interest in the contract upon which the suit is founded, so much of a demand existing against those whom the plaintiff represents, or for whose benefit the action is brought, may be set-off as will satisfy the plaintiff's debt, if the same might have been set-off in an action brought by those beneficially interested;

(10) In actions upon a note or other contract against several defendants, any one of whom is principal, and the others sureties therein, any claim upon contract in favor of the principal defendant, and against the plaintiff, or any former holder of the note or other contract, may be allowed as a set-off by the principal or any other defendant.

HISTORY: New 1961, p. 643, Act 236, Eff. Jan. 1, 1963.

600.6923 Set-off or recoupment; notice.

Sec. 6923. To entitle a defendant to damages by way of set-off or recoupment, he must give notice of the same, specifying the nature of his claim, with reasonable certainty at the time of joining issue on a question of fact upon the merits of the cause.

HISTORY: New 1961, p. 644, Act 236, Eff. Jan. 1, 1963.

600.6925 Set-off or recoupment; judgment, assignment of claim.

Sec. 6925. If the amount of damages by way of set-off or recoupment duly established, be equal to the plaintiff's debt, judgment shall be entered for the defendant with costs; if it be less than the plaintiff's debt, the plaintiff shall have judgment for the residue only, with costs; if it be more than the plaintiff's debt, and the balance found due to the defendant from the plaintiff in the action be \$300.00 or under, judgment shall be rendered for the defendant for the amount thereof, with costs; and execution shall be awarded as upon a judgment in a suit brought by him; but no such judgment shall be rendered against the plaintiff when the contract which is the subject of suit, shall have been assigned before the commencement of such suit, nor for any balance due from any other person than the plaintiff in the action.

HISTORY: New 1961, p. 644, Act 236, Eff. Jan. 1, 1963.

600.6927 Set-off or recoupment; judgment when balance in favor of defendant exceeds \$300.

Sec. 6927. If the balance found due to the defendant exceeds \$300.00, the justice shall apply so much of the defendant's demand against the plaintiff's debt as shall be sufficient to satisfy it, and shall render judgment for the defendant for the sum of

\$300.00 and his costs, unless the defendant shall withdraw his claim of set-off or recoupment before judgment is rendered; but if the defendant shall withdraw his claim of set-off or recoupment, the justice shall render judgment in favor of the plaintiff for the amount of his claim with costs, and the defendant may thereafter sue for and recover his demand in any court having cognizance thereof.

HISTORY: New 1961, p. 644, Act 236, Eff. Jan. 1, 1963.

600.6929 Set-off or recoupment; establishment against executors or administrators.

Sec. 6929. Whenever a claim of set-off or recoupment is established in a suit brought by executors or administrators, and the defendant shall be entitled to judgment, such judgment shall be rendered against the plaintiffs in their representative character, and shall be evidence of debt established to be paid in the course of administration, but no execution shall issue thereon.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6931 Set-off or recoupment; neglect of defendant to claim, effect.

Sec. 6931. If defendant neglect to set-off or recoup any demand which, according to the preceding provisions might have been allowed to him on the trial of the cause, he shall be forever thereafter precluded from recovering costs in any action brought to recover such demand, or any part thereof, which might have been set-off or recouped; and if the demand which might have been set-off consisted of a negotiable promissory note or bill of exchange, no person who shall derive title thereto, after the amount thereof might have been set-off or recouped as aforesaid, shall recover costs in any action thereon.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6933 Set-off or recoupment; discontinuance by plaintiff after notice.

Sec. 6933. In any action when the defendant has given notice of set-off or recoupment, the plaintiff shall not be allowed to discontinue his suit, or submit to a non-suit, without the consent of the defendant.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6935 Set-off or recoupment; claim in excess of jurisdiction, removal to circuit court.

Sec. 6935. (1) If a defendant asserts a claim by way of set-off, recoupment, or other counterclaim which seeks relief of such amount or nature as to be beyond the jurisdiction and power of the justice, municipal, or common pleas court to grant, and if the defendant accompanies the notice of the claim with an affidavit stating that he is justly entitled to the relief demanded, the plea and notice of set-off, recoupment, or other counterclaim shall be recorded and the proceedings removed to the circuit court to which appeal of the action would ordinarily lie. Such court shall forward to the circuit court the original or attested copies of all papers in the action and cause the action to be filed therein. Thereafter no proceedings shall be had before such court and the action shall be prosecuted in the circuit court.

(2) No removal shall occur under this section until the defendant pays the plaintiff's costs legally incurred up to that time, together with the statutory entry fee for the circuit court, which entry fee the justice shall pay to the clerk of the circuit court at the time the papers are filed in the circuit court.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6937 Notice; title to land to come in question, time.

Sec. 6937. In every action where the title to land shall in any wise come in question, the defendant may give notice thereof under the general issue, upon the return day, or

any adjourned day of such action, and he may also give notice as in other cases, of any other matter of defense.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6939 Notice; title to land to come in question; writing, signature, delivery.

Sec. 6939. Such plea and notice shall be in writing, and signed by the defendant or his attorney, and delivered to the justice.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6941 Bond of defendant; conditions, costs.

Sec. 6941. At the time of tendering such plea and notice, the defendant, with at least 1 sufficient surety to be approved by the justice, shall enter into a bond to the plaintiff, in a penalty of at least \$200.00, conditioned that such defendant will pay any judgment that may be rendered against him in such action in the circuit court of such county, and shall also pay the plaintiff's costs legally incurred at that time, not exceeding the amount allowed by law in justices' courts, and also the sum of \$1.00 to the justice for certifying the cause to the circuit court, together with the sum of \$3.00, which last sum shall be paid to the clerk of the county by said justice at the time such justice shall certify the cause to the circuit court.

HISTORY: New 1961, p. 645, Act 236, Eff. Jan. 1, 1963.

600.6943 Bond of defendant; delivery, certification to circuit court, costs.

Sec. 6943. Such bond shall be delivered and such fees and costs shall be paid to the justice at the time of tendering such plea and notice and the justice shall thereupon, without further proceedings certify the cause and papers to the circuit court of the county where the same may be tried, and the costs so paid by the defendant shall be allowed to him if he recover costs in the action in that court.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.6945 Bond of defendant; justice to proceed with case if not delivered; admission.

Sec. 6945. If such bond be not delivered and such fees and costs paid as herein directed, the justice shall have jurisdiction of the cause, and shall proceed therein, and the defendant shall be precluded in his defense from all evidence drawing in question the title to lands; and any claim of title to lands made by the plaintiff in his declaration, and therein described, shall be deemed to be admitted by the defendant.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.6947 Title to land coming into question on trial from plaintiff's showing; certification to circuit court, costs.

Sec. 6947. If it appear on the trial from the plaintiffs' own showing that the title to lands is in question, which title shall not be admitted by the defendant, the justice shall, without further proceeding, certify the cause and papers to the circuit court of the county where the same shall be tried; and the party in whose favor judgment shall be rendered in the circuit court, shall recover costs, which shall include his costs before the justice.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.6949 Pleadings and evidence in case of removal to circuit court.

Sec. 6949. When a suit is removed from a justice's court as hereinbefore provided, the plaintiff in such suit shall be permitted to declare or to give evidence only for the same cause of action whereon he relied before the justice, and the plea and notice of the defendant shall be the same which he tendered before the justice.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.6951 Title not in question; costs.

Sec. 6951. If the presiding judge of the court before which the suit was tried, shall certify that the title to lands did not come in question, if the plaintiff recover he shall recover double costs; if the defendant recover (other than judgment of non-suit), he shall not recover costs, but shall pay costs to the plaintiff.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.6953 Declaration; containing counts bringing title in question, effect.

Sec. 6953. If the plaintiff's declaration in the suit before a justice shall contain several counts or causes of action, to 1 or more of which a defense, bringing in question the title of lands, shall be interposed by the defendant, the justice shall discontinue proceedings for such cause of action; and for the other causes of action the justice may continue his proceedings.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

CHAPTER 70.

TRIALS IN JUSTICE COURT

600.7001 Subpoena to witness; issuance.

Sec. 7001. Any justice of the peace may issue subpoenas to compel the attendance of witnesses, to give evidence in any cause or matter pending before himself or any other justice or court; and such subpoenas shall be valid to compel the attendance of a witness within the same county where the cause or matter is to be tried, or in another county, and within 30 miles of the place of trial.

HISTORY: New 1961, p. 646, Act 236, Eff. Jan. 1, 1963.

600.7003 Subpoena to witness; service, fees.

Sec. 7003. A subpoena may be served either by a constable or any other person, and it shall be served by reading the same, or stating the contents to the witness, and by paying or tendering the fees allowed by law for traveling, and 1/2 day's attendance.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7005 Attachment for witness; issuance.

Sec. 7005. Whenever it shall appear by the affidavit of the party in the suit, or by other competent testimony, to the satisfaction of the justice, that any person duly subpoenaed to appear before him in any cause shall have refused or neglected without just cause to attend as a witness in conformity to such subpoena, and that the testimony of such witness is material, as the deponent verily believes, the justice shall have power to issue an attachment to compel the attendance of such witness.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7007 Attachment for witness; fees for service.

Sec. 7007. Every such attachment shall be issued in the same manner as a warrant, and the fees of the officers for issuing and serving the same, shall be paid by the person against whom the same shall have been issued, unless he shall show reasonable cause to the satisfaction of the justice for his omission to attend; in which case the party requiring such attachment shall pay all costs of such attachment and the service of the same.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7009 Refusal of witness to appear or testify; fine, amount.

Sec. 7009. Every person duly subpoenaed as a witness, who shall not appear, or who appearing shall refuse to testify, shall forfeit for every such non-appearance or refusal (unless some reasonable cause or excuse shall be shown on his oath, or the oath of some other person), a sum not less than \$1.00, nor more than \$10.00.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7011 Refusal of witness to appear or testify; fine, imposition, entry in docket.

Sec. 7011. Such fine may be imposed by the justice, upon the witness being before him, or his being brought before him on attachment; and the justice shall thereupon make and enter in his docket a minute of the conviction and the cause thereof, and the same shall be deemed a judgment, in all respects, at the suit of the people of this state.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7013 Refusal of witness to appear or testify; fine, execution to collect; jail term.

Sec. 7013. Upon the imposition of such fine, and in default of payment thereof, with costs, the justice shall forthwith issue an execution directed to any constable of the county, commanding him to levy such fine, with costs, on the goods and chattels of the delinquent, and for want thereof to take and convey him to the jail of the county, there to remain until he shall pay such fine and costs; and the keeper of such jail shall keep such delinquent in close custody in such jail, until the fine and costs be paid, but such imprisonment shall not exceed 30 days.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7015 Refusal of witness to appear or testify; fine, disposition of collections.

Sec. 7015. When money shall be collected on such execution, the constable shall return the same to the justice, and such justice shall pay over the amount of such fine to the county treasurer, to be distributed according to law.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7017 Refusal of witness to appear or testify; civil liability.

Sec. 7017. Every person subpoenaed as aforesaid, and neglecting or refusing to appear or testify, shall also be liable to the party in whose behalf he shall have been subpoenaed for all damages which such party shall sustain by reason of such non-appearance or refusal, and in all cases when any fees shall be paid to any person for attendance or travel as a witness, and such person shall fail to attend, he shall refund the amount paid.

HISTORY: New 1961, p. 647, Act 236, Eff. Jan. 1, 1963.

600.7019 Justice to try cause if no jury is demanded.

Sec. 7019. In any cause before a justice, if no jury be demanded by either party, the justice shall proceed to try the same, to hear the proofs and allegations of the parties, and to determine the same according to law, as the right of the case may appear.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7021 Default of defendant.

Sec. 7021. Whenever a defendant who has been personally served with a summons, attachment or writ of replevin, or who shall have procured an adjournment without having joined issue, shall neglect to appear and join issue, the justice shall proceed to hear the proofs and allegations of the plaintiff, and determine the same as above prescribed.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7023 Demand for jury; fees.

Sec. 7023. After an issue of fact joined, and before the justice shall proceed to an investigation of the merits of the cause, by an examination of a witness, or the hearing of any other testimony, either of the parties, or the attorney of either of them, may demand of the justice that the cause be tried by a jury, and pay to the justice the lawful fees of the jurors.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7025 Selection of jury; list of names.

Sec. 7025. Upon such demand and payment of such fees to the justice, such justice shall direct some disinterested constable, or other proper person of the county, to write down a list of the names of 18 inhabitants of the county qualified to serve as jurors in courts of record, who shall be in no wise of kin to the plaintiff or defendant nor interested in such suit.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7027 Selection of jury; oath, person making list.

Sec. 7027. The constable or other person directed to make such list, shall, before making the same, be sworn by the justice to select such persons according to his best judgment, and without favor or partiality to either party.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7029 Selection of jury; each party to strike off six names.

Sec. 7029. From such list each party may strike off 6 names; and in case of the absence or refusal of either party to strike out, the justice shall strike out for him 6 names from said list; and the justice shall thereupon issue a venire, directed to any constable of the county, requiring him to summon the 6 persons whose names shall remain upon the list, to appear at a time and place to be named therein, to make a jury for the trial of the action between the parties named in such venire; and the constable shall serve such venire personally on each juror named therein, if to be found within his county.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7031 Selection of jury; agreement of parties upon jury.

Sec. 7031. The parties may agree upon 6 or any less number of jurors to try the cause; and in such case the justice shall direct in the venire the summoning of the persons so agreed upon, who, when summoned and appearing, shall compose the jury; and the justice shall make a minute of such agreement in his docket.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7033 Insufficient jurors; talesmen summons.

Sec. 7033. If any of the jurors named in the venire shall not be found, or shall fail to appear according to the summons, or if there shall be any legal objections to any one who shall appear, it shall be the duty of the constable, on being thereunto directed by the justice, to summon a sufficient number of talesmen to supply the deficiency.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7035 Refusal of juror to appear or serve; penalty.

Sec. 7035. Every person who shall be duly summoned as a juror, and shall not appear, nor render a reasonable excuse for his default, or appearing shall refuse to serve, shall be subject to the same fine, to be imposed and collected with costs, in the same manner, and paid over for the same use, as hereinbefore provided in respect to a person subpoenaed as a witness, and not appearing, or appearing and refusing to testify.

HISTORY: New 1961, p. 648, Act 236, Eff. Jan. 1, 1963.

600.7037 Challenges; peremptory.

Sec. 7037. In all civil cases before justices of the peace, each party may challenge peremptorily 2 jurors, either from those named in the original venire or from those called as talesmen.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7039 Challenges; prior service as cause.

Sec. 7039. It shall be a good cause of challenge to any juror in any justice court in any city, township or village in this state, in addition to the other causes of challenge allowed by law, that such person has served as a juror in any justice court in any such city, township or village in this state 2 times within 1 year previous to such challenge.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7041 Juror; oath.

Sec. 7041. To each juror the justice shall administer an oath or affirmation, well and truly to try the matter in difference between, plaintiff, and, defendant, and unless discharged by the justice, a true verdict to give, according to law and evidence.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7043 Jury to hear proofs.

Sec. 7043. After the jury shall be duly sworn, they shall sit together and hear the proofs and allegations of the parties, which shall be delivered publicly in their presence.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7045 Witness; oath.

Sec. 7045. Every person offered as a witness, before any testimony be given by him, shall be duly sworn or affirmed, that the evidence he shall give relating to the matter in difference between, plaintiff, and, defendant, shall be the truth, the whole truth, and nothing but the truth.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7047 Witness; objection to competency.

Sec. 7047. If a witness, on being produced, shall be objected to as incompetent, such objection shall be tried and determined by the justice; and evidence may be given in support of or against such objection, as in other cases, and the proposed witness may be examined on oath by the party objecting.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7049 Witness; unnecessary calling, costs.

Sec. 7049. Any party causing witnesses to be subpoenaed, and not swearing and examining them, if in attendance, shall pay the costs occasioned thereby, unless the use of such witnesses be dispensed with by the admission of the opposite party; any party calling more than 2 witnesses to a fact not contradicted by any other witness, shall pay the costs occasioned by such supernumerary witness.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7051 Proof of execution of written instrument.

Sec. 7051. When any written instrument, purporting to be executed by 1 of the parties, is declared upon or set-off, it may be used in evidence on the trial of the cause against such party, without proving its execution, unless its execution be denied by oath at the time of declaring, or pleading, or giving notice of set-off, if such instrument shall be produced and filed with the justice.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7053 Failure or want of consideration as evidence; notice of defense.

Sec. 7053. A failure or want of consideration, in whole or in part, may be given in evidence, in any action or set-off upon, or arising out of any contract, except negotia-

ble instruments, negotiated before they became due, to persons not having notice of such defense; in actions upon such contracts, evidence of a partial failure, or want of consideration, shall not be admitted, unless notice of such defense shall be given.

HISTORY: New 1961, p. 649, Act 236, Eff. Jan. 1, 1963.

600.7055 Discontinuance as to part of defendants; amendment of declaration.

Sec. 7055. When an action is brought against 2 or more defendants, the plaintiff shall, at any time before the final submission of the case, be allowed to discontinue as against any of the defendants upon payment of costs to them, as in case of non-suit and upon such other terms as the justice, before whom the case is pending, shall direct. And the plaintiff may thereupon amend his declaration and proceed against the other defendant or defendants in like manner as if the action had originally been brought against them alone. But in case an action is brought against 2 or more defendants, the plaintiff shall not be required to discontinue as to any of them, but the jury shall show by their verdict, or the justice by his finding, in a trial by the justice without a jury, which of them are and which are not liable to the plaintiff, and judgment shall be given accordingly.

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

600.7057 Jury to be kept until agreement; oath of officer.

Sec. 7057. After hearing the proofs and allegations, the jury shall be kept together in some convenient place, under the charge of a constable, until they shall agree upon their verdict, and for that purpose the justice shall administer to such constable the following oath: "You do swear, (or affirm, as the case may be), that you will, to the utmost of your ability, keep the persons sworn as jurors on this trial, in some private and convenient place, without meat or drink, except such as shall be ordered by me; that you will not suffer any communication, orally or otherwise, to be made to them; that you will not communicate with them yourself, orally or otherwise, unless by my order, or to ask them if they have agreed on their verdict, until they shall be discharged; and that you will not, before they render their verdict, communicate to any person the state of their deliberations, or the verdict they have agreed upon."

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

600.7059 Verdict; delivery; judgment.

Sec. 7059. When the jurors have agreed upon their verdict, they shall deliver the same to the justice publicly, and thereupon the justice shall enter the same in his docket, and render judgment thereon.

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

600.7061 Disagreement of jury; discharge; new jury; judgment by justice.

Sec. 7061. Whenever a justice shall be satisfied that a jury sworn in any cause before him cannot agree on their verdict, after having been out a reasonable time, he may discharge them; and thereupon a new jury shall be selected and summoned as hereinbefore directed, within 48 hours, unless the parties agree upon a longer time, or consent that the justice may render judgment on the evidence already before him, which, in such case, he may do.

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

CHAPTER 71.

JUDGMENTS IN JUSTICE COURT

600.7101 Judgment of nonsuit.

Sec. 7101. Judgment of non-suit with costs, shall be rendered against the plaintiff prosecuting an action before a justice of the peace in the following cases:

- (1) If he discontinue or withdraw his action;
- (2) If he fail to appear on the return of any process, within 1 hour after the same was returnable;
- (3) If, after an adjournment, he fail to appear within 1 hour after the time to which the adjournment shall have been made;
- (4) If he become non-suited on the trial.

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

600.7103 Judgment for defendant with costs.

Sec. 7103. Judgment for the defendant, with costs, shall be rendered, whenever a trial has been had and it be found by verdict, or by the decision of the justice, that the plaintiff has no cause of action against the defendant.

HISTORY: New 1961, p. 650, Act 236, Eff. Jan. 1, 1963.

600.7105 Costs; limitation on amount.

Sec. 7105. Whenever a judgment shall be rendered by any justice of the peace against any party, unless otherwise herein provided, it shall be with costs of suit; but the whole amount of all the items of the costs taxed in favor of the prevailing party, exclusive of jury fees and fees of the officer for summoning and attending the jury, and exclusive of the attorney fee provided for in section 7107, shall not exceed \$10.00.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7107 Costs; attorney fee.

Sec. 7107. In all cases when a contested trial takes place, in addition to all other costs allowed by law, if the prevailing party was represented by a regularly licensed attorney and counselor, such party shall be entitled to tax the sum of \$10.00 as an attorney fee: Provided, That in no case shall the plaintiff tax a greater attorney fee than the amount of judgment recovered, exclusive of costs.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7109 Costs; actions upon judgment.

Sec. 7109. No costs shall be recovered by the plaintiff in actions upon judgments rendered in this state, unless good cause shall be shown therefor upon oath.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7111 Judgment against joint debtors where process served upon either; execution.

Sec. 7111. If process has issued against 2 or more persons, jointly indebted, and shall have been personally served upon either of the defendants, the defendant who may have been served with process, shall answer to the plaintiff, and the judgment in such case, if rendered in favor of the plaintiff, shall be against all the defendants, in the same manner as if all had been served with process; but execution shall issue only in the manner hereinafter directed.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7113 Judgment against joint debtors where process served upon either; effect as evidence.

Sec. 7113. Such judgment shall be conclusive evidence of the liability of the defendant who was personally served with process in the suit, or who appeared therein; but against every other defendant, it shall be evidence only of the extent of the plaintiff's demand, after the liability of such defendant shall have been established by other evidence.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7115 Judgment; time of rendition, entry on docket, notice; appeal, period.

Sec. 7115. In cases where a plaintiff shall be non-suited, discontinue or withdraw his action, and where a judgment shall be confessed, and in all cases where a verdict shall be rendered, or the defendant shall be in custody at the time of hearing the cause, the justice shall forthwith render judgment and enter the same in his docket; in all other cases he shall render judgment and enter the same in his docket, within 10 days after the cause shall have been submitted to him for his final decision, and in such cases and also in cases where the defendant is defaulted after entering his appearance, the justice shall immediately cause to be served on all parties to the suit, or if represented by an attorney or attorneys, on said attorney or attorneys, notice of the rendition of judgment so rendered, either personally or by mail; and the period allowed for appealing from said judgment shall not commence to run until proof of such service is filed in said cause.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7117 Verdict or finding for sum beyond jurisdiction of justice.

Sec. 7117. When a balance shall be found in favor of a party, either by the verdict of a jury or upon a hearing before the justice, exceeding the sum for which the justice is authorized to give judgment, such party may remit and release the excess, and may take judgment for the residue.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7119 Certified transcript of judgment; affidavit.

Sec. 7119. Whenever an execution may by law be issued upon any judgment rendered by a justice of the peace, for \$20.00 or over, exclusive of costs, the party in whose favor such judgment shall have been rendered, his executor, administrator or assignee or the attorney of either of the parties may make and deliver to the justice of the peace having the control of such judgment, an affidavit, setting forth in substance, that the deponent knows, or has good reason to believe, and does believe, that there are not sufficient goods and chattels liable to execution to satisfy such judgment, within the county in which such judgment was rendered, belonging to such person or persons against whom such execution may issue; and thereupon it shall be the duty of the justice of the peace having the control of such judgment, rendered by himself or any other justice, on the demand of any person in whose favor the same shall have been rendered, his assignee or the attorney of either of the parties to give a certified transcript of such judgment and of the proceedings in the case, so far as they appear upon the docket, and the original affidavit required by the provisions of this section.

HISTORY: New 1961, p. 651, Act 236, Eff. Jan. 1, 1963.

600.7121 Certified transcript of judgment; clerk of circuit court to file.

Sec. 7121. If the plaintiff, his assignee, or the agent or attorney of either of the parties shall make an affidavit stating the amount due upon such judgment, it shall be the duty of the clerk of the circuit court for the county in which such judgment shall have been rendered, to file such transcript in his office when requested, and to enter and docket the judgment in a book to be kept by him for that purpose, noting therein the time of receiving it and the amount sworn to be due.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7123 Certified transcript of judgment; effect of judgment.

Sec. 7123. Such judgment shall have the same effect as a judgment rendered in the circuit court, and may in the same manner be enforced, discharged and canceled; and

execution may be issued thereon against both the surety and the person against whom the judgment was rendered, or either of them, in the same manner as if execution were to be issued by the justice.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7125 Certified transcript of judgment; justice in another county, affidavit, fee.

Sec. 7125. Whenever an execution may by law be issued upon any judgment rendered by a justice of the peace, the party in whose favor such judgment shall have been rendered, his agent, attorney or assignee, may make and deliver to the justice of the peace having control of such judgment, an affidavit stating the amount due on said judgment, including a transcript fee of \$2.00, which must be paid to the justice before any transcript shall issue, and setting forth in substance that the deponent knows or has good reason to believe and does believe that there is not sufficient goods and chattels liable to execution within the county in which said judgment was rendered, belonging to any person or persons against whom such execution may issue.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7127 Certified transcript of judgment; duty of justice, fee, exception.

Sec. 7127. Thereupon it shall be the duty of said justice to make a certified transcript of such judgment and the proceedings in the case so far as they shall appear on his docket, with a statement of the amount sworn to be due thereon, and send the same with a fee of \$1.00, by mail, postage prepaid, to any justice of the peace within this state to whom he shall be requested to send the same by the party procuring it: Provided, That no transcript shall issue upon such judgment, when there was no personal service.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7129 Certified transcript of judgment; entry on docket.

Sec. 7129. It shall be the duty of the justice of the peace to whom such transcript shall be sent, on receipt of the same to enter said judgment in full upon his docket, noting thereon the time of receiving it, and the amount sworn to be due thereon.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7131 Certified transcript of judgment; effect of judgment.

Sec. 7131. Such judgment shall have the same force and effect as if it had been rendered by the justice so receiving it in the first instance, and may in the same manner be enforced, discharged, and canceled, and execution may issue for the amount due as upon any other like judgment on said docket.

HISTORY: New 1961, p. 652, Act 236, Eff. Jan. 1, 1963.

600.7133 Tort judgment; action, renewal.

Sec. 7133. Any judgment in tort heretofore or hereafter rendered and of record in any justice court in this state may be sued on and renewed, within the time and as provided by law, and such renewal judgment or judgments, when obtained, shall likewise be in tort and have the same attributes as the original tort judgment or judgments, with all the rights and remedies of tort judgments attaching thereto.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

600.7135 Discovery of debtor's assets.

Sec. 7135. A judgment creditor may make application to any justice of the peace upon whose docket there exists a judgment in his favor which is unsatisfied, and upon which the time for an appeal has expired, for a subpoena requiring the judgment deb-

debtor to appear before the justice, at a time and place specified, and make discovery on oath concerning his property or any debts due or to become due him, his place of employment, name of employer and the amount of wages he receives and the time of payment thereof, and other pertinent matters that would enable the plaintiff to collect the judgment.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

600.7137 Tender of damages; interest; costs.

Sec. 7137. (1) When any action is commenced for the recovery of a sum certain, or which may be reduced to a certainty by calculation, or for a casual or involuntary trespass or injury, the defendant, in any state of the proceedings before trial in such causes, or before such damages have been assessed, may tender to the plaintiff, or his attorney, any sum of money which such defendant conceives sufficient amends for the injury done, for which such action or proceeding was instituted, or sufficient to pay the plaintiff's demand, together with the costs of such action or proceeding, to the time of making such tender.

(2) If it appears upon the trial of the cause, or upon the assessment of damages, that the amount so tendered was sufficient to pay the plaintiff's demand, or was a sufficient amends for the injury done, and the costs of the action or proceeding up to the time of such tender, the plaintiff is not entitled to recover or collect any interest on such demand from the time of such tender, or any costs incurred subsequent to that time, but is liable to the defendant for the costs incurred by him subsequent to such time.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

CHAPTER 72.

EXECUTIONS IN JUSTICE COURT

600.7201 Executions; issuance, return day.

Sec. 7201. Upon any judgment being rendered before a justice of the peace, he shall issue execution thereon, if requested, at the time and in the manner hereinafter prescribed, which shall be dated on the day when it actually issued, and be made returnable within the time stated therein which shall be not more than 60 days.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

600.7203 Executions; direction to constable, command to levy on goods and chattels.

Sec. 7203. Such execution shall be directed to any constable of the same county, and shall command him in the name of the people of the state of Michigan, to levy the debt or damages, with interest and costs, of the goods and chattels of the person or persons against whom the same shall be issued (excepting such goods and chattels as are by law exempted from execution), and bring the money before such justice, at the time and place therein to be mentioned, to render to the party who recovered the same.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

600.7205 Executions; command to take body.

Sec. 7205. In all cases where, by the provisions of this chapter, an execution may issue against the body of any person, it shall, if the judgment creditor require it, contain a further command to the constable, that if no such goods or chattels can be found, or not sufficient to satisfy such execution, he shall take the body of the person against whom the same shall be issued, and convey him to the common jail of the county, there to remain until such execution shall be paid and satisfied, or he be discharged by due course of law.

HISTORY: New 1961, p. 653, Act 236, Eff. Jan. 1, 1963.

600.7207 Death of parties after issuance of execution; defendants.

Sec. 7207. When the defendant in an execution shall die after levy and before sale, the property levied on shall be sold in the same manner as if he were alive; but if no levy has been made in such case, such execution shall be returned without further proceedings; but if an execution shall have issued against several defendants, and some of them die thereafter, the execution may be executed upon the property of the surviving defendants or any of them if he shall have been personally served with process or shall have appeared in the action.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7209 Death of parties after issuance of execution; plaintiffs.

Sec. 7209. If the plaintiff die after the execution has issued, the same shall be executed and returned as if the plaintiff were living.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7211 Execution against body.

Sec. 7211. An execution issued by a justice of the peace may authorize the arrest and imprisonment of the person against whom the judgment is rendered only in the cases permitted in chapter 60.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7213 Execution; issuance after rendition of judgment.

Sec. 7213. In the cases mentioned in section 7211 and also in suits commenced by attachment, or in suits to recover for the personal work and labor of the plaintiff, or any member of his family, execution shall, on application of the person in whose favor the judgment was rendered, his agent or attorney, be issued forthwith after the rendition of the judgment.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7215 Execution; issuance after five days.

Sec. 7215. Upon all judgments rendered by justices of the peace, except in the cases mentioned in sections 7211 and 7213, executions shall issue at the expiration of 5 days from the rendering of the judgment; and such execution shall not issue sooner without the consent in writing, of the person against whom the judgment was obtained, or the proof specified in section 7217.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7217 Execution; immediate issuance on cause shown.

Sec. 7217. If the party obtaining such judgment shall make it appear by his own oath, or other competent testimony, to the satisfaction of the justice, that such party will be in danger of losing the amount recovered by him, unless execution issue sooner than is prescribed in section 7215, such justice shall issue execution immediately.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7219 Execution; application for immediate issuance, notice.

Sec. 7219. Application for such execution may be made at the time of rendering the judgment; or, if a reasonable notice be given to the adverse party of the intention to apply for such execution, such application may be made at any time after the judgment shall have been rendered.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7221 Execution against joint debtors; process not served on all; issuance.

Sec. 7221. When a judgment shall be obtained against joint debtors upon process which was not personally served upon all the defendants, execution may be issued in form against all; but the justice shall indorse thereon the names of such of the defend-

ants who did not appear in the suit, as were not personally served with process of warrant, summons or attachment.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7223 Execution against joint debtors; process not served on all; service.

Sec. 7223. Such execution shall not be served upon the persons of the defendants whose names are indorsed thereon; nor shall it be levied upon the sole property of any such defendant, who neither appeared in the suit nor was personally served with such process; but it may be collected of the several property of any defendant who appeared or was served personally with process, or of the joint or copartnership property of all the defendants.

HISTORY: New 1961, p. 654, Act 236, Eff. Jan. 1, 1963.

600.7225 Alias or renewed execution.

Sec. 7225. If any execution is returned unsatisfied in whole or in part, a further execution for the amount remaining due may be issued upon the request of the plaintiff, or party interested therein, or the justice may renew the same by an indorsement thereon to that effect, signed by him, and dated when the same shall be made, which shall be deemed to renew the execution in full force, in all respects, for 60 days; if any part of such execution has been satisfied, the justice shall indorse on the execution the sum remaining due thereon.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7227 Execution; limitation of time for issuance.

Sec. 7227. An execution may be issued upon any judgment recovered before a justice of the peace, at any time within 6 years after such judgment shall have been rendered, for the collection of the whole or any part of such judgment remaining unpaid.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7229 Levy on property of sureties; memorandum of justice.

Sec. 7229. Whenever it shall appear from the docket, or on the trial, that any of the defendants are sureties, the justice shall note the same on the execution; and it shall be the duty of the officer executing the same, first, to levy on the goods of the principal, and if enough of such goods can be found to satisfy the execution, no levy shall be made on the goods of the surety.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7231 Levy on property of sureties; affidavit of co-defendant.

Sec. 7231. Every officer having an execution in his hands for collection, upon an affidavit being served upon him, made by any co-defendant in such execution, his agent or attorney, showing the principal debtor therein, shall first exhaust all the personal estate of said principal debtor, which may be turned out by any one of the defendants, before selling the property of any other defendant who may be surety in the demand upon which the judgment was rendered.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7233 Levy on property of sureties; time; endorsement on execution; notice of sale, publication; removal of goods.

Sec. 7233. The constable, after taking goods and chattels into custody by virtue of an execution, shall indorse thereon the time of levying the same, and immediately give public notice by advertisement signed by himself, and put up at 3 public places in the city, village or township where such goods and chattels were levied upon, and in case the sale be made in any other city, village or township than that in which the levy was made, also in the city, village or township where said goods and chattels are to be sold,

when and where they will be exposed for sale; and the said officer shall in no case remove said goods and chattels out of the county where said levy shall have been made.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7235 Notice of sale; contents.

Sec. 7235. Such notice shall describe the goods and chattels and shall contain the names of the parties to the suit upon which the execution issued, and shall be put up at least 5 days before the time appointed for the sale.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7237 Sale under execution.

Sec. 7237. At the time and place so appointed, or at such other time as the sale may be adjourned to within the life of the execution, the goods and chattels being present, and pointed out to the inspection and examination of the bidders, the constable shall expose them for sale at vendue to the highest bidder.

HISTORY: New 1961, p. 655, Act 236, Eff. Jan. 1, 1963.

600.7239 Return of execution.

Sec. 7239. The constable shall return the execution, and pay the debt or damages, and the costs levied, to the justice who issued the same; or in case of his death, absence or removal from office, then to the justice having the custody of his docket, returning the surplus, if any, to the person against whom the execution issued.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7241 Service and return of execution; completion after return day.

Sec. 7241. When an officer shall have begun to serve an execution issued out of any justice court, on or before the return day of such execution, he may complete the service and return thereof after such return day.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7243 Levy on property or imprisonment of defendant after return day.

Sec. 7243. No constable shall levy upon any property or imprison a defendant, upon any execution, after the time limited therein for its return, except as provided in section 7241.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7245 Livestock taken in execution; cost of keeping.

Sec. 7245. When any cattle or other livestock is taken in execution, it shall be the duty of the justice who issued the execution or other justice charged with the duty of collecting the judgment whereon such execution issued, to allow the constable for keeping of the same, a reasonable compensation, to be taxed and collected as other costs in the suit.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7247 Perishable property taken in execution or attachment; order for sale.

Sec. 7247. Whenever any constable shall, by virtue of any attachment or execution issued by any justice of the peace, levy upon any peaches, blackberries, raspberries, strawberries, or other perishable property, he shall forthwith make his return to said justice, who by a written order shall authorize the constable to sell said property at such time, place and manner as said justice shall deem most beneficial to the defendant.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7249 Perishable property taken in execution or attachment; court to authorize sale, notice.

Sec. 7249. No sale shall be made under the provisions of section 7247, except upon the written order of the court from which proceedings shall have been issued, authorizing such sale at such time, place and manner as said court shall decree most beneficial to the defendant: Provided, That the court shall direct that notice be given to the defendant, or his agent, of the time and place of such sale, and the court shall direct how the notice shall be given.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7251 Constable; not to purchase at execution sale.

Sec. 7251. No constable shall, directly or indirectly, purchase any goods or chattels upon any sale made by him upon execution; and every such purchase shall be absolutely void.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7253 Constable; taking care of body of defendant in certain cases; payment of board in advance.

Sec. 7253. (1) For want of sufficient goods and chattels whereon to levy, the constable shall, in the cases authorized by law, if the execution require it, take the body of the person against whom the execution shall have issued, and convey him to the common jail of the county, the keeper whereof is hereby required to keep such person in safe custody in jail, until the debt or damages and costs shall be paid, or he be thence discharged by due course of law.

(2) Whenever in any civil action, any person is committed to any jail in default of bail, or by virtue of an execution issued or proceeding founded on a judgment rendered in such suit, the plaintiff or defendant at whose instance such person is so imprisoned, shall pay, on demand, to the sheriff or the keeper of the common jail of the county, the expenses of the board and keeping of such person so imprisoned; and the said sheriff or keeper of said jail shall not be required to retain such person any longer in jail than such expenses of such board and keeping shall be paid in advance; nor shall such expenses constitute any charge against the county.

HISTORY: New 1961, p. 656, Act 236, Eff. Jan. 1, 1963.

600.7255 Constable; neglect of duty; liability on bond.

Sec. 7255. If a constable shall neglect or refuse to return an execution, and pay over the moneys by him collected, within 5 days after such execution shall have been paid, or shall neglect to levy an execution, or otherwise execute the same according to law, the party in whose favor such execution was issued, or who shall be entitled to such moneys, may maintain an action of assumpsit, in his own name, upon the instrument of security given by such constable and his sureties; and in such suit the amount of the execution, with interest from the time of the rendition of the judgment upon which the same was issued, shall be recovered; and execution shall issue forthwith.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7257 Constable; proceeding after expiration of office term; liability of sureties.

Sec. 7257. Every constable to whom any execution shall have been delivered, and whose term of office shall expire before the time within which the return or collection of such execution is required by law, shall proceed thereon in the same manner, and shall have the same powers in relation thereto, as if his term of office had not expired:

and such constable and his sureties shall be liable for any neglect of duty, and for moneys collected upon such execution, in the same manner and to the same extent as if the term of office of such constable had not expired.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7259 Constable; vacancy in office before execution of writ.

Sec. 7259. If any constable to whom any execution shall have been delivered, shall die, become insane, or by sickness, or otherwise, be incapable of completing the service and return thereof, before such writ shall have been fully executed, any other constable may proceed thereon in the same manner that the constable to whom such writ was originally delivered might have done.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7261 Set-off of executions.

Sec. 7261. Executions between the same parties, upon judgments recovered in their own right, may be set off, one against another, if required by either party, in the following manner: When 1 of the executions is delivered to a constable to be served, the person who is the debtor therein may deliver his execution to the same constable, and such constable shall apply the amount thereof, so far as it will extend, or so far as may be necessary, to the satisfaction of the first execution; and the balance due on the larger execution shall be collected and paid in the same manner as if there had been no set-off.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7263 Surplus after execution sale; disposition.

Sec. 7263. In all cases where any surplus money remains from the sale of any property, upon execution after the satisfaction of the judgment and costs, such surplus money shall be paid to and remain in the hands of the justice by whom such judgment was rendered, to be paid defendant in execution at any time when called for within 2 months from the receipt of the same by said justice: Provided, That if said defendant does not call for said surplus money within 2 months aforesaid, it shall be the duty of the justice having charge of the same, to deposit such surplus money in the treasury of the township, giving notice to the clerk of the township in which such judgment was rendered, whose duty it shall be to charge the same to the treasurer of the township.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7265 Surplus after execution sale; payment to defendant.

Sec. 7265. If the defendant, his agent or his legal representative, entitled to the possession of such money, shall appear within 6 years after the rendition of such judgment, and establish by his own affidavit or otherwise, to the satisfaction of the township treasurer, his right thereto, then he shall be entitled to receive the money, and shall give his receipt therefor; and the township board when settling with such treasurer, shall give him credit for said receipt: Provided, That in cities, the money shall be paid into the city treasury with like effect and like notice as above provided in the payment into the township treasury.

HISTORY: New 1961, p. 657, Act 236, Eff. Jan. 1, 1963.

600.7267 Applicability of law; personal property, levy, inventory, appraisal, sale; exemptions.

Sec. 7267. The provisions of chapter 60, so far as they relate to the liability of personal property to levy under execution and exemption therefrom, and the manner of inventorying, appraising and selling such property, and setting out such exemptions shall be applicable in cases of attachment and executions issued from justice courts.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

600.7269 Applicability of law; growing grains, unharvested crops.

Sec. 7269. The provisions of section 6036, relative to levy upon growing grains, or unharvested crops, shall be applicable to executions issued by justices of the peace.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

600.7271 Applicability of law; execution against municipalities.

Sec. 7271. No execution shall be issued upon any judgment rendered against a municipal corporation, but the proceedings for the enforcement of any such judgment shall be as provided in chapter 60.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

CHAPTER 73.

REPLEVIN IN JUSTICE COURT

600.7301 Replevin; goods unlawfully taken or detained.

Sec. 7301. Whenever any goods or chattels shall have been unlawfully taken, or unlawfully detained, an action of replevin may be brought for the recovery thereof, and for the recovery of the damages sustained by such unlawful taking or detention, except in the cases hereinafter excepted.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

600.7303 Replevin; goods taken for tax or fine.

Sec. 7303. No replevin shall lie for any property taken by virtue of any warrant for the collection of any tax, assessment or fine, in pursuance of any statute of this state.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

600.7305 Replevin; goods taken under execution or attachment.

Sec. 7305. No replevin shall lie at the suit of the defendant in any execution or attachment, to recover goods or chattels seized by virtue thereof, unless such goods or chattels are exempted by law from such execution or attachment; nor shall a replevin lie at the suit of any other person, unless he shall, at the time, have a right to reduce into his possession the goods taken or detained.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963.

600.7307 Replevin; writ, form.

Sec. 7307. Actions of replevin before a justice of the peace or in any other court whose procedures are required to conform to those before a justice of the peace shall be commenced by writ, which shall be substantially in the following form:

STATE OF MICHIGAN
WRIT OF REPLEVIN

(Title of Cause)

In the Name of the People of the State of Michigan.

To

You are hereby notified that a suit has been commenced against you in the
....., by, as plaintiff,
(name of court)

and that if you desire to defend the same you are required to have your appearance in person or by attorney filed or entered therein and to give notice thereof, in accordance with the practice of the court, on or before the day of, 19....., at M.

The constable (or other officer) of this court is hereby commanded forthwith to take into his custody the following goods and chattels, to wit: (describing the goods and chattels to be replevined), and deliver the same to said plaintiff, if he shall give security as required by law to prosecute to effect this writ against said defendant, and to return the aforesaid goods and chattels, if return thereof shall be adjudged, and to pay all such sums of money as may be recovered against him hereupon.

Hereof fail not, under penalty of having judgment taken against you by default. The plaintiff claims damages in said suit not exceeding \$.....

Issued at the of, the place of holding said court, this day of, 19.....

Justice of the Peace

Plaintiff (or Attorney)

Business address.

Notice to Process Server. Service of this writ shall be made on or before the day of, 19..... (said date of service shall be not less than 3 days before the return day above set forth and said return day shall be not less than 6 nor more than 12 days from the date of issuance of this writ.) Proof of service, unless otherwise requested by plaintiff or his attorney, shall be made and filed immediately after service on all defendants has been made, or immediately after the above date if such service has not been made.

HISTORY: New 1961, p. 658, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 290, Act 219, Imd. Eff. May 22, 1964.

600.7309 Replevin; affidavit of plaintiff; bond; writ; justification of sureties.

Sec. 7309. (1) The justice shall issue a writ of replevin whenever the plaintiff, his agent or attorney, shall make and file an affidavit with the justice, and give a bond, as prescribed herein.

(2) The plaintiff, his agent or attorney, shall make and file an affidavit with the justice:

(a) Setting forth that his personal goods and chattels, not exceeding in value \$300.00, have been unlawfully taken, or are unlawfully detained by any other person, specifically describing such property, and giving the value thereof, and

(b) Stating that the plaintiff is lawfully entitled to the possession of said property, that the same has not been taken for any tax, assessment, or fine, levied by any law of this state, nor seized under any execution or attachment against the goods and chattels of such plaintiff liable to execution, and

(c) Claiming damages for the detention of the same, or the taking of the same, not exceeding \$300.00, in addition.

(3) The bond required by (1) shall be filed with such justice with sufficient surety or sureties, to be approved by the justice. The bond shall be payable to the defendant in a penalty at least double the value of the property, as sworn to in the affidavit, and not less than \$100.00. The bond shall be conditioned that the plaintiff will prosecute the suit to effect, and that if the defendant recover judgment against him in the action, he will return the same property, if return thereof be adjudged, and will pay the defendant all sums of money as may be recovered by such defendant against him in the said action. The justification of the sureties to said bond shall be indorsed thereon, in writing and under oath.

(4) The writ shall be directed to any constable of the county, commanding him to take the property described, and return the same forthwith to the plaintiff, and that he summon the defendant to appear at a time and place therein to be named, before such

justice to answer the said plaintiff concerning the unlawful taking or detention of the said goods and chattels.

(5) In case of the neglect or refusal of said justice to require the sureties to said bond to justify in writing and under oath before issuing said writ, the said writ upon motion shall be dismissed, and the property taken by virtue thereof returned to the persons from whom it was taken, unless the plaintiff, on such motion being made, shall forthwith file with the justice a new bond in the form and penalty, in this section provided, with good and sufficient sureties, who shall justify their responsibility in the manner hereinbefore provided; and the justice shall be liable to the injured party in an action of trespass for any damage the injured party may have sustained by reason of said writ having been issued.

HISTORY: New 1961, p. 659, Act 236, Eff. Jan. 1, 1963.

600.7311 Replevin; return date; service; alias writs.

Sec. 7311. Such writ shall be returnable not less than 6, nor more than 12 days from the date of the same, and shall be served not less than 3 days before the return thereof: Provided, That where the goods or chattels are not seized under the original writ, successive alias writs may be issued by said court for the purpose of seizing said goods or chattels or for service in the same manner as original writs.

HISTORY: New 1961, p. 659, Act 236, Eff. Jan. 1, 1963.

600.7313 Replevin; writs of execution.

Sec. 7313. All writs of execution in actions of replevin shall be returnable in the same time as other executions issued by justices.

HISTORY: New 1961, p. 660, Act 236, Eff. Jan. 1, 1963.

600.7315 Replevin; execution.

Sec. 7315. Upon the receipt of such writ, with the affidavit hereinbefore required annexed, the constable shall proceed to seize and take into his custody the property described therein, and for that purpose may break open any house, stable, out-house or other building in which such property may be concealed, having first demanded deliverance thereof at the building or place where the same is concealed.

HISTORY: New 1961, p. 660, Act 236, Eff. Jan. 1, 1963.

600.7317 Delivery to defendant; bond.

Sec. 7317. (1) If the defendant or some one in his behalf, at any time before the delivery of the property to the plaintiff, shall execute a bond to such officer and his assigns, with the addition of his name of office, with sufficient sureties, to be approved by such officer, in a penalty not less than \$100.00, and at least double the value of such property, conditioned that if the plaintiff recover judgment against him in the action he will produce and surrender the same property to the plaintiff, if such surrender be adjudged, and will pay the plaintiff all such sums of money as may be recovered by such plaintiff against him in the said action, the officer shall return the property to the same person from whom he took it; and the property shall in no case be delivered to the plaintiff without the consent of the defendant in writing, until the expiration of 48 hours after the taking thereof, and notice of such taking shall be given to the defendant.

Specially valued property.

(2) If either party, before the delivery of the property by the officer to the opposite party, shall make and present to such officer an affidavit, setting forth that the property replevied, or any part thereof, has an especial value to him that cannot be satisfied in money, together with a notice in writing that the question of the custody thereof will be submitted to the court, at a time and place therein stated, not exceeding 5 days from the date thereof, and shall serve upon the opposite party, or his attor-

ney, a copy of such affidavit and notice, at least 2 days before the time of hearing mentioned, the officer shall retain custody of such property until the time mentioned in such notice, and until the order of such justice thereon.

Possession pending suit; bond.

(3) Such justice, on proof of service of said affidavit and notice, shall hear the claims of the respective parties, and by order under his hand, award the possession of such property, pending the suit, to either party, on the execution of a bond as herein required, as he shall deem just. Any bond given by the defendants herein provided shall be filed in the court from which the writ issued on or before the return day of such writ.

HISTORY: New 1961, p. 660, Act 236, Eff. Jan. 1, 1963.

600.7319 Summoning of defendant.

Sec. 7319. The officer shall summon the defendant according to the command of the writ, by delivering to him personally a copy of such writ, if such defendant can be found; and if he cannot be found, then by leaving such copy at his usual place of abode, with some person of proper age.

HISTORY: New 1961, p. 660, Act 236, Eff. Jan. 1, 1963.

600.7321 Property not found; recovery of value.

Sec. 7321. If the goods and chattels specified in any writ of replevin shall not be found, or shall not be delivered to the plaintiff, he may proceed in the action for the recovery of the same, or the value thereof.

HISTORY: New 1961, p. 660, Act 236, Eff. Jan. 1, 1963.

600.7323 Return of writ.

Sec. 7323. The officer shall return the writ at or before the return day thereof, with the affidavit thereto annexed, and he shall state in his return in what manner he executed the writ; and if the goods and chattels specified therein shall not have been replevied, he shall state in his return the cause thereof.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7325 Notice to opposite party; exceptions to sureties.

Sec. 7325. (1) Whenever any officer, upon the execution of a writ of replevin, shall take a bond from the defendant, pursuant to the provisions of section 7317, he shall, within 2 days after taking such bond, notify the opposite party or his attorney, of the amount of such bond and the names of the sureties thereon.

(2) If the party for whose benefit a bond is taken shall not be satisfied with the sufficiency of the sureties taken on such bond by the officer, on the delivery of the property to the opposite party, he may, at any time after the taking of such bond, but not more than 10 days after the receipt of notice thereof as aforesaid, serve upon such officer a notice that he excepts to such sureties, and such officer shall give notice thereof to the party giving such bond, or his attorney.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7327 Justification of sureties; motion for new bond, order.

Sec. 7327. (1) Within 20 days after service of such notice on the officer, the sureties in the bond so executed by the plaintiff or the defendant, shall each justify by making an affidavit that he is a freeholder in this state and is worth double the amount of the penalty of such bond over and above all demands and legal exemptions, or within the same time a new bond similar to that required by sections 7309 or 7317, shall be executed with new sureties, who shall justify in the same manner herein provided.

(2) The party in whose favor such bond is taken may, at any time after the taking of such bond, make a motion in such suit that the court order a new bond to be given, to be approved by the court.

Such motion may be heard in open court, and the court may order such new bond to be given, and in default thereof may make such further order for the custody of the property pending the suits as the court may deem necessary to protect the rights of the parties.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7329 Justification of sureties; affidavits and bond, filing, notice.

Sec. 7329. Such affidavits, and such bond when executed, shall be filed in the court to which the writ shall have been returned, and notice thereof shall be served on the defendant or his attorney, within the 20 days herein specified.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7331 Justification; neglect to justify; discontinuance, judgment.

Sec. 7331. If sureties shall not justify, or if such new bond shall not be executed and filed, and notice thereof given as herein provided, the court shall, after such default, render judgment of discontinuance against the plaintiff, and such other judgment as the state and nature of the case may require, in order to restore to the defendant the property replevied, and to compensate him for his damages.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7333 New bond; allowance by court.

Sec. 7333. But the court may allow the plaintiff to file such new bond, with sureties, who shall justify in the same manner herein prescribed, within the time specified by the court, on such reasonable terms as the court shall impose; and upon such bond being filed, the cause shall proceed.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7335 Return of writ; proceedings.

Sec. 7335. If the officer return to the writ of replevin that the defendant has been duly summoned in either of the modes hereinbefore prescribed, the plaintiff shall declare within the same time as in personal actions, and the further practice and proceedings in the case shall be the same as in actions begun by summons.

HISTORY: New 1961, p. 661, Act 236, Eff. Jan. 1, 1963.

600.7337 Declaration; contents.

Sec. 7337. It shall be sufficient for the plaintiff in his declaration, whether the original taking was lawful or otherwise, to allege with requisite certainty of time, place and value, that the defendant received the property to be delivered to the plaintiff when thereunto afterwards requested, and that the defendant, although requested so to do, has not delivered the same to the plaintiff, but has unlawfully detained the same, to the damage of the plaintiff such sum as he may specify.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7339 Declaration; place of detention, allegation.

Sec. 7339. It shall not be necessary for the plaintiff to state in his declaration, a place certain within the township, city or village, as that where the property was detained.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7341 Special defense; plea and notice.

Sec. 7341. The defendant may plead the general issue to such declaration, which shall be in the same form as in personal actions, and shall put in issue not only the detention of the property, but also the property of the plaintiff therein, and his right to the possession thereof at the time of the commencement of the suit, and under such plea the defendant may give notice of any special matter of defense to the action.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7343 Verdict for plaintiff; damages; judgment by default, damages.

Sec. 7343. If, upon the trial of the cause, the verdict be in favor of the plaintiff, the same jury shall assess the damages which he has sustained by the unlawful taking and detention, or by the unlawful detention of the property; but if judgment pass for the plaintiff by default, or upon an issue of law, the damages may be assessed by the court, in the same manner as in personal actions.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7345 Partial interest of parties in property.

Sec. 7345. When either of the parties to an action of replevin, at the time of the commencement of the suit, shall have only a lien upon, or special property or part ownership in the goods and chattels described in the writ and is not the general owner thereof, that fact may be proved on the trial, or on the assessment of value, or on the assessment of damages, in all cases arising under this chapter; and the finding of the jury, or court, as the case may be, shall be according to such fact, and the court shall thereupon render such judgment as shall be just between the parties.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7347 Judgment for plaintiff; delivery of goods.

Sec. 7347. If the goods and chattels specified in the declaration, shall not have been replevied and delivered to the plaintiff, such plaintiff, in case he shall recover upon the whole record, shall be entitled, in addition to his damages and costs, to a further judgment that such goods and chattels be replevied and delivered to him without delay; or in default thereof, that such plaintiff do recover from the defendant the value of such goods and chattels, as the same shall have been assessed.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7349 Judgment for plaintiff; execution.

Sec. 7349. The execution to be issued upon such judgment shall command the officer to levy the plaintiff's damages and costs, of the goods and chattels, lands and tenements of the defendant, as in other executions against property; and also to replevy the goods and chattels described in the declaration, which shall also be specified in the execution, and to deliver them to the plaintiff, if they can be found within his county, and if the same cannot be found, then that he levy the value of such goods and chattels, specifying the same, together with the aforesaid damages, and costs, of the goods and chattels, lands and tenements of the defendant, as above provided.

HISTORY: New 1961, p. 662, Act 236, Eff. Jan. 1, 1963.

600.7351 Judgment for plaintiff; officers, powers and duties.

Sec. 7351. The officer shall proceed in the same manner to collect any moneys directed to be collected upon such execution, as upon executions against property in personal actions, and he shall possess the same powers in respect to the replevying of the property described therein, as are herein provided upon the execution of writs of replevin; and if the goods and chattels described in the execution, are replevied and delivered to the plaintiff, they shall be irrepleviable.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7353 Judgment for defendant; return of goods; waiver, damages.

Sec. 7353. If the property specified in the writ shall have been delivered to the plaintiff, and the defendant recover judgment by discontinuance or nonsuit, such judgment shall be, that the defendant have return of the goods and chattels replevied, unless he shall elect to waive such return as hereinafter provided; and also that he recover the damages sustained by him by reason of the detention of such goods and chattels, which damages shall be assessed by a jury in the proper court.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7355 Judgment for value of property; liability of sureties; levy of execution.

Sec. 7355. Whenever the plaintiff or defendant shall be entitled to a return or surrender of the property replevied, instead of taking judgment for such return or surrender as above provided, he may take judgment for the value of the property replevied, in which case such value shall be assessed on the trial, or upon the assessment of damages, as the case may be, subject to the provisions of section 7345. And in such case he shall be entitled to a judgment against the sureties in the bond given by the opposite party, on the delivery of the property to him by the officer, as well as against the principal. When judgment shall be rendered against a party and his sureties, pursuant to the provisions of this section, any execution issued thereon shall direct the officer to whom it is directed to make the amount thereof out of the goods, chattels, land and tenements of the principal, naming him, and for want thereof, out of the goods, chattels, lands and tenements of the sureties.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7357 Damages and value of property; ascertainment, exceptions to sureties.

Sec. 7357. The damages and value of the property mentioned in sections 7353 and 7355 shall be ascertained by the justice, and no notice thereof shall be necessary, nor shall any exceptions be taken to the sureties of the plaintiff in the bond taken by the justice.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7359 Judgment for defendant; costs.

Sec. 7359. If the property specified in the writ shall not have been replevied and delivered to the plaintiff, and the defendant recover judgment, such judgment shall be for costs only.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7361 Judgment for defendant; return of property, bar to subsequent action.

Sec. 7361. Whenever judgment shall pass against the plaintiff in replevin, whether by default or otherwise (except when the case shall be dismissed by reason of some default in the writ or the service thereof, or in the affidavit), and a return of the property is awarded, no writ of second deliverance shall be allowed, nor shall any second or other writ of replevin be brought for the same cause, but the plaintiff in replevin shall not thereby be barred from bringing an action for the same property, unless the judgment in the action of replevin shall have passed against him on the merits.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7363 Property replevied; subject to attachment in certain cases.

Sec. 7363. If any goods or chattels which are replevied, had been attached, they shall, in case of judgment for a return, be held liable to the attachment, until final judgment in the suit in which they were attached, and for 30 days thereafter, in order to their being taken in execution; and if such final judgment be rendered before the return of the property, or if the property when replevied was seized and held on execution, it shall be held subject to the same attachment or seizure for 30 days after the return, in order that the execution may be served thereon, or the service thereof completed, in like manner as it might have been if such property had not been replevied.

HISTORY: New 1961, p. 663, Act 236, Eff. Jan. 1, 1963.

600.7365 Action on bond; parties.

Sec. 7365. If any writ of return or other execution issued in favor of either party in the action shall be returned unsatisfied in whole or in part, the party in whose favor

such writ is issued, or his representatives, may have an action upon the bond executed by or on behalf of the opposite party, to recover against the obligors therein the value of the property replevied, and the moneys, damages and costs awarded to such party and such bond shall be assigned to such party, so entitled to an action thereon, or his representatives, on their request.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7367 Action on bond; procedure, measure of damages.

Sec. 7367. In such action the plaintiff shall assign breaches of the condition of such bond as in other cases; and the return of the officer to the execution issued in the action of replevin shall be evidence of such breach; the amount recovered in such action of replevin, and remaining uncollected, shall be the measure of the damages, if the value of the property replevied shall have been so recovered, and if not so recovered and a return or surrender thereof shall have been awarded, such value shall be added to the damages and costs recovered in the action of replevin, and the amount of such value, damages and costs, remaining uncollected, shall form the measure of damages.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7369 Action on bond; mitigation of damages.

Sec. 7369. In any action prosecuted on such bond given by either party in action of replevin for the deliverance of any property, the defendant may show, in mitigation of the damages, that the obligee in such bond had only a lien upon it, or special property or part ownership in said property at the time of commencement of suit in replevin, and that the defendants, or either of them, had at the same time a part ownership or other valuable interest in said property; and if such lien, special property, part ownership, or other interest of said obligee, with interest thereon, amount to less than the value of the property replevied, a corresponding reduction shall be made from such value.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7371 Replevin for distrained beasts; procedure.

Sec. 7371. Any person whose beasts are distrained or impounded, in order to recover any penalty or forfeiture supposed to have been incurred by their going at large, or to obtain satisfaction for any damages alleged to have been done by them, may have a writ of replevin therefor out of the proper court, and the same proceedings shall be had thereon as in other cases of replevin, except as hereinafter provided.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7373 Replevin for distrained beasts; annexed affidavit, contents.

Sec. 7373. Such writ shall not be executed in any case, unless the plaintiff in the action, or some person knowing the facts, shall make and annex to the writ an affidavit stating therein that the beasts, describing them, have been distrained or impounded, and are detained by the defendant, and that the plaintiff therein is the owner of such beasts, or that he has a lawful right to the possession thereof.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7375 Replevin for distrained beasts; bond; service.

Sec. 7375. The writ shall not be issued before a bond is given as in other cases of replevin. The writ shall be served as in other cases of replevin.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7377 Judgment for defendant; damages, costs.

Sec. 7377. If the beasts shall be replevied and delivered to the plaintiff, and judgment of nonsuit or of discontinuance be rendered against the plaintiff, or if it appear on the trial that the beasts were lawfully distrained, the defendant shall have judgment for such sum as shall be due from the plaintiff, for the penalty or forfeiture, or

for the damages for which the beasts were impounded, together with all the lawful fees, costs, charges and expenses incurred by reason of the distress, to be assessed as in other cases, and also his costs of the action of replevin.

HISTORY: New 1961, p. 664, Act 236, Eff. Jan. 1, 1963.

600.7379 Judgment for plaintiff; damages, costs.

Sec. 7379. If the plaintiff shall recover judgment against the defendant by default, or if it shall appear upon the trial that the beasts were distrained without any sufficient or justifiable cause, the plaintiff shall recover his damages caused by the unlawful detention of such beasts to be assessed as in other actions of replevin, together with his costs of suit.

HISTORY: New 1961, p. 665, Act 236, Eff. Jan. 1, 1963.

CHAPTER 74.

ATTACHMENT IN JUSTICE COURT

600.7401 Attachment; right of plaintiff; affidavit.

Sec. 7401. Any plaintiff shall be entitled to an attachment against a defendant in any action if such plaintiff, or some person in his behalf, shall make and file with the justice an affidavit specifying, as near as may be, the amount due to the plaintiff, or claimed by him, and containing a further statement, that the deponent knows or has good reason to believe: Either

(1) That the defendant has assigned, disposed of or concealed or is about to assign, dispose of or conceal, any of his property, with the intent to defraud his creditors; or

(2) That he is about to remove any of his property from the county in which such application is made, or from the county where the defendant resides, with the like intent, or that he has removed, or is about to remove himself or his property from the county, and refuses or neglects to pay or to secure the payments of the debt or damages; or

(3) That he fraudulently contracted the debt or caused the damages or incurred the obligation respecting which the suit was brought; or

(4) That the defendant has absconded, or does not reside in this state, and has not resided therein for 1 month, immediately preceding the time of making the application; or

(5) That the defendant is a foreign corporation: Provided, That such affidavit shall not be deemed insufficient by reason of the intervention of a day between the date of the jurat to such affidavit and the issuing of the writ, and that when the person making such affidavit shall reside in any other county in this state than that in which the writ of attachment is to issue, 1 day's time for every 30 miles by the usual post route, from the residence of such person to the place from which such writ shall issue, shall be allowed between the date of such jurat and the issuing of such writ, and Sundays and legal holidays shall not be counted as intervening days in any case.

HISTORY: New 1961, p. 665, Act 236, Eff. Jan. 1, 1963.

600.7403 Attachment; bond of plaintiff.

Sec. 7403. In all cases of attachment, the plaintiff shall before issuing the attachment, file with the justice a bond to the defendant, in the penal sum of \$200.00, with sufficient surety or sureties, to be approved by the justice in writing thereon, signed by him, conditioned to pay the defendant all damages and costs he may sustain by reason of the issuing of the attachment, if the plaintiff shall fail to recover judgment in such suit; and if the plaintiff's demand shall exceed \$100.00, the penalty of such bond shall be double the amount of such demand.

HISTORY: New 1961, p. 665, Act 236, Eff. Jan. 1, 1963.

600.7405 Attachment; command and contents.

Sec. 7405. Every attachment shall state the amount claimed by the plaintiff, and shall command any constable of the county in which the justice resides, to attach so much of the goods and chattels of the defendant (except such as are exempt by law from execution) as will be sufficient to satisfy such demand, and safely keep the same to satisfy any judgment that may be recovered by the plaintiff in such attachment, and to return the same at a time therein to be specified, not less than 6 nor more than 12 days from the date thereof.

HISTORY: New 1961, p. 665, Act 236, Eff. Jan. 1, 1963.

600.7407 Attachment; execution; seizure of property; inventory; service upon defendant.

Sec. 7407. The constable serving such attachment, shall execute the same at least 6 days before the return thereof, by seizing so much of the goods and chattels of the defendant within his county as shall be sufficient to satisfy the demand and costs, and making an inventory thereof, and serving a copy of such attachment and inventory upon the defendant if he can be found within the county.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7409 Attachment; seizure where defendant is not found.

Sec. 7409. If the defendant cannot be found within the county, the constable shall leave a copy of the attachment and inventory certified by him at the last place of residence of the defendant, if there be any such place within the county, and if not, then by leaving the same with any person in whose possession such goods and chattels, moneys and effects may be found, or in case garnishee proceedings shall be commenced simultaneously with the issuing of said writ, and no goods, chattels, or effects shall be found on which to levy such writ, then by leaving a certified copy of said writ with such garnishee defendant.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7411 Attachment; bond given by any person with sufficient surety; delivery of property.

Sec. 7411. No goods or chattels attached shall be removed by the constable if a bond be executed and delivered to him by any person, with sufficient surety to be approved by such constable in a penalty at least double the sum stated in the attachment to have been sworn to, conditioned that such goods and chattels shall be produced to satisfy any execution that may be issued on any judgment that shall be recovered by the plaintiff upon such attachment; and thereupon the officer shall deliver the property attached to the person executing such bond.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7413 Attachment; bond by claimant.

Sec. 7413. If any person other than the defendant shall claim any goods or chattels attached by a constable, he may, after such seizure, and at any time before execution shall have been issued upon the judgment obtained on such attachment, execute a bond to the plaintiff with sufficient sureties, to be approved by the constable or by the justice who issued the attachment, in a penalty double the value of the property attached, conditioned that in a suit to be brought on such bond, within 3 months from the date thereof, such claimant will establish that he was the owner of the goods seized at the time of the seizure, and in case of his failure to do so, that he will pay to such plaintiff the value of the property so attached, with interest.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7415 Attachment; delivery to obligor of bond.

Sec. 7415. Upon either of the bonds aforesaid being executed and delivered to the constable, he shall deliver up the property seized by him to the obligor in such bond.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7417 Proceedings upon personal service.

Sec. 7417. If the attachment be returned personally served upon any of the defendants, the justice shall proceed therein in the same manner as upon a summons returned personally served.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7419 Proceedings in case of no personal service; continuance; notice of trial.

Sec. 7419. If the attachment shall not be personally served upon any of the defendants, and none of the defendants shall appear on the return day thereof, the justice shall continue the cause for not less than 30, and not exceeding 90 days; and in such case, no hearing shall be had or judgment rendered thereon; until the expiration of that time, unless the defendant shall sooner appear and request a trial; in which case the justice shall appoint a day for the trial of such suit, and cause notice thereof to be given to the plaintiff.

HISTORY: New 1961, p. 666, Act 236, Eff. Jan. 1, 1963.

600.7421 Several attachments; order of execution; against same defendant.

Sec. 7421. When there are several attachments against the same defendant in the hands of the same officer, they shall be executed in the same order in which they were received by the officer.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7423 Several attachments; order of execution; against same property.

Sec. 7423. Different attachments of the same property may be made, and 1 inventory shall be sufficient; the lien of the attachments shall be in the order in which they were served, and the subsequent attachments shall be served on the property as in the hands of the officer, and subject to the prior attachment; the justice who issued the attachment, having the priority of lien, shall determine all questions as to priority of liens on the property attached.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7425 Animals or perishable property taken under attachment; disposition.

Sec. 7425. When the cause is continued as provided for in section 7419, and it shall appear that any of the property taken under the attachment consists of animals or perishable property, the justice may make an order directing the officer having the custody thereof, to dispose of the same, as upon execution, and the money realized therefor shall be paid over to the justice, and applied as other money realized from the sale of the property attached, is applied.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7427 Plaintiff; judgment only in certain cases.

Sec. 7427. The plaintiff shall not have judgment in any such action, except in some 1 of the following cases, to wit:

- (1) When the property of the defendants, or 1 of them, if there are several, shall have been attached in the county where the action is brought; or
- (2) When the defendant, or 1 of them where there are several, shall have been personally served with process, or shall have appeared; or

(3) When a garnishee shall have been summoned, who shall be found indebted to the defendant or defendants, or to have property or effects in his hands, subject to the attachment.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7429 Return of no property not to affect garnishee.

Sec. 7429. The return, that no property was found on the attachment shall not affect the proceedings against the garnishee.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7431 Bond for discharge of property.

Sec. 7431. If, at any time before judgment, the defendant shall appear and answer to the action, and shall give a bond to the plaintiff, in a penalty double the amount claimed by the plaintiff, with 1 or more sureties, to be approved by the justice, conditioned to pay any judgment the plaintiff may recover against him in the action, within 30 days after the rendition thereof, the justice shall thereupon make an order discharging the property attached.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7433 Return of inventory and bond.

Sec. 7433. In returning a writ of attachment, the officer shall also return a copy of the inventory of the property attached, certified by him, and any bond which may have been executed and delivered to him pursuant to the foregoing provisions.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7435 Garnishment; procedure in attachment.

Sec. 7435. That any person or corporation indebted to the defendant in any attachment suit, or who has any property or effects belonging to said defendant, may be summoned as a garnishee of such defendant in such attachment proceedings. The proceedings against the garnishee shall be conducted in the same manner as other garnishment cases in justice's court. Such garnishee proceedings may be commenced simultaneously with the issuing of the writ of attachment, or while such attachment suit is pending, and shall be deemed auxiliary to the proceedings in attachment, but shall be entered separately upon the justice's docket, the same as in other garnishee cases. If the disclosure shows that the garnishee is indebted to the defendant in attachment, or that such garnishee has any money, property, credits, or effects in his or its hands, or under his or its control, the plaintiff in attachment shall be entitled to judgment in such attachment proceedings the same as in the case of property attached, and shall also be entitled to judgment against the garnishee as in other cases.

HISTORY: New 1961, p. 667, Act 236, Eff. Jan. 1, 1963.

600.7437 Garnishment; action against foreign corporation, domestic corporation.

Sec. 7437. Whenever an action shall be commenced by attachment against a foreign corporation, and proceedings by garnishment shall also be commenced in the same action, if it shall appear on the return of the writ of attachment that a copy thereof, and also copies of all garnishee summons issued in said action, have been personally served on any officer, member, clerk or agent of such foreign corporation within this state, the same proceedings may be thereupon had in said action against said corporation, and in the same manner as upon the return of a summons personally served in actions against natural persons; and in all cases of proceedings by garnishment against corporations, whether foreign or domestic, service of any process in the manner above provided for in case of foreign corporations, shall have like force and effect as personal service upon natural persons.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

600.7439 Garnishment; rights and liabilities of garnishees.

Sec. 7439. The rights and liabilities of garnishees in such cases, and the proceedings against them, shall be the same in all respects as is provided by law in other cases of garnishment.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

600.7441 Judgment and execution without personal service or appearance of defendant.

Sec. 7441. In all cases where the attachment shall not have been personally served, and the defendant shall not have appeared in the suit, judgment shall be rendered and execution may be issued in the same form as if such attachment had been personally served; but such judgment shall not be conclusive against the defendant, except as to the property attached, and such execution shall only authorize the officer to whom it is directed to sell the property attached in such suit.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

600.7443 Attachment of perishable property; applicability of law.

Sec. 7443. The provisions of section 6035, relating to levies upon perishable property, shall be applicable to attachment cases in justice's courts.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

600.7445 Dissolution of attachment.

Sec. 7445. Application may be made for the dissolution of any attachment issued under the provisions of this chapter, in the manner provided for in the statutes and court rules for the dissolution of attachments in the circuit courts.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

600.7447 Attachment of animals; expense of keeping.

Sec. 7447. Whenever, in any suit commenced by writ of attachment, any animals shall have been seized by virtue of such writ, and expense shall have been incurred in the keeping thereof, it shall be the duty of the justice of the peace before whom the suit is pending, at the time of the trial thereof, to examine witnesses and take proof offered by the parties as to the expense of the keeping of such animals, from the time of their seizure up to and including the day of trial, and to determine and adjudge the amount of such expense, and to incorporate the same into the judgment as a part thereof, in case judgment shall be rendered in favor of the plaintiff; and the docket of the justice shall contain an entry of the amount so determined, and execution shall issue upon such judgment as in like cases is otherwise provided.

HISTORY: New 1961, p. 668, Act 236, Eff. Jan. 1, 1963.

CHAPTER 75.

GARNISHMENT IN JUSTICE COURT

600.7501 Garnishment; affidavit; summons, service, return; trial.

Sec. 7501. In any action commenced before a justice of the peace, founded upon contract, or upon judgment or decree, or after the rendition of judgment in any case if the plaintiff, his agent or attorney shall make and file with such justice an affidavit stating that he has good reasons to believe, and does believe, that any person, naming him, has property, money or effects in his hands, or under his control belonging to the defendant or any or either of the defendants in such suit, judgment or decree, or that such person is indebted to such defendant or any or either of the defendants, and that such indebtedness is or is not on account of labor performed by the principal defendant, and further stating whether or not the amount due from the garnishee defendant to the principal defendant is for the personal work and labor of such principal defendant or any member of his family, the justice shall issue a summons against such person

requiring him to appear before such justice at a time and place mentioned in the summons, not less than 6 nor more than 12 days from the date thereof except as provided in section 7509 and except in counties having a population greater than 2,000,000 where such appearance shall be not less than 15 nor more than 20 days from the date thereof, and answer under oath all questions put to him touching his indebtedness to such defendant or any or either of the defendants, naming him or them, and the property, money or effects of the defendant, or any or either of the defendants in his possession, within his knowledge or under his control, which summons except as otherwise provided, shall be served and returned in the same manner as a summons issued against a defendant in other cases, and such suit may be entered on the docket as suits in other cases. Garnishment proceedings shall not be commenced against any person for money owing a principal defendant on account of labor performed by him until after judgment has been obtained against such principal defendant. Upon the return day of the summons, the cause may be adjourned by either party only once for a period not exceeding 1 week, at which time the issue shall be tried. In the absence of the justice or on his order further adjournments may be had. The cause shall have priority over the other cases on the call of the justice for trial. The garnishee summons shall state the amount claimed by the plaintiff to be due from the principal defendant.

HISTORY: New 1961, p. 669, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 503, Act 159, Imd. Eff. Aug. 2.

600.7503 Garnishment; summons in counties over 250,000; principal defendant's social security number.

Sec. 7503. In any county now or hereafter containing more than 250,000 inhabitants according to the latest or each succeeding federal decennial census, in any garnishment action upon a judgment for failure to make payment for the purchase of merchandise upon a contract in writing after January 1, 1958, no writ of garnishment shall issue against any person for money owing a principal defendant on account of labor performed by the principal defendant unless the garnishee summons discloses to the garnishee defendant the social security number of the principal defendant or states that such social security number was nonexistent at the time of the purchasing of said merchandise, except when it is shown by the affidavit for garnishment that the social security number of [sic] nonexistent at the time of the purchase of the merchandise, or that the merchandise was purchased outside of the state of Michigan. The above requirement of a social security number shall not be necessary if a disclosure procedure fails to reveal a social security number or where garnishment is issued ancillary to attachments.

HISTORY: New 1961, p. 669, Act 236, Eff. Jan. 1, 1963.

600.7505 Garnishment; form of summons.

Sec. 7505. The summons issued in pursuance of section 7501 may be substantially in the form of the ordinary justice's summons, and need not recite either the commencement of suit by the plaintiff against the principal defendant, or any of the allegations contained in the affidavit for garnishment theretofore filed, but shall contain a command to summon such garnishee to answer in the suit in substantially the following form: "To answer, under oath, all questions put to him touching his indebtedness to A.B., principal defendant at the suit of C.D., plaintiff herein, and the property, money, and effects of the said A.B. in his possession, within his knowledge, or under his control, according to the allegations contained in the affidavit of said C.D. (or E.F., agent of said C.D.), duly made and filed in this suit."

HISTORY: New 1961, p. 669, Act 236, Eff. Jan. 1, 1963.

600.7507 Garnishment; bond for release of garnishee.

Sec. 7507. Any garnishee may be released and the garnishment proceedings dismissed upon the defendant giving a bond with 2 sureties to the plaintiff, in double the

amount claimed to be due the plaintiff in the action, conditioned that if the plaintiff recover, the defendant will pay the judgment and costs within 5 days after the final determination of said suit. The sureties in such bond shall justify their responsibility under oath, and shall be approved by the justice before whom the action is pending.

HISTORY: New 1961, p. 670, Act 236, Eff. Jan. 1, 1963.

600.7509 Garnishment; personal labor, return date.

Sec. 7509. If it appears by the affidavit that the amount sought to be reached as being due from the garnishee defendant to the principal defendant is for the personal work and labor of the principal defendant or any member of his family the justice shall issue a summons returnable in not less than 5 days, nor more than 9 days from the date thereof, which summons shall be served at least 2 days before the time of appearance mentioned therein except in counties having a population greater than 2,000,000 where the justice shall issue a summons returnable in not less than 9 days, nor more than 15 days from the date thereof, which summons shall be served at least 6 days before the time of appearance mentioned therein.

HISTORY: New 1961, p. 670, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 457, Act 214, Eff. Mar. 28, 1963;—Am. 1970, p. 504, Act 159, Imd. Eff. Aug. 2.

600.7511 Garnishment; limitation on liability of garnishee; work and labor.

Sec. 7511. (1) The person summoned as garnishee, from the time of the service of such summons, shall be deemed liable to the plaintiff in such suit, to the amount of the property, money and effects in his hands or possession or under his control, or due from him to the defendant in such suit, but not to exceed the amount of plaintiff's demand and the total cost which he may tax. In every case where the indebtedness is for personal work and labor of the defendant or his family, the person summoned as garnishee shall state in his disclosure the amount then earned and due the principal defendant for such work on the next date when payment is regularly made according to the contract of employment, or the established practice of the garnishee, and the number of days over which such personal work extended. In no case shall the person summoned as garnishee be liable to the plaintiff for such wages for personal work and labor which have been earned when service of the writ is made but which will not be due the defendant on the next regularly established payday according to the terms of the contract of employment or the garnishee's established practice.

First garnishment, exemptions.

(2) When this is the first garnishment summons issued in the case and the defendant is a householder having a family, nothing herein contained shall be applicable to any indebtedness of such garnishee to the defendant for the personal labor of such defendant, or his family, to the amount of 60% of such indebtedness, but in no case when such labor extends over a period of 1 week or less shall more than \$50.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$30.00 shall be so exempt. In no case where such labor extends over a period greater than 1 week shall more than \$90.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$60.00 shall be so exempt. In case the defendant is not a householder having a family, nothing hereinbefore contained shall be applicable to any indebtedness of such garnishee to the defendant for the personal labor of such defendant to the amount of 40% of such indebtedness, but in no case shall more than \$50.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$20.00 shall be so exempt.

Other cases, exemptions.

(3) In all other cases when the defendant is a householder having a family, nothing herein contained shall be applicable to any indebtedness of such garnishee to the de-

defendant for the personal labor of such defendant or his family to the amount of 60% of such indebtedness, but in no case when such labor extends over a period of 1 week or less shall more than \$30.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$12.00 shall be so exempt. In no case, where such labor extends over a period greater than 1 week but not exceeding 16 days, shall more than \$60.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$24.00 shall be so exempt. In no case, where such labor extends over a period exceeding 16 days, shall more than \$60.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$30.00 shall be so exempt. In case the defendant is not a householder having a family, nothing hereinbefore contained shall be applicable to any indebtedness of such garnishee to the defendant for the personal labor of such defendant to the amount of 30% of such indebtedness, but in no case shall more than \$20.00 of such indebtedness be exempt from the operation of this chapter, and in all such cases at least \$10.00 shall be so exempt.

Alimony as exemption.

(4) If the principal defendant is in an order or decree of a court of competent jurisdiction required to pay permanent or temporary alimony in a divorce proceeding or for separate maintenance, or moneys for the support of children, then upon filing with the justice of the peace a certified copy of such order or decree, there shall be exempted to such defendant from the provisions of this act such further sum or sums of money as may be required to comply with such order or decree for the time over which such personal work and labor extended, in addition to the amount exempted by this section. If the principal defendant shall claim an exemption for any permanent or temporary alimony or moneys for the support of children, it shall be the duty of the clerk of the court, or of the justice of the peace, having control of money so exempt, to forward the same to the person or official named in said decree to receive same.

HISTORY: New 1961, p. 670, Act 236, Eff. Jan. 1, 1963.

600.7513 Garnishment; failure to obey summons; issuance of warrant; continuance.

Sec. 7513. If such garnishee neglect or refuse to appear at the time and place mentioned in such summons, and answer as aforesaid, the justice shall continue the cause to some other day; and without further showing than the officer's return, that the summons had been personally served upon the garnishee and his fees paid or tendered, issue a warrant to bring such garnishee before him.

HISTORY: New 1961, p. 671, Act 236, Eff. Jan. 1, 1963.

600.7515 Garnishment; warrant, command, service and return.

Sec. 7515. Such warrant shall command the officer forthwith to take the body of such garnishee, and bring him before such justice, and shall contain a further command that such officer, after he shall have arrested the garnishee, notify the plaintiff of such arrest; and such warrant shall be served and returned in the same manner as warrants issued in other cases.

HISTORY: New 1961, p. 671, Act 236, Eff. Jan. 1, 1963.

600.7517 Garnishment; personal service deemed commencement of suit; place of service; garnishee's fees; disclosure; garnishee's right to question validity.

Sec. 7517. The personal service of a summons upon such garnishee shall be deemed the commencement of suit in the name of the plaintiff against such garnishee, which summons may be served in the same or adjoining county in this state, and require the appearance of such garnishee before such justice at his office in the same or any adjoining counties of this state, and a constable or sheriff of either county may serve the same: Provided, The lawful fees for travel and attendance shall be paid or tendered to

such garnishee at the time of such service, and such suit may be entered on the docket as suits in other cases: Provided, however, That neither the filing of a disclosure nor the filing of answers to special interrogatories nor the personal appearance by or on behalf of the garnishee defendant in response to a demand for examination pursuant to the provisions of this act, nor the filing of a demand for trial, shall operate or be construed as a general appearance nor as a waiver of or bar to the right of the garnishee defendant at any time prior to judgment to raise any question respecting the sufficiency of the return of service of the writ of garnishment or the lack of such return, the jurisdiction of the court, the validity of the proceedings, or the right of the plaintiff to judgment based thereon.

HISTORY: New 1961, p. 671, Act 236, Eff. Jan. 1, 1963.

600.7519 Garnishment; examination of garnishee; payment for work and labor.

Sec. 7519. On the appearance of such garnishee before such justice, or on some other day to which the same may be adjourned, the plaintiff, or principal defendant may proceed to examine the garnishee on oath, or otherwise, as the plaintiff or principal defendant may elect, touching the matters alleged in the affidavit, and the justice shall take minutes of such examination, and file the same with the other papers in the cause. Upon such examination, the garnishee shall not be deemed a witness for the plaintiff, and his answers or disclosures upon such examination may be contradicted or controverted by the plaintiff, or the principal defendant. If it should appear upon such examination or disclosure that the money owing from the garnishee defendant is for personal work and labor performed by the principal defendant, or some member of his family, and is then due and payable, such garnishee defendant shall forthwith pay to the justice the money shown by the disclosure to be due, and it shall be the duty of the justice to give to the garnishee defendant a receipt for the money so paid.

HISTORY: New 1961, p. 672, Act 236, Eff. Jan. 1, 1963.

600.7521 Garnishment; exemptions, payment to principal defendant.

Sec. 7521. Upon satisfactory proof being presented to the justice by the principal defendant, by affidavit, or otherwise, of the amount of his exemptions, in the money so paid to the justice, it shall be the duty of the justice forthwith to pay to said principal defendant, such money or so much thereof as may be exempt to such principal defendant, under the provisions of this chapter.

HISTORY: New 1961, p. 672, Act 236, Eff. Jan. 1, 1963.

600.7523 Garnishment; exemptions, action by principal defendant.

Sec. 7523. If such garnishee defendant shall fail or neglect forthwith to pay such money so due into court, as hereinbefore required, then such principal defendant may bring an action against such garnishee defendant for the recovery of so much thereof as is exempt, and the pendency of such garnishee proceedings shall not be a bar to such action.

HISTORY: New 1961, p. 672, Act 236, Eff. Jan. 1, 1963.

600.7525 Garnishee; payment of money to justice, discharge; disposal of money by justice, effect of appeal.

Sec. 7525. Upon closing the examination, or upon filing the disclosure, in cases where a written disclosure is permitted, or at any time thereafter, the garnishee may pay to the justice before whom the examination was had, all money then due and owing by him to the defendant, as shown by his disclosure, and thereupon such justice shall execute and deliver to the garnishee a release and discharge for the money so paid, and enter such discharge upon his docket. If the plaintiff shall have recovered a judgment against the defendant, and the time limited by law for an appeal shall have expired, if no appeal has been made, the justice shall pay to the plaintiff in said cause

out of such moneys, the amount of the judgment and taxable costs, and the surplus, if any, he shall pay to the principal defendant. If the plaintiff shall not have recovered a judgment against the defendant, the said justice shall retain said moneys in his hands until the final disposition of the cause, when he shall dispose of the same in the manner aforesaid: Provided, That if a judgment shall have been recovered against the defendant, and an appeal shall have been taken therefrom by the defendant, the said justice shall forthwith pay over said moneys to the principal defendant.

HISTORY: New 1961, p. 672, Act 236, Eff. Jan. 1, 1963.

600.7527 Declaration against garnishee; proceedings.

Sec. 7527. If the garnishee does not pay the money into court, in accordance with the provisions of section 7525, if the plaintiff shall have recovered a judgment against the defendant, and if the time limited by law for an appeal has expired, and no appeal has been taken, the plaintiff may immediately declare against the garnishee in the manner provided by section 7533, and the like proceedings shall be had as in a suit brought against his debtor; but if the principal suit shall be pending and undetermined between the plaintiff and the defendant, the cause shall be continued, but it shall not be necessary to adjourn the same to any day certain.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7529 Summons to garnishee to show cause; issuance.

Sec. 7529. After the final determination of the suit against the defendant, if the garnishee shall not have paid the money due from him to the principal defendant into court, and if no appeal shall have been taken, and at any time within 30 days after such final determination of the suit, and in cases of garnishee proceedings commenced after the rendition of a judgment against the defendant therein, within 30 days after the closing of the examination in such garnishee proceedings, the justice shall, at the request of the plaintiff, his agent or attorney, issue a summons against the garnishee, commanding him to appear before the justice to show cause why a judgment should not be rendered against him.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7531 Summons to garnishee to show cause; return date, service.

Sec. 7531. Such summons shall be made returnable not less than 2 nor more than 6 days from the date thereof, and shall be served at least 2 days before the time of appearance mentioned therein.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7533 Declaration against garnishee; pleadings, trial.

Sec. 7533. In all cases where a judgment has been rendered against the defendant, and also after a final determination of the suit pending against the defendant, as mentioned in section 7531, and the garnishee has been duly summoned to appear and show cause, the plaintiff may declare against the garnishee for the property, moneys and effects above mentioned, in trespass on the case; or if the garnishee be indebted to the defendant, in assumpsit, or if the garnishee shall have property, moneys and effects of the defendant in his possession, and shall also be indebted to the defendant, the plaintiff may declare in trespass on the case, and add thereto a count in assumpsit, and may give the special matter in evidence; and the garnishee may plead thereto, and issue may be framed and tried as if the defendant had brought such suit against the garnishee for the matters set forth in such declaration, and either party shall be entitled to an appeal or other process as in other cases. The answers or disclosure of the garnishee made as in this chapter provided shall not be conclusive of the truth of the

matters therein set forth, but upon the trial of any issue between the plaintiff and the garnishee, the plaintiff may introduce evidence to contradict, or otherwise controvert, the truth of the said answers or disclosure.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7535 Discontinuance against garnishee.

Sec. 7535. If the plaintiff fail to recover judgment against the defendant, or if the defendant pay the judgment rendered in such case, it shall in either case be deemed a discontinuance of all proceedings against the garnishee.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7537 Execution against garnishee; officer to execute, place of execution.

Sec. 7537. If judgment be rendered against the garnishee, the justice may issue execution thereon as in other cases; such execution may be directed to the sheriff, or any constable of the county where such justice resides, or to the sheriff or any constable of any county in this state, and may be fully executed in the county to which it is directed; but if the body of such garnishee be taken in such execution, he shall be committed to the jail of the county in which he resides.

HISTORY: New 1961, p. 673, Act 236, Eff. Jan. 1, 1963.

600.7539 Execution against garnishee; costs.

Sec. 7539. If the garnishee shall, on demand, deliver to the officer having such execution, all the property, money and effects in his possession or under his control, belonging to the defendant, and pay all moneys found to be due from him to the defendant at the time the suit was commenced against him, or so much of the money, property or effects as may be necessary to satisfy such execution, then the cost which may have accrued against such garnishee shall be paid out of the property, moneys and effects so paid over or delivered to such officer.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7541 Execution against garnishee; endorsement by officer of receipts.

Sec. 7541. The officer having such execution shall indorse all moneys received from such garnishee, and a description of all property and effects delivered to him by the garnishee; and such delivery or payment shall be deemed a delivery or payment to the defendant in such suit.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7543 Execution against garnishee; return.

Sec. 7543. Upon the return of such execution so indorsed, the same shall be entered on the docket of the justice as fully as such return appears upon such execution, and such entry or a transcript thereof shall be prima facie evidence of the facts therein stated.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7545 Execution against garnishee; sale; collection of choses in action.

Sec. 7545. Whenever the garnishee shall pay or deliver to the officer having such execution any property which may be sold on an execution by existing laws, the officer shall proceed to levy upon and sell the same at public auction or vendue as in other cases, and if the garnishee shall deliver to such officer any notes, bills, bonds or other choses in action, the officer shall return the same to the justice, to be retained in his hands for the use of the plaintiff, and the plaintiff may sue and collect the same, or so much thereof as may be necessary to pay the judgment against the defendant, and the costs. The balance, if any, shall be returned to the garnishee or the defendant. All bills, bonds, notes, accounts and other choses in action received or delivered under the pro-

visions of this section, shall be taken subject to all liens, set-offs, rights, liabilities and equities existing between the original parties thereto.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7547 Execution against garnishee; disposition of bank notes or bills.

Sec. 7547. If the garnishee pay to the officer having such execution any bank note or bill, the same shall be paid over to the plaintiff at the par value thereof, if he will accept the same; if not, it shall be sold in the same manner as other personal property.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7549 Judgment against garnishee; effect.

Sec. 7549. Judgments rendered against the garnishee under the provisions of this chapter, shall have the same force and effect as they would have under existing laws, if such defendant had been named as plaintiff therein.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7551 Action by defendant against garnishee barred.

Sec. 7551. No suit shall be maintained or recovery had by such defendant against the garnishee for the amount of money sworn, proved or admitted to be due from such garnishee to the defendant, or for the property, or the value thereof, money or effects in the hands of such garnishee as aforesaid, while such proceeding is pending.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7553 Action by defendant against garnishee barred; exception.

Sec. 7553. Section 7551 shall not be so construed as to prevent such defendant from prosecuting for and recovering of such garnishee any other or further sum of money due from such garnishee, or the possession, or value of any other property or effects in the hands of such garnishee, belonging to such defendant.

HISTORY: New 1961, p. 674, Act 236, Eff. Jan. 1, 1963.

600.7555 Bills and notes subject to garnishment.

Sec. 7555. Bills of exchange and promissory notes, whether due or not due, in the hands of the garnishee at the time of the service of the summons, shall be deemed "effects," under the provisions of this chapter.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7557 Garnishment of money to become due in future; record; continuance.

Sec. 7557. If it shall appear upon any examination or trial had under the provisions of this chapter, that any sum or sums of money is or are owing and payable from the garnishee to the defendant at some future time or times, it shall be the duty of such court, after such examination or the rendition of the verdict (if a trial by jury is had), and after the trial (if the cause is tried by the court), to note the time or times when the sum or sums of money mentioned in this section shall become due and payable, and shall thereupon continue the cause until after the time or times so noted.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7559 Garnishment of money to become due in future; summons, proceedings.

Sec. 7559. After the sum or sums of money become due and payable as mentioned in section 7557, the justice or court shall, at the request of the plaintiff, issue a summons against the garnishee as mentioned in section 7529, returnable in the same time, and the same proceeding shall be had thereon, and with the like effect as if the said sum or sums of money had been due and payable at the time of the service of the summons.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7561 Corporations or state as garnishees; law applicable, service of summons.

Sec. 7561. All corporations of whatsoever nature, whether foreign, domestic, municipal or otherwise, and the state of Michigan, may be proceeded against as garnishees in the same manner and with like effect as individuals under the provisions of this chapter, and the rules of law regulating proceedings against corporations and the provisions of law regulating the service of summons from justice court upon such corporations in other cases, shall be applicable to the service of summons in garnishment cases, and such service may be made in the same or any adjoining county.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7563 Corporations or state as garnishees; disclosure, proceedings.

Sec. 7563. It shall be the duty of the officer or person so served, or the proper officer of such corporation having knowledge of the facts, to appear before the justice at the return day of the summons and answer, thereto, or to answer at his option in writing, verified by his oath before some person authorized to administer oaths and transmit the same by mail or otherwise to the justice issuing said summons, on or before the return day thereof, which shall be deemed a sufficient compliance with such summons, and all proceedings thereafter shall be the same as in garnishment cases against individuals.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7565 Corporations or state as garnishees; judgment against garnishee on failure to appear.

Sec. 7565. If said corporation shall not so appear or so answer, if a judgment shall have been obtained against said principal defendant, and the time for taking an appeal therefrom shall have expired, and if no appeal shall have been taken, such corporation shall be held to be indebted to the defendant in the original suit to the amount of the judgment against the principal defendant, unless within 3 days after the return day of such summons, such corporation shall appear and show a sufficient reason to the satisfaction of the justice for having failed to answer such summons, and the justice shall thereupon on the third secular day render judgment against such corporation as against other garnishees, for the amount of such debt and with like effect; but on such cause being shown, such officer may make disclosure and be examined as other garnishees and proceedings thereafter shall be the same as though answer had been made within the time limited therefor. If judgment shall not have been rendered against the principal defendant, or if judgment shall have been rendered and the time for appeal shall not have expired, said garnishment case shall stand adjourned until the determination of the principal suit, and the proceedings thereafter shall be the same as in cases against individuals.

HISTORY: New 1961, p. 675, Act 236, Eff. Jan. 1, 1963.

600.7567 Judgment against principal defendant; prerequisite to garnishment of municipal corporation or state.

Sec. 7567. No summons in garnishment shall issue against a municipal corporation, or against the state of Michigan, under the provisions of section 7565, until a judgment shall have been rendered against the defendant in the principal suit.

HISTORY: New 1961, p. 676, Act 236, Eff. Jan. 1, 1963.

600.7569 Corporation as garnishee; appeal.

Sec. 7569. When any corporation shall wish to appeal, in cases where it has not answered as garnishee, it shall in addition to the other requirements of law, file with the

justice a full and complete answer in writing as such garnishee, verified by the oath of an officer of the corporation having knowledge of the facts.

HISTORY: New 1961, p. 676, Act 236, Eff. Jan. 1, 1963.

600.7571 Third party claiming property under garnishment; procedure to settle claim.

Sec. 7571. When the examination or disclosure of the garnishee shall disclose that any other person or corporation than the defendant claims in whole or in part the money, property, or indebtedness due by him, or in his possession, and the name and residence of such claimant, the garnishee may deliver such money, property or indebtedness to the justice, who shall cause to be served on such claimant a written notice to appear in said court and maintain his said claim; such notice shall contain the names of the parties to the principal and garnishee suits, the name and place of residence of the justice, the return day or adjourned day of the garnishee suit, and the substance or a copy of the disclosure, and shall be served at least 10 days before the return or adjourned day of the garnishment suit; the notice may be served in any county in this state; in other respects it shall be served in the same manner as summonses from justices' courts; for the purpose of giving an opportunity of serving the notice above provided, it shall be the duty of the justice, on the return day of the garnishment suit, to adjourn such suit not less than 10 nor more than 30 days. After the service of such notice and the payment or delivery to the justice of the money, property or indebtedness, as above provided, the garnishee shall be discharged from all liability to any person in respect to the money or property so paid or delivered; and the proof of the service of such notice filed in the suit, and the certificate or docket entry made by the justice of such payment or delivery, shall be prima facie evidence of the fact stated therein. The claimant shall appear in the suit on the return or adjourned day named in the notice served upon him as aforesaid, and in default thereof judgment shall be rendered against him in respect to his claim. The defendant or defendants so notified, shall be considered as defendants in the place and stead of the garnishee, and an issue may be formed between the plaintiff and such defendants in the same manner as provided in section 7533; the issue may be tried by the justice or by a jury, as in other cases, and such judgment shall be rendered between the parties as shall be just, and such substituted defendant or claimant shall have the same right to appeal as the original garnishee: Provided, That this section shall not be operative when the answer of the garnishee shall disclose that such claimant does not reside in the state; nor in case such claimant is a corporation which cannot be served within the state.

HISTORY: New 1961, p. 676, Act 236, Eff. Jan. 1, 1963.

600.7573 Appeal by plaintiff or defendant; effect on garnishment action.

Sec. 7573. In all cases where the defendant takes an appeal from the judgment in justice court, and in all cases where the judgment in justice court becomes final in favor of said defendant, the justice shall make and deliver an order or orders releasing the garnishee or garnishees from all liability. In all cases where the plaintiff shall appeal from the judgment rendered in justice court, the justice in making return to such appeal shall return all garnishment proceedings auxiliary to such suit, together with the main action to the court to which the appeal is taken, and thereafter proceedings against the garnishees may be conducted in said last mentioned court in the same manner in all respects as if originally commenced therein; and for the purpose of such subsequent proceedings, the answer or answers of the garnishee or garnishees made in justice court shall be considered as made in the court to which the appeal is taken upon the day upon which the justice shall make his return to such appeal.

HISTORY: New 1961, p. 676, Act 236, Eff. Jan. 1, 1963.

600.7575 Service of justice court; garnishment process against state.

Sec. 7575. Service of garnishment process issued by any justice of the peace against the state of Michigan may be made upon either the state treasurer in the county of Ingham, or upon any other state officer or employee designated by him for such purpose in writing filed with the secretary of state, or such service may be made by delivering a copy of the summons by registered mail, return receipt demanded, which shall be deemed personal service. The time of service of such summons, if made by registered mail, shall be deemed to be the date of actual delivery of such copy to the person upon whom such service is made as indorsed upon the return receipt. Service of the summons shall be accompanied by the payment of a disclosure fee equivalent to witness fee for 1/2 day without mileage. Such service shall be valid regardless of the county in which such writ is issued. The state treasurer shall designate as many officers or employees upon whom such service may be made as he shall deem necessary, at least 2 of whom shall have their offices in the city of Lansing. Such designation may be revoked in like manner and shall be revoked, ipso facto, when the person designated ceases to be an officer or employee of the state. Upon the revocation of such designation, the state treasurer shall thereupon designate another officer or employee in like manner. Except as otherwise provided in this section and section 7577, the state shall be subject to the provisions of this act relative to proceedings against a domestic corporation as a garnishee defendant: Provided, That no judgment shall be rendered against the state. No officer or employee designated to receive service of process as herein provided, shall receive any compensation for any services performed by him under the provisions of this act.

HISTORY: New 1961, p. 677, Act 236, Eff. Jan. 1, 1963.

600.7577 Service of justice court; garnishment process against state; service of affidavit, principal defendant; determination and deduction of exemptions.

Sec. 7577. In garnishment proceedings against the state as garnishee before any justice of the peace upon an indebtedness claimed to be owing by the state for the personal work and labor of the principal defendant, the plaintiff shall serve in the manner prescribed in section 7575, a true copy of the garnishment summons, to which shall be attached a true copy of the affidavit upon which such summons issued. That plaintiff shall also, on or before the date of service of said summons upon the state treasurer, serve upon the principal defendant a true copy of said summons by delivering the same to him personally, or by mailing the same to the principal defendant at his last known post office address with postage fully prepaid, proof of which service shall be attached to the copy of the summons served upon the state treasurer: Provided, however, That the principal defendant shall file with the state treasurer an affidavit stating therein whether or not said principal defendant is a householder with a family, for the purpose of claiming his exemption, if any, as allowed by statute. In the event of the failure of the principal defendant to file such affidavit prior to the making of the disclosure, the defendant shall be conclusively presumed to be a single man and to have no exemptions other than as provided by law for single men. The state treasurer, or some officer or employee of his office specially appointed by him for such duty, may determine the total amount of the legal exemptions of the principal defendant and thereupon pay into court with his disclosure the sum owing by the state to the principal defendant at the time of the service of said summons, less such legal exemptions, which payment however, shall not exceed the amount claimed to be due the plaintiff as set forth in said summons including costs. The determination of the state treasurer

as to the amount of said legal exemptions shall be conclusive in any action against the state. Said disclosure may be made without oath.

HISTORY: New 1961, p. 677, Act 236, Eff. Jan. 1, 1963.

600.7579 Garnishee; claim of offset; liability; unliquidated damage claims.

Sec. 7579. Every garnishee, upon his examination or in his disclosure, shall be allowed to claim any offset which he may justly have against the principal defendant, of which he could have availed himself if he had not been garnisheed, and shall be liable only for the balance after adjustment of mutual demands. In such adjustment no claims for unliquidated damages for wrongs or injustice shall be considered.

HISTORY: New 1961, p. 678, Act 236, Eff. Jan. 1, 1963.

600.7585 Garnishment; discharge prohibited.

Sec. 7585. No garnishee defendant shall use as sole cause of discharge the fact that the principal defendant has had an action brought against him under the provisions of this chapter.

HISTORY: Add. 1969, p. 535, Act 292, Eff. Mar. 20, 1970.

CHAPTER 76.

FEES OF JUSTICES, JURORS, CONSTABLES AND WITNESSES

600.7601 Justices of the peace; fees in civil cases.

Sec. 7601. Justices of the peace shall be entitled to the following fees in civil cases: For every case in which no trial takes place, \$4.00; for every case in which a trial takes place, \$6.00; for issuance of a writ of garnishment after judgment an additional fee of \$2.00 may be charged; for marrying and making return thereof, \$2.00; for taking an acknowledgment of a deed or other instrument, 25 cents for each person acknowledging; for making a certified transcript of any judgment and of the proceedings in any cause, 50 cents; for certifying cause to the circuit court on plea of title, 50 cents; for making return on special appeal or certiorari, \$2.00; and no justice of the peace shall receive any other fees or compensation for any services rendered in any civil cause than such as is hereinbefore provided.

HISTORY: New 1961, p. 678, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 403, Act 187, Imd. Eff. May 24.

600.7605 Juror's fees in justice court; disposition.

Sec. 7605. Each juror sworn in a justice court, shall be entitled to receive \$6.00 for each day's attendance, and \$3.00 for each half day's attendance as such juror, and the party requiring such jury shall be liable for the fees of such jury and shall advance the fees for 1 day's attendance and \$1.00 which shall apply on the compensation of the officer for summoning said jury before the venire shall be issued, and the fees for each succeeding day before said jury shall be required to sit and hear testimony or give any verdict in the same. And in case the party so calling for a jury shall refuse at any time to advance the fees, the jury, if impaneled, shall be discharged, and said cause shall proceed as though no jury had been demanded in the first instance. And at the time of the discharge of such jury, the officer to whom such fees were advanced shall pay to each juror so much of said fees as he shall be entitled to and return the balance, if there be any, to the party from whom it was received; and when the party requiring such jury shall prevail in such action or proceeding, the whole of the fees to which such jury shall be entitled shall be taxed as costs in his favor, in addition to the costs provided by section 7105.

HISTORY: New 1961, p. 678, Act 236, Eff. Jan. 1, 1963.

600.7611 Constables' fees and mileage in civil cases; penalty, excess fee.

Sec. 7611. (1) Constables shall be entitled to the following fees in civil cases:

- (a) For serving a warrant, \$2.00; for serving a summons, \$2.00.
- (b) For a copy of every summons delivered on request, or left at the dwelling of the defendant, in his absence, 25 cents.
- (c) For serving a subpoena, \$2.00 for service upon each witness summoned by him.
- (d) For serving an attachment or writ of replevin, \$2.00; and for a copy thereof, and of the inventory of the property seized, \$1.00.
- (e) For serving an execution upon the body or goods and chattels of a party, \$2.00.
- (f) Committing a defendant to prison on execution, \$5.00.
- (g) For traveling in the service of process including any summons, subpoena or writ mentioned in this section, 20 cents for each mile necessarily traveled from the place of service to the place of return.
- (h) Summoning a jury, \$2.00.
- (i) Attending upon a jury, \$1.00.
- (j) For collecting and paying over money on executions, 5% upon all sums.
- (k) Advertising sale of property, \$2.00.
- (l) Selling property, \$2.00.
- (m) For attending circuit court at the request of the sheriff, \$5.00 for each day, to be paid out of the county treasury.

(2) In any city of this state having a justice court, created under a special act and in which city the distance from the place where such justice court is held to the corporate city limits of such city, by the shortest direct route, is more than 3 miles, except as to such part of said local boundary, which extends to the state boundary line or the population is more than 250,000, the fees for the above mentioned services to which constables shall be entitled to fees in civil suits, shall be as follows:

- (a) For serving a warrant, \$2.00; for serving a summons, \$1.00; no mileage fees may be allowed.
- (b) For a copy of every summons delivered on request, or left at the dwelling house of the defendant in his absence, \$1.00; no mileage fees may be allowed.
- (c) For serving an attachment or writ of replevin, \$5.00; and for copy thereof, and of the inventory of the property seized, \$1.00; no mileage fees may be allowed.
- (d) For serving a subpoena, \$1.00 for service upon each witness summoned by him; no mileage fees may be allowed.
- (e) For serving an execution on the body or goods and chattels of the defendant, \$1.00, which fee of \$1.00 shall be paid in to the clerk of the court to be paid to the constable when the constable makes his return upon said writ; no mileage fees may be allowed.
- (f) For committing a defendant to prison on execution, \$2.00; no mileage fees may be allowed.
- (g) Summoning a jury, \$1.00; attending upon a jury, 50 cents.
- (h) For collecting and paying of money on executions, 4% of the amount of the judgment.
- (i) Advertising property for sale, 50 cents for each copy of such advertisement; selling property, 50 cents.
- (j) For attending the circuit court at the request of the sheriff, not less than \$1.50 for each day, to be paid out of the county treasury.
- (k) For making levy on execution, \$2.00 constable fee; no mileage fees may be allowed.

(3) Any constable who shall wilfully collect more fees for the service rendered than herein provided, shall upon conviction thereof be guilty of a misdemeanor.

HISTORY: New 1961, p. 678, Act 236, Eff. Jan. 1, 1963;—Am. 1964, p. 106, Act 109, Eff. Aug. 28.

600.7615 Garnishment; witnesses' fees.

Sec. 7615. Witnesses attending any justice's court shall be entitled to receive from the party requiring their attendance, the following fees: For each day's attendance, \$5.00; for each half day, \$2.50; and 10 cents for each mile necessarily traveled in going to the place of attendance by the usually traveled route. The garnishee defendants shall receive only 50 cents where disclosure is made by affidavit only.

HISTORY: New 1961, p. 679, Act 236, Eff. Jan. 1, 1963;—Am. 1970, p. 504, Act 159, Imd. Eff. Aug. 2.

600.7621 Salaries of justices of the peace in courts created by local or special acts.

Sec. 7621. All justices of the peace in all justices' courts heretofore or hereafter created by local or special acts of this state who receive salaries in lieu of fees shall receive the salaries provided for in said acts and such additional salary as is provided for in sections 7625 and 7631.

HISTORY: New 1961, p. 680, Act 236, Eff. Jan. 1, 1963.

600.7625 Salaries of justices of the peace in courts created by local or special acts; payment by county.

Sec. 7625. In those cases where the county pays the salary, the board of supervisors of the several counties of this state, in which said justices exercise jurisdiction, may, by a majority vote of all members-elect, give such additional salary to said justices of the peace as they deem just.

HISTORY: New 1961, p. 680, Act 236, Eff. Jan. 1, 1963.

600.7631 Salaries of justices of the peace in courts created by local or special acts; payment by city.

Sec. 7631. In those cases where the city pays the salary, the common council or other legislative body of the city in which said justices exercise jurisdiction may, by a majority vote of all members elect, give such additional salary to said justices of the peace as they may deem just.

HISTORY: New 1961, p. 680, Act 236, Eff. Jan. 1, 1963.

600.7635 Salaries of clerks in justices' court created by special acts.

Sec. 7635. All clerks and deputy clerks in all justices' courts heretofore or hereafter created by local or special acts of this state who receive salaries in lieu of fees shall receive the salaries provided for in said acts, and such additional salary as is provided for in the following sections 7641 and 7645.

HISTORY: New 1961, p. 680, Act 236, Eff. Jan. 1, 1963.

600.7641 Salaries of clerks in justices' court created by special acts; payment by county.

Sec. 7641. In those cases where the county pays the salary, the board of supervisors of the several counties of this state, in which said clerks and deputy clerks exercise their powers of office, may by a majority vote of all members elect, give such additional salary to said clerks and deputy clerks as they may deem just.

HISTORY: New 1961, p. 680, Act 236, Eff. Jan. 1, 1963.

600.7645 Salaries of clerks in justices' court created by special acts; payment by city.

Sec. 7645. In those cases where the city pays the salary, the common council or other legislative body of the city in which said clerks and deputy clerks exercise their powers of office, may, by a majority vote of all members elect, give such additional salary to said clerks and deputy clerks as they may deem just.

HISTORY: New 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

600.7651 Repealed. 1970, p. 92, Act 37, Imd. Eff. Jun. 24.

Section provided for fees in justice courts of cities of 500,000 and disposition thereof.

CHAPTER 77.

APPEALS FROM JUSTICE COURT

600.7701 Appeal to circuit court.

Sec. 7701. Any party to a judgment rendered by a justice of the peace, conceiving himself aggrieved thereby, may appeal therefrom to the circuit court for the county where the same was rendered, in the following cases:

- (1) Where final judgment was rendered on an issue of law joined between the parties;
- (2) Where final judgment was rendered on an issue of fact joined between the parties;
- (3) Where the defendant did not appear and plead, and final judgment was rendered for the plaintiff on the merits of his claim;
- (4) Where a judgment of non-suit has been rendered.

HISTORY: New 1961, p. 681, Act 236, Eff. Jan. 1, 1963.

600.7703 Motion for order allowing appeal.

Sec. 7703. In all cases of judgments rendered by a justice of the peace, whether issue was joined before the justice or not, either party may enter a motion for an order allowing appeal in the circuit court for the county in which the judgment was rendered.

HISTORY: New 1961, p. 681, Act 236, Eff. Jan. 1, 1963.

600.7705 Bond; conditions, sureties, approval.

Sec. 7705. The party appealing under the provisions of section 7701 of this chapter shall also within 10 days after the rendition of the judgment deliver to the justice a bond or recognizance to the adverse party, in conformity with the following provisions:

- (1) It shall be in a penalty not less than \$50.00, and not less than the amount of the judgment, including costs;
- (2) It shall recite the judgment so far as to exhibit the names of all the parties, the character in which they prosecuted or defended before the justice, the amount recovered, and the name of the justice;
- (3) It shall contain a condition that the appellant will prosecute his appeal with all due diligence, to a decision in the circuit court, and that if a judgment be rendered against him in such court, he will pay the amount of such judgment, including all costs, with interest thereon, and if his appeal shall be discontinued or dismissed that he will pay the amount of the judgment rendered against him, if any, in the justice's court, including all costs, with interest thereon;
- (4) It shall be executed by the appellant, with 1 or more sufficient sureties, or by 2 or more sufficient sureties without the appellant. Such bonds or recognizances may be taken by the justice by whom the judgment was rendered, or by any other justice or the county clerk of the same county. No other justice or county clerk shall approve

any such bond or recognizance when approval thereof has been denied by the trial justice for or on account of the insufficiency thereof, and every justice who shall refuse to approve any such bond or recognizance because of the insufficiency thereof shall indorse such fact in writing upon such instrument.

HISTORY: New 1961, p. 681, Act 236, Eff. Jan. 1, 1963;—Am. 1962, p. 403, Act 187, Imd. Eff. May 24.

600.7707 Bond; justification of sureties; surety company.

Sec. 7707. No justice of the peace or county clerk shall take any bond or recognizance on appeal, as hereinbefore provided, unless the person or persons entering into the same as surety, justifies his or their responsibility in writing, and under oath, which justification shall be indorsed on said bond: Provided, That in case such surety is a surety company authorized to do business in this state, it shall not be necessary for any representative thereof to appear personally before the justice.

HISTORY: New 1961, p. 681, Act 236, Eff. Jan. 1, 1963.

600.7709 Bond; justification, admitted responsibility.

Sec. 7709. Such justification shall not be necessary when the opposite party, or his attorney, admits the pecuniary responsibility of such surety or sureties to be sufficient; and it shall be the duty of the justice, at the time of taking such bond or recognizance to certify whether the surety justified, or his responsibility was admitted as aforesaid.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7711 Appeals from justices' court; payment of costs and entry fee; appeal, time.

Sec. 7711. (1) The appellant, within 10 days, shall pay to the justice the taxable costs of the prevailing party, together with the sum of \$2.00 for making his return to the appeal, and the further sum of \$5.00 as clerk and entry fee, to be paid by the justice to the clerk of the court to which the appeal is taken at the time of delivering the papers pertaining to the appeal to the clerk. No appeal shall be allowed until the foregoing conditions are complied with. All species of appeals ordered or directed by any court or judge shall be subject to the same provisions of payment.

(2) Whenever a specific appeal time is mentioned in any provisions of chapters 66 to 79, and whenever the final day for appeal falls on a Saturday, Sunday or legal holiday, the next secular day following such day shall be deemed the last day for filing under these chapters of this act.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963;—Am. 1963, p. 419, Act 240, Eff. Sep. 6.

600.7713 Justice may approve bond after expiration of term.

Sec. 7713. When the term of office of a justice shall expire, or otherwise become vacant, between the rendition of a judgment by him and the time limited for appealing, such justice may take and approve of the bond or recognizance, and it shall be his duty to make return to such appeal in like manner as if he was in office at the time of taking such bond or recognizance, and of making such return.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7715 Service on attorney.

Sec. 7715. In cases where the party in whose favor the judgment was rendered appears by an attorney or agent, it will be sufficient to serve such attorney or agent with the notices of all subsequent proceedings in said cause, and all orders made by said court or judge may be served on said attorney or agent, and such service shall have the same effect as though the same was made on the party in whose favor such judgment may have been rendered.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7717 Claim of appeal and bond; filing during absence of justice.

Sec. 7717. The claim of appeal and bond or recognizance, in case of the absence from his dwelling house of the justice by whom the judgment was rendered, may be filed with any member of his family of suitable age and discretion, and the costs and fees may be paid to such person.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7719 Property or person released on appeal after issuance of execution.

Sec. 7719. If an execution shall have been issued before an appeal is taken, on a certificate being presented to the officer holding the execution, showing such appeal, he shall forthwith release the property, or the body of the party against whom the same was issued, which may have been taken; and if such party shall have been committed to prison, upon service of the like certificate upon the jailor, he shall release him from imprisonment.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7721 Dismissal or discontinuance of appeal; nonpayment of costs; return of justice, evidence of payment.

Sec. 7721. No appeal shall be dismissed on the ground that the costs of the justice have not been paid, but in all cases, the fact of a return having been made by a justice shall be conclusive evidence of such costs having been paid.

HISTORY: New 1961, p. 682, Act 236, Eff. Jan. 1, 1963.

600.7723 Dismissal or discontinuance of appeal; judgment for costs.

Sec. 7723. If an appeal be dismissed or discontinued, the court shall enter judgment in favor of the appellee for costs.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7725 Dismissal or discontinuance of appeal; subsequent procedure.

Sec. 7725. Upon an appeal being dismissed or discontinued, and a certified copy of the order of dismissal or discontinuance being served upon the justice, he shall proceed thereon as if no appeal had been made.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7727 Dismissal or discontinuance of appeal; appellee not to prosecute bond until return of execution unsatisfied.

Sec. 7727. The appellee in whose favor a judgment shall have been rendered shall not be entitled to prosecute the bond or recognizance given on appeal which shall have been dismissed or discontinued, until an execution on the judgment appealed from shall have been returned that sufficient goods and chattels of such appellant cannot be found to satisfy the same.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7729 Dismissal or discontinuance of appeal; appeal on no progress docket for 2 years.

Sec. 7729. If an appeal shall have been or shall be on the no progress docket of the circuit court for a period of 2 years, on motion the appeal shall be dismissed and the appellee shall not be entitled to prosecute the bond or recognizance given on appeal.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7731 Technicalities; effect; new bond.

Sec. 7731. No judgment of a justice shall be reversed merely for the omission or misrecital of an oath, nor on account of any fees having been improperly allowed by such justice, nor on account of the informality or insufficiency of any bond that shall have been given by the party bringing the certiorari: Provided, Another bond, to be approved by the court, shall be given within such time as the court shall direct.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7733 Return to appeal; effect of expiration of term of office of justice.

Sec. 7733. Whenever an appeal shall be duly made from a judgment rendered by a justice while in office, either before or after the justice shall have gone out of office, and before or after his books and papers shall have been delivered to the clerk of the township or city or to his successor in office, it shall be the duty of such justice to make return to such appeal, in like manner as if he were in office at the time of making such return.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7735 Return to appeal; notice and delivery of bond, vacancy in office of justice; successor.

Sec. 7735. If a justice to whom a notice of appeal and bond or recognizance shall have been duly delivered, as hereinbefore provided, shall die, become insane, remove out of the state, or abscond, so that the return of such justice to the appeal cannot be compelled, the justice to whom his books and papers shall have been transferred, shall make and file with the clerk of the circuit court a transcript of the docket of the cause, together with all the papers relating thereto, and the circuit court shall proceed thereon in the same manner as if return had been made by the justice who rendered the judgment therein.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7737 Return to appeal; vacancy before notice and delivery of bond; proceedings with successor.

Sec. 7737. If before the expiration of the time limited for appealing from any judgment rendered by a justice of the peace, the term of office of such justice shall expire, or his office otherwise become vacant, either party conceiving himself aggrieved by such judgment, may, within 5 days after the books and papers of such justice shall have been transferred to another justice, pursuant to the foregoing provisions, deliver a notice of appeal and bond or recognizance to the justice having control of such judgment, and pay him the fee hereinbefore provided; and such justice shall, within 10 days thereafter, make return to such appeal in the same manner, and with the like effect, as if the judgment appealed from had been rendered by him.

HISTORY: New 1961, p. 683, Act 236, Eff. Jan. 1, 1963.

600.7739 Return to appeal; proceedings when return cannot be compelled.

Sec. 7739. If for any cause a return to an appeal cannot be compelled, the court to which such appeal shall be made, may receive the affidavits of witnesses and of the parties, to the facts and circumstances of the proceedings, and of the judgment appealed from, and shall proceed thereon in the same manner as if such facts had been returned by the justice whose duty it was to make return to such appeal.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7741 Return to appeal; removal of justice from county; compelling return.

Sec. 7741. If any justices whose duty it shall be to make return to any appeal, shall, before making such return according to law, remove out of the county into any other county in this state, the court to which such appeal shall be made shall have power to

compel a return of such appeal in the same manner as if such justice had not removed.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

CHAPTER 78.

CONTEMPTS IN JUSTICE COURT

600.7801 Contempts in justice court; jurisdiction to punish.

Sec. 7801. In the following cases a justice of the peace may punish, as for criminal contempt, persons guilty of the following acts:

(1) Disorderly, contemptuous or insolent behavior towards such justice, while engaged in the trial of a cause, or in the rendering of any judgment, or in any judicial proceeding, which shall tend to interrupt such proceedings, or to impair the respect due to his authority;

(2) Any breach of the peace, noise, or other disturbance, tending to interrupt any judicial proceedings of a justice;

(3) Resistance wilfully offered by any person in the presence of a justice, to the execution of any lawful order or process made or issued by him.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7805 Contempts in justice court; penalty.

Sec. 7805. Punishment for contempts, in the foregoing cases, may be by fine not exceeding \$25.00, or by imprisonment in the county jail not exceeding 5 days, or both, in the discretion of the justice; but no person shall remain imprisoned for the nonpayment of such fine more than 10 days.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7811 Contempts in justice court; warrant and arrest.

Sec. 7811. No person shall be punished for a contempt before a justice until an opportunity shall have been given him to be heard in his defense; and for that purpose, a justice may issue a warrant to bring the offender before him; or, if the contempt was committed in the presence of the justice, he may cause the offender forthwith to be arrested therefor, without issuing any process in the first instance.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7815 Contempts in justice court; record of conviction.

Sec. 7815. Upon convicting any person of contempt, the justice shall make a record of such conviction, stating therein the particular circumstances of the offense; and the warrant of commitment for any contempt shall also state the circumstances of the offense, or it shall be void.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7821 Refusal of witness to be sworn or answer; warrant for commitment.

Sec. 7821. When a witness attending before any justice in the cause, shall refuse to be sworn in the form prescribed by law, or to answer any pertinent or proper question, such justice may by warrant commit such witness to the jail of the county.

HISTORY: New 1961, p. 684, Act 236, Eff. Jan. 1, 1963.

600.7825 Refusal of witness to be sworn or answer; warrant to specify cause for issuance; refusal to answer, commitment.

Sec. 7825. Such warrant shall specify the cause for which the same is issued, and if it be for refusing to answer any question, such question shall be specified therein; and such witness shall be closely confined pursuant to such warrant until he submit to be sworn, or to answer, as the case may be.

HISTORY: New 1961, p. 685, Act 236, Eff. Jan. 1, 1963.

600.7831 Refusal of witness to be sworn or answer; adjournment of cause.

Sec. 7831. The justice shall thereupon adjourn such cause at the request of the party in whose favor such witness attended, from time to time, until such witness shall testify in the cause, or be dead, or otherwise incapable of testifying as a witness.

HISTORY: New 1961, p. 685, Act 236, Eff. Jan. 1, 1963.

CHAPTER 79.

GENERAL PROVISIONS AS TO JUSTICE COURTS

600.7901 Preservation and filing of papers.

Sec. 7901. Every justice shall carefully preserve and file all affidavits and papers delivered to him to be filed in any cause.

HISTORY: New 1961, p. 685, Act 236, Eff. Jan. 1, 1963.

600.7905 Index of judgments.

Sec. 7905. Every justice shall keep an alphabetical index of all judgments entered in his docket book, in the course of any judicial proceeding had before him, in which shall be inserted the names of the parties to each judgment, and the page of his docket where such judgment is entered.

HISTORY: New 1961, p. 685, Act 236, Eff. Jan. 1, 1963.

600.7911 Docket; entries.

Sec. 7911. Every justice of the peace shall keep a docket, in which he shall enter:

- (1) The title of all causes commenced before him;
- (2) The time when the first and subsequent process was issued against the defendant, and the particular process issued;
- (3) The time when the parties appeared before him, either without process, or on the return of process;
- (4) When the pleadings are made orally, a concise statement of the declaration of the plaintiff, the plea of the defendant, the further pleadings of the parties, if any, and the issue joined;
- (5) Every adjournment, stating on whose motion, and to what time and place;
- (6) The issuing of a venire, stating at whose request, and the time and place of its return;
- (7) The time when a trial was had, the names of the jurors returned summoned who did not appear, and the fines imposed upon them, if any;
- (8) The names of the jurors who appeared and were sworn, the names of the witnesses sworn at the request of either party, stating at whose request; the objections, if any, made to the competency of a witness, and the decision thereon;
- (9) The verdict of the jury, and when received;
- (10) The judgment rendered by the justice, and the time of rendering the same;
- (11) If the judgment was for the personal services of the plaintiff, or any member of his family, the judgment shall so state;
- (12) The time of issuing execution, and the name of the officer to whom delivered;
- (13) The return of every execution, and when made;
- (14) The fact of an appeal having been made from any judgment rendered by him, and the time when made;
- (15) The fact of his having given a transcript of the judgment to be filed in the clerk's office, and the time when the same was given.

HISTORY: New 1961, p. 685, Act 236, Eff. Jan. 1, 1963.

600.7915 Docket; entry of items under title of cause; other items.

Sec. 7915. The several items in the preceding section enumerated shall be entered under the title of each cause to which they respectively relate; and in addition thereto, the justice may enter any other proceedings had before him in such cause, which he shall think it useful to enter in such docket.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7921 Re-election of justice; continuation of authority.

Sec. 7921. When the same justice shall be re-elected and qualified to fill the vacancy occasioned by the expiration of his own term of office, his authority shall be considered as having continued without interruption; and all business commenced by or before him during his former term of office, may be prosecuted and completed in the same manner as if such former term had not expired.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7925 Books and papers; delivery to successor.

Sec. 7925. When the term of office of a justice shall expire, if his successor shall be elected and qualified, he shall forthwith deliver over to such successor all the books and papers relating to his office as a justice of the peace.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7931 Books and papers; delivery to township or city clerk in case of vacancy except by death; power of other justice.

Sec. 7931. Whenever any justice shall be removed from office, or shall remove out of the township or city in which he was elected, or his office shall in any way become vacant, except by death, if his successor in office be not elected and qualified, such justice, or the person in whose possession the same may be, shall, within 10 days after such vacancy shall happen, deliver to the township or city clerk all the books and papers in his custody relating to his office as a justice of the peace; and whenever such vacancy shall happen by the division or any alteration of the boundary of a township or city, said books and papers shall be delivered to the clerk of the township or city in which is the last place of residence, prior to such vacancy of such justice; and whenever any justice shall be sick, and thereby unable to perform his judicial duty, or shall be temporarily absent from the county, it shall be lawful for any other justice of the township or city in which he resides to take temporary possession of his docket, and to make out and issue, upon application by the proper party, any execution due upon any judgment duly entered therein, or to make out and deliver, on application by the proper party, a transcript of any judgment duly entered therein.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7935 Books and papers; delivery to township or city clerk in case of death of justice.

Sec. 7935. In case any justice shall die, and any books or papers belonging to such justice in his official capacity, shall come to the hands of any person, the township, or city clerk may demand and receive such books and papers from the person having the same in his possession; and it shall be the duty of every such person, within 10 days after any such books or papers shall come to his possession, whether demanded or not, to deliver the same to the township or city clerk.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7941 Books and papers; disposition by township or city clerk; delivery to successor.

Sec. 7941. Whenever any township or city clerk shall receive the books and papers of any justice of the peace, as hereinbefore provided, he shall within 10 days from the time he receives the same, deliver them over to some other justice of the same town-

ship or city, who shall deliver the same over to the justice elected to fill such vacancy, within 10 days after the election and qualification of said justice.

HISTORY: New 1961, p. 686, Act 236, Eff. Jan. 1, 1963.

600.7945 Justice receiving books and papers; continuance of proceedings.

Sec. 7945. Whenever the office of any justice shall become vacant by resignation, removal or otherwise, and there shall be pending before him any matter or suit undetermined, and the books and papers of such justice shall be delivered over to any other justice of the city or township, pursuant to the foregoing provisions, the justice to whom such books and papers shall be so delivered, shall proceed to hear, try, and determine such matter or suit, and to issue execution thereon, in the same manner and with the like effect as he might have done if such matter or suit had been originally commenced before him.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7951 Justice receiving books and papers; issuance of execution.

Sec. 7951. The justice to whom the books and papers of another justice shall have been transferred as hereinbefore provided, may issue execution upon any judgment appearing upon the books so transferred, in the same manner, and with the like effect as if such judgment had been rendered by him.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7955 Constable not to take reward for omitting to perform duty.

Sec. 7955. No constable shall ask or receive any money or other valuable thing from a defendant or other person, as a consideration, reward or inducement for omitting to arrest any delinquent, or to carry him before any justice, or for delaying to take any party to prison, or for postponing the sale of any property under any execution, or for omitting or delaying the execution of any duty pertaining to his office.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7961 Justice or constable not to buy cause of action for purpose of suit; inducement for prosecution or collection.

Sec. 7961. No justice of the peace or constable shall directly or indirectly, buy or be interested in buying any bond, note, or other demand or cause of action, for the purpose of commencing any suit thereon before a justice; nor shall any justice or constable, either before or after suit brought, lend or advance, or agree to lend or advance, or procure to be lent or advanced, any money or valuable thing, to any person in consideration of, or as a reward for, or inducement to, the placing or having placed in the hands of such justice or constable, any debt, demand or cause of action whatever, for prosecution or collection.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7965 Justice not to purchase judgment rendered by him.

Sec. 7965. No justice of the peace shall purchase, directly or indirectly, or be interested in the purchase of any judgment rendered by him.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7971 Conviction of certain prohibited acts by justice or constable; penalty, forfeiture of office.

Sec. 7971. Every justice or constable, offending against either of the provisions of preceding sections 7955, 7961 or 7965 is guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding \$500.00, or imprisonment in the county jail not exceeding 6 months, or both such fine and imprisonment, in the discretion of the court; and every such conviction shall operate as a forfeiture of the office of the justice or constable so convicted.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

600.7975 Jurisdiction; special acts and city charter provisions not affected.

Sec. 7975. Nothing in this act contained shall change or limit the jurisdiction or other provisions relating to justice courts prescribed by law or by the charter of any incorporated city.

HISTORY: New 1961, p. 687, Act 236, Eff. Jan. 1, 1963.

CHAPTER 81.

DISTRICT COURT: ESTABLISHMENT; DISTRICTS

600.8101 District court; establishment; not court of record; judicial districts; cities.

Sec. 8101. (1) A district court is established in the state. The district court is not a court of record. The state is divided into judicial districts of the district court each of which is an administrative unit subject to the superintending control of the supreme court.

(2) When a city is located in more than 1 district, the provisions of section 8251 as to where the district court is required to sit shall apply only to that part of such city lying within the particular county or district. A city having a population in excess of 20,000 which is located in more than 1 district is a part of the district containing the greater portion of the population of the city.

HISTORY: Add. 1968, p. 216, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 501, Act 265, Eff. Sep. 1.

600.8102 Election divisions; effect.

Sec. 8102. The provisions for election divisions of a judicial district have no effect on the administration of a judicial district.

HISTORY: Add. 1968, p. 216, Act 154, Imd. Eff. Jun. 17.

600.8103 Districts, classes; definition.

Sec. 8103. (1) A district of the first class is a district consisting of 1 or more counties and in which each county comprising the district is responsible for maintaining, financing and operating the district court within its respective county except as otherwise provided in this act.

(2) A district of the second class is a district consisting of a group of political subdivisions within a county and in which the county where such political subdivisions are situated is responsible for maintaining, financing and operating the district court except as otherwise provided in this act.

(3) A district of the third class is a district consisting of 1 or more political subdivisions within a county and in which each political subdivision comprising the district is responsible for maintaining, financing and operating the district court within its respective political subdivision except as otherwise provided in this act.

HISTORY: Add. 1968, p. 216, Act 154, Imd. Eff. Jun. 17.

600.8104 District control unit; definition; apportionment of expenses.

Sec. 8104. (1) The term "district control unit" means:

- (a) The county in districts of the first and second class.
- (b) The city or the township in districts of the third class.

(2) Except as otherwise provided in this act, a district control unit shall be responsible for maintaining, financing, and operating the court only within its political subdivision. In districts of the 3rd class a political subdivision shall not be responsible for the expenses of maintaining, financing, or operating the district court, traffic bureau (office) or small claims division incurred in any other political subdivision except as provided by section 8621 and other provisions of this act.

(3) One or more district control units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the

district court. To become effective such agreements must be approved by resolution adopted by the governing body of the respective political subdivisions entering into the agreement, and upon approval such agreements shall become effective and binding in accordance with, to the extent of and for such period stated in that agreement.

(4) The district control unit shall supply such law books and legal reference resources as it deems necessary. No subsidy from state funds shall be required to stock any district court created by this act with law books or other legal reference works.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 635, Act 235, Eff. Jan. 1, 1971.

600.8105 Common pleas court; effect.

Sec. 8105. Notwithstanding any other provisions of this act, the district court shall not function nor shall district judges be elected in any district in which there is a common pleas court.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17.

600.8111 First district; Monroe county.

Sec. 8111. The first district consists of the county of Monroe, is a district of the first class and has 3 judges.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17.

600.8112 Second district; Lenawee and Hillsdale counties.

Sec. 8112. The second district consists of the counties of Lenawee and Hillsdale, is a district of the first class and is divided into the following election divisions:

- (a) The first division consists of the county of Lenawee and has 2 judges.
- (b) The second division consists of the county of Hillsdale and has 1 judge.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17.

600.8113 Third district; St. Joseph and Branch counties.

Sec. 8113. The third district consists of the counties of St. Joseph and Branch, is a district of the first class and is divided into the following election divisions:

- (a) The first division consists of the county of Branch and has 1 judge.
- (b) The second division consists of the county of St. Joseph and has 1 judge.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17.

600.8114 Fourth district; Cass county.

Sec. 8114. The fourth district consists of the county of Cass, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17.

600.8115 Fifth and sixth districts; Berrien county.

Sec. 8115. (1) The fifth district consists of the county of Berrien, is a district of the first class and has 4 judges.

(2) Upon the effective date of this 1969 amendatory act all district judges who were previously elected as district judges for the fifth and sixth districts shall serve as district judges of the fifth district as reconstituted until the expiration of the term for which they were elected as though the fifth and sixth districts had not been combined and shall be considered as elected incumbent district court judges of the fifth district as reconstituted.

(3) All files, records, funds and pending cases of the district court of the sixth district shall be transferred to the district court of the fifth district, as reconstituted, which shall exercise all powers with regard thereto as the district court of the sixth district could have exercised prior to this 1969 amendatory act. The district court of the fifth district shall have jurisdiction to hear and determine all cases transferred to it from the district court of the sixth district.

HISTORY: Add. 1968, p. 217, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 510, Act 272, Eff. Sep. 1.

600.8116 Seventh district; Van Buren county.

Sec. 8116. The seventh district consists of the county of Van Buren, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17.

600.8117 Eighth and ninth districts; Kalamazoo county.

Sec. 8117. (1) The eighth district consists of the county of Kalamazoo except the cities of Kalamazoo and Portage, is a district of the second class and has 2 judges.

(2) The ninth district consists of the cities of Kalamazoo and Portage, is a district of the third class and is divided into the following election divisions:

(a) The first division consists of the city of Kalamazoo and has 3 judges.

(b) The second division consists of the city of Portage and has 1 judge.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 82, Act 30, Imd. Eff. Jun. 11.

600.8118 Tenth and eleventh districts; Calhoun county.

Sec. 8118. (1) The tenth district consists of the county of Calhoun except the city of Battle Creek, is a district of the second class and has 2 judges.

(2) The eleventh district consists of the city of Battle Creek, is a district of the third class and has 2 judges.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17.

600.8119 Twelfth and thirteenth districts; Jackson county.

Sec. 8119. (1) The twelfth district consists of the county of Jackson except the city of Jackson, is a district of the second class and has 2 judges.

(2) The thirteenth district consists of the city of Jackson, is a district of the third class and has 2 judges.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17.

600.8120 Fourteenth and fifteenth districts; Washtenaw county.

Sec. 8120. (1) The fourteenth district consists of the county of Washtenaw except the city of Ann Arbor, is a district of the second class and has 3 judges.

(2) The fifteenth district consists of the city of Ann Arbor, is a district of the third class and has 2 judges.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17.

600.8121 Sixteenth to thirty-sixth district courts; Wayne county.

Sec. 8121. (1) The sixteenth district consists of the city of Livonia, is a district of the third class and has 2 judges.

(2) The seventeenth district consists of the township of Redford in the county of Wayne, is a district of the third class and has 2 judges.

(3) The eighteenth district consists of the city of Westland, is a district of the third class and has 2 judges.

(4) The nineteenth district consists of the city of Dearborn, is a district of the third class and has 2 judges.

(5) The twentieth district consists of the city of Dearborn Heights, is a district of the third class and has 2 judges.

(6) The twenty-first district consists of the city of Garden City, is a district of the third class and has 1 judge.

(7) The twenty-second district consists of the city of Inkster, is a district of the third class and has 1 judge.

(8) The twenty-third district consists of the city of Taylor, is a district of the third class and has 2 judges.

(9) The twenty-fourth district consists of the cities of Allen Park and Melvindale, is a district of the third class and has 2 judges.

(10) The twenty-fifth district consists of the city of Lincoln Park, is a district of the third class and has 2 judges.

(11) The twenty-sixth district consists of the cities of River Rouge and Ecorse, is a district of the third class and has 1 judge.

(12) The twenty-seventh district consists of the city of Wyandotte, is a district of the third class and has 1 judge.

(13) The twenty-eighth district consists of the cities of Southgate and Riverview, is a district of the third class and has 1 judge.

(14) The twenty-ninth district consists of the city of Wayne, is a district of the third class and has 1 judge.

(15) The thirtieth district consists of the city of Highland Park, is a district of the third class and has 1 judge.

(16) The thirty-first district consists of the city of Hamtramck, is a district of the third class and has 1 judge.

(17) The thirty-second district consists of the cities of Harper Woods, Grosse Pointe Woods, Grosse Pointe Park, Grosse Pointe and Grosse Pointe Farms and the village of Grosse Pointe Shores, is a district of the third class and is divided into the following election divisions:

(a) The first division consists of the cities of Grosse Pointe Woods and Harper Woods and has 1 judge.

(b) The second division consists of the cities of Grosse Pointe Park, Grosse Pointe and Grosse Pointe Farms and the village of Grosse Pointe Shores and has 1 judge.

(18) The thirty-third district consists of the cities of Trenton, Gibraltar, Woodhaven, Rockwood and Flat Rock and the townships of Brownstown and Grosse Ile in the county of Wayne, is a district of the third class and has 1 judge.

(19) The thirty-fourth district consists of the townships of Sumpter, Romulus, Van Buren and Huron in the county of Wayne and the city of Belleville, is a district of the third class and has 1 judge.

(20) The thirty-fifth district consists of the cities of Northville and Plymouth and the townships of Northville, Plymouth and Canton in the county of Wayne, is a district of the third class and has 1 judge.

(21) The thirty-sixth district consists of the city of Detroit and is a district of the third class.

HISTORY: Add. 1968, p. 218, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 71, Act 25, Imd. Eff. Jun. 2.

600.8122 Thirty-seventh to forty-second districts; Macomb county.

Sec. 8122. (1) The thirty-seventh district consists of the cities of Warren and Center Line, is a district of the third class and has 4 judges.

(2) The thirty-eighth district consists of the city of East Detroit, and is a district of the third class and has 1 judge.

(3) The thirty-ninth district consists of the cities of Roseville and Fraser, is a district of the third class and has 2 judges.

(4) The fortieth district consists of the city of Saint Clair Shores, is a district of the third class and has 2 judges.

(5) The forty-first district consists of the cities of Mt. Clemens and Sterling Heights and the townships of Clinton and Harrison in the county of Macomb, is a district of the third class and has 3 judges.

(6) The forty-second district consists of the county of Macomb except the cities of Warren, Center Line, East Detroit, Roseville, Saint Clair Shores, Fraser, Mt. Clemens and Sterling Heights and the townships of Lake, Clinton and Harrison, is a district of the second class and has 1 judge.

HISTORY: Add. 1968, p. 219, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 82, Act 30, Imd. Eff. Jun. 11.

600.8123 Forty-third to fifty-second districts; Oakland county.

Sec. 8123. (1) The forty-third district consists of the cities of Madison Heights, Ferndale and Hazel Park, is a district of the third class and has 3 judges.

(2) The forty-fourth district consists of the city of Royal Oak, is a district of the third class and has 2 judges.

(3) The forty-fifth district consists of the cities of Berkley, Huntington Woods, Oak Park, Pleasant Ridge and the township of Royal Oak in the county of Oakland, is a district of the third class and has 2 judges.

(4) The forty-sixth district consists of the cities of Southfield and Lathrup Village and the township of Southfield in the county of Oakland, is a district of the third class and has 2 judges.

(5) The forty-seventh district consists of the city of Farmington and the township of Farmington in the county of Oakland, is a district of the third class and has 1 judge.

(6) The forty-eighth district consists of the cities of Birmingham, Bloomfield Hills, Sylvan Lake, Keego Harbor and Orchard Lake Village and the townships of Bloomfield and West Bloomfield in the county of Oakland, is a district of the third class and has 2 judges.

(7) The forty-ninth district consists of the cities of Troy and Clawson, is a district of the third class and has 2 judges.

(8) The fiftieth district consists of the city of Pontiac, is a district of the third class and has 4 judges.

(9) The fifty-first district consists of the township of Waterford in the county of Oakland, is a district of the third class and has 1 judge.

(10) The fifty-second district consists of the county of Oakland except the cities of Madison Heights, Ferndale, Hazel Park, Royal Oak, Berkley, Huntington Woods, Oak Park, Pleasant Ridge, Southfield, Lathrup Village, Farmington, Northville, Sylvan Lake, Keego Harbor, Orchard Lake Village, Birmingham, Bloomfield Hills, Troy, Clawson and Pontiac and the townships of Royal Oak, Southfield, Farmington, West Bloomfield, Bloomfield and Waterford, is a district of the second class and is divided into the following election divisions:

(a) The first division consists of the cities of South Lyon, Wixom and Walled Lake and the townships of Milford, Highland, Rose, Commerce, Lyon and Novi and has 1 judge.

(b) The second division consists of the townships of White Lake, Springfield, Independence, Holly, Pontiac, Groveland and Brandon and has 1 judge.

(c) The third division consists of the city of Rochester and the townships of Oxford, Addison, Orion, Oakland and Avon and has 1 judge.

HISTORY: Add. 1968, p. 219, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 82, Act 30, Imd. Eff. Jun. 11;—Am. 1970, p. 647, Act 238, Eff. Jan. 1, 1971.

600.8124 Fifty-third district; Livingston county.

Sec. 8124. The fifty-third district consists of the county of Livingston, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 220, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 83, Act 30, Imd. Eff. Jun. 11.

600.8125 Fifty-fourth and fifty-fifth districts; Ingham county.

Sec. 8125. (1) The fifty-fourth district consists of the cities of Lansing and East Lansing, is a district of the third class and is divided into the following election divisions:

(a) The first division consists of the city of Lansing and has 4 judges.

(b) The second division consists of the city of East Lansing and has 1 judge.

(2) The fifty-fifth district consists of the county of Ingham except the cities of Lansing and East Lansing, is a district of the second class and has 2 judges.

HISTORY: Add. 1968, p. 220, Act 154, Imd. Eff. Jun. 17.

600.8126 Fifty-sixth district; Barry and Eaton counties.

Sec. 8126. The fifty-sixth district consists of the counties of Barry and Eaton, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 220, Act 154, Eff. Jun. 17.

600.8127 Fifty-seventh district; Allegan county.

Sec. 8127. The fifty-seventh district consists of the county of Allegan, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 220, Act 154, Imd. Eff. Jun. 17.

600.8128 Fifty-eighth district; Ottawa county.

Sec. 8128. The fifty-eighth district consists of the county of Ottawa, is a district of the first class and has 3 judges.

HISTORY: Add. 1968, p. 220, Act 154, Imd. Eff. Jun. 17.

600.8129 Fifty-ninth and sixtieth districts; Muskegon county.

Sec. 8129. (1) The fifty-ninth district consists of the cities of Muskegon and Muskegon Heights and the township of Muskegon in the county of Muskegon, is a district of the third class and has 3 judges.

(2) The sixtieth district consists of the county of Muskegon except the cities of Muskegon and Muskegon Heights and the township of Muskegon, is a district of the second class and has 2 judges.

HISTORY: Add. 1968, p. 220, Act 154, Imd. Eff. Jun. 17.

600.8130 Sixty-first to sixty-third districts; Kent county.

Sec. 8130. (1) The sixty-first district consists of the city of Grand Rapids, is a district of the third class and has 5 judges.

(2) The sixty-second-A district consists of the city of Wyoming, is a district of the third class and has 1 judge.

(3) The sixty-second-B district consists of the cities of Walker, Grandville and Kentwood, is a district of the third class and has 1 judge.

(4) The sixty-third district consists of the county of Kent except the cities of Grand Rapids, Walker, Grandville, Wyoming and Kentwood, is a district of the second class and is divided into the following election divisions:

(a) The first division consists of the cities of Cedar Springs and Rockford and the townships of Tyrone, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Plainfield, Cannon and Grattan and has 1 judge.

(b) The second division consists of the cities of East Grand Rapids and Lowell and the townships of Grand Rapids, Ada, Vergennes, Cascade, Lowell, Byron, Gaines, Caledonia and Bowne and has 1 judge.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 83, Act 30, Imd. Eff. Jun. 11.

600.8131 Sixty-four A and B districts; Ionia and Montcalm counties.

Sec. 8131. (1) The sixty-fourth-A district consists of the county of Ionia, is a district of the first class and has 1 judge.

(2) The sixty-fourth-B district consists of the county of Montcalm, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 141, Act 49, Imd. Eff. Jan. 1, 1971.

600.8132 Sixty-fifth district; Gratiot and Clinton counties.

Sec. 8132. The sixty-fifth district consists of the counties of Gratiot and Clinton, is a district of the first class and is divided into the following election divisions:

- (a) The first division consists of the county of Gratiot and has 1 judge.
- (b) The second division consists of the county of Clinton and has 1 judge.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17.

600.8133 Sixty-sixth districts; Shiawassee county.

Sec. 8133. The sixty-sixth district consists of the county of Shiawassee, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 83, Act 30, Imd. Eff. Jun. 11.

600.8134 Sixty-seventh and sixty-eighth districts; Genesee county.

Sec. 8134. (1) The sixty-seventh district consists of the county of Genesee except the city of Flint, is a district of the second class and is divided into the following election divisions:

- (a) The first division consists of the cities of Flushing and Clio and the townships of Flushing, Flint, Montrose, Thetford and Vienna and has 1 judge.
- (b) The second division consists of the city of Davison and the townships of Davison, Forest, Burton, Richfield and Atlas and has 1 judge.
- (c) The third division consists of the city of Mt. Morris and the townships of Mt. Morris and Genesee and has 1 judge.
- (d) The fourth division consists of the cities of Fenton, Grand Blanc and Swartz Creek and the townships of Fenton, Argentine, Grand Blanc, Mundy, Gaines and Clayton and has 1 judge.

(2) The sixty-eighth district consists of the city of Flint, is a district of the third class and has 6 judges.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17.

600.8135 Sixty-ninth and seventieth districts; Saginaw county.

Sec. 8135. (1) The sixty-ninth district consists of the city of Saginaw, is a district of the third class and has 3 judges.

(2) The seventieth district consists of the county of Saginaw except the city of Saginaw, is a district of the second class and has 3 judges.

HISTORY: Add. 1968, p. 221, Act 154, Imd. Eff. Jun. 17.

600.8136 Seventy-first A and B districts; Lapeer and Tuscola counties.

Sec. 8136. (1) The seventy-first-A district consists of the county of Lapeer, is a district of the first class and has 2 judges.

(2) The seventy-first-B district consists of the county of Tuscola, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 83, Act 30, Imd. Eff. Jun. 11.

600.8137 Seventy-second district; St. Clair county.

Sec. 8137. The seventy-second district consists of the county of St. Clair, is a district of the first class and has 3 judges.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8138 Seventy-third district; Huron and Sanilac counties.

Sec. 8138. The seventy-third district consists of the counties of Huron and Sanilac, is a district of the first class and is divided into the following election divisions:

- (a) The first division consists of the county of Huron and has 1 judge.
- (b) The second division consists of the county of Sanilac and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8139 Seventy-fourth district; Bay county.

Sec. 8139. The seventy-fourth district consists of the county of Bay, is a district of the first class and has 3 judges.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8140 Seventy-fifth district; Midland county.

Sec. 8140. The seventy-fifth district consists of the county of Midland, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8141 Seventy-sixth district; Isabella county.

Sec. 8141. The seventy-sixth district consists of the county of Isabella, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8142 Seventy-seventh district; Mecosta and Osceola counties.

Sec. 8142. The seventy-seventh district consists of the counties of Mecosta and Osceola, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8143 Seventy-eighth district; Newaygo and Lake counties.

Sec. 8143. The seventy-eighth district consists of the counties of Newaygo and Lake, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8144 Seventy-ninth district; Oceana and Mason counties.

Sec. 8144. The seventy-ninth district consists of the counties of Oceana and Mason, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8145 Eightieth district; Clare and Gladwin counties.

Sec. 8145. The eightieth district consists of the counties of Clare and Gladwin, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8146 Eighty-first district; Iosco and Arenac counties.

Sec. 8146. The eighty-first district consists of the counties of Iosco and Arenac, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8147 Eighty-second district; Alcona, Oscoda and Ogemaw counties.

Sec. 8147. The eighty-second district consists of the counties of Alcona, Oscoda and Ogemaw, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 222, Act 154, Imd. Eff. Jun. 17.

600.8148 Eighty-third district; Roscommon and Crawford counties.

Sec. 8148. The eighty-third district consists of the counties of Roscommon and Crawford, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8149 Eighty-fourth district; Wexford and Missaukee counties.

Sec. 8149. The eighty-fourth district consists of the counties of Wexford and Missaukee, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8150 Eighty-fifth district; Manistee and Benzie counties.

Sec. 8150. The eighty-fifth district consists of the counties of Manistee and Benzie, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8151 Eighty-sixth district; Grand Traverse and Leelanau counties.

Sec. 8151. The eighty-sixth district consists of the counties of Grand Traverse and Leelanau, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8152 Eighty-seventh district; Kalkaska, Antrim and Otsego counties.

Sec. 8152. The eighty-seventh district consists of the counties of Kalkaska, Antrim and Otsego, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8153 Eighty-eighth district; Alpena and Montmorency counties.

Sec. 8153. The eighty-eighth district consists of the counties of Alpena and Montmorency, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8154 Eighty-ninth district; Cheboygan and Presque Isle counties.

Sec. 8154. The eighty-ninth district consists of the counties of Cheboygan and Presque Isle, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8155 Ninetieth district; Emmet and Charlevoix counties.

Sec. 8155. The ninetieth district consists of the counties of Emmet and Charlevoix, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8156 Ninety-first district; Chippewa county.

Sec. 8156. The ninety-first district consists of the county of Chippewa, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8157 Ninety-second district; Mackinac and Luce counties.

Sec. 8157. The ninety-second district consists of the counties of Mackinac and Luce, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8158 Ninety-third district; Schoolcraft and Alger counties.

Sec. 8158. The ninety-third district consists of the counties of Schoolcraft and Alger, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8159 Ninety-fourth district; Delta county.

Sec. 8159. The ninety-fourth district consists of the county of Delta, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 223, Act 154, Imd. Eff. Jun. 17.

600.8160 Ninety-fifth district; Menominee and Dickinson counties.

Sec. 8160. The ninety-fifth district consists of the counties of Menominee and Dickinson, is a district of the first class and is divided into the following election divisions:

(a) The first division consists of the county of Menominee and has 1 judge.

(b) The second division consists of the county of Dickinson and has 1 judge.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8161 Ninety-sixth district; Marquette county.

Sec. 8161. The ninety-sixth district consists of the county of Marquette, is a district of the first class and has 2 judges.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8162 Ninety-seventh district; Iron and Baraga counties.

Sec. 8162. The ninety-seventh district consists of the counties of Iron and Baraga, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8163 Ninety-eighth district; Ontonagon and Gogebic counties.

Sec. 8163. The ninety-eighth district consists of the counties of Ontonagon and Gogebic, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8164 Ninety-ninth district; Houghton and Keweenaw counties.

Sec. 8164. The ninety-ninth district consists of the counties of Houghton and Keweenaw, is a district of the first class and has 1 judge.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8171 Changes in districts; supreme court recommendations.

Sec. 8171. The supreme court may make recommendations to the legislature in regard to changes in the number of judges, the creation, alteration and discontinuance of districts based on changes in judicial activity.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8181 Record of proceedings; reports.

Sec. 8181. Each district court shall keep a record of its proceedings in accordance with rules prescribed by the supreme court and make such reports as the court administrator shall require from time to time.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

CHAPTER 82.

DISTRICT JUDGES

600.8201 District judges; qualifications.

Sec. 8201. A candidate for and a judge of the district court shall be licensed to practice law in this state and shall be a registered elector of the district and election division in which he seeks and holds office. Except in any district or election division in which there is a vacancy and in which a registered elector qualified to practice law in this state has not filed nominating petitions by the filing deadline for the primary election, a registered elector of an adjoining district or election division within the district who is qualified to practice law in this state shall be eligible for the office of district judge by filing nominating petitions signed by the required number of qualified electors of the district or election division in which he seeks election within 5 days after such deadline.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17.

600.8202 District judges; compensation and expenses; trial divisions; retirement.

Sec. 8202. (1) A district judge shall receive an annual salary of \$19,500.00 payable by the state. In addition to the salary received from the state, each district judge may receive from any district control unit in which he regularly holds court an additional salary as determined from time to time by the governing legislative body thereof. Supplemental salaries paid by a district control unit shall be uniform as to all judges who regularly hold court therein.

(2) The total salary paid to a district court judge by the state and the district control units in which he regularly holds court shall not exceed \$32,000.00 per year.

(3) A district judge who holds court in a county other than the county of his residence shall be reimbursed for his actual and necessary expenses incurred in so holding court upon certification and approval by the court administrator. Upon allowance, the sum shall be paid out of the state treasury in accordance with the accounting laws of the state.

(4) Salaries of district court judges may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

(5) The supreme court, by rule, may establish civil and criminal trial divisions within the district court which rules shall provide for the rotation of judges among the trial divisions.

(6) The judges of the district court are eligible to be members of the judges' retirement system created by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 224, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 666, Act 248, Eff. Jul. 1, 1971.

600.8203 District judges; practice of law prohibited.

Sec. 8203. Upon taking office, a district judge shall not engage in the practice of law other than as a judge.

HISTORY: Add. 1968, p. 225, Act 154, Imd. Eff. Jun. 17.

600.8204 District judges; nonpartisan election.

Sec. 8204. Judges of the district court shall be nominated and elected on nonpartisan judicial ballots in the manner provided by law.

HISTORY: Add. 1968, p. 225, Act 154, Imd. Eff. Jun. 17.

600.8212 Visiting judges; compensation; powers.

Sec. 8212. (1) The supreme court, through its direct order or through the court administrator, may direct and compel any judge of the district court, circuit court or any attorney judge of a probate court to serve as a judge of any district court, circuit court or probate court except that any judge of a probate court may serve as a judge of any probate court. Whenever any attorney judge of a probate court serves as a judge of the district court or circuit court he shall receive additional compensation, payable by the state, to the extent of the difference in the salaries paid by the state whenever his total salary is less than that of the circuit, probate or district judge he is replacing. Though the court has a broad discretion, it should particularly consider those cases where the presiding judge of a court has asked that another judge be sent to that court and has properly shown:

(a) That the business of that court has increased beyond the capacity of the judge or judges to properly dispose of, or

(b) That a vacancy exists in the office of the judge of any court, or

(c) That any judge is unable to discharge the duties of his office, or

(d) Any other sufficient reasons.

(2) Judges so designated shall hold court and fulfill the duties of the office just as they would had they been elected in the respective court for the time they were designated to serve.

(3) The district control unit responsible for the maintenance and operation of such court shall provide suitable places where such judges shall hold court.

(4) The presiding judge of any district upon the request of the presiding judge of any adjoining district, may direct any district judge within such district to serve temporarily as a district judge in the adjoining district from which the request was made.

HISTORY: Add. 1968, p. 225, Act 154, Imd. Eff. Jun. 17.

600.8221 Presiding judge; election; term; vacancies; authority.

Sec. 8221. The judges in each district shall meet and by a majority vote of all the judges serving in the district elect a presiding judge to hold office for 1 year. Vacancies in the office of presiding judge shall be filled in like manner. The presiding judge shall have full authority and control, subject to supervision of the supreme court, over all matters of administration. In any district having only 1 judge, such judge shall be the presiding judge. In districts having only 2 judges, the judge receiving the higher number of votes shall be the presiding judge for the year 1969 and thereafter the position of presiding judge shall be alternated.

HISTORY: Add. 1968, p. 225, Act 154, Imd. Eff. Jun. 17.

600.8222 District judges; meetings.

Sec. 8222. All district judges of a district shall meet on call of the presiding judge to discuss problems pertinent to the operations of the court.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17.

600.8231 Statewide and regional meetings; purpose; expenses.

Sec. 8231. (1) The court administrator, under the supervision and direction of the supreme court, shall call an annual statewide meeting of the judges of the district court and such additional statewide and regional meetings of such judges as the supreme court directs, for the purpose of studying the organization, rules, methods of procedure and practice of the judicial system of the state, the problems of administration confronting the courts and the judicial system in general and making recommendations for the modification or amelioration of existing conditions, for harmonizing and improving laws or for amendments to the rules and statutes relating to practice and procedure in the judicial system of the state.

(2) The chief justice of the supreme court or such person as he designates shall preside over such meetings and the court administrator of the supreme court or his deputy shall act as secretary therefor.

(3) District judges shall attend such meetings when and as directed by the court administrator. District judges shall be reimbursed by the state for their actual and necessary expenses incurred in attending such meetings.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 648, Act 238, Eff. Jan. 1, 1971.

600.8251 Places of sitting of district court.

Sec. 8251. (1) In districts of the first class the court shall sit at each county seat and at each city having a population of 3,250 or more except the court shall not be required to sit at any such city when it is contiguous to the county seat or contiguous to a city having a greater population. The court shall also sit at such other places as the judges of the district determine. The court shall sit not less than once each week in each county of a multicounty district.

(2) In districts of the second class the court shall sit at any county seat within the district, at each city and incorporated village within the district having a population of 3,250 or more except that when 2 or more such cities or incorporated villages are contiguous the court need sit only in the city having the greater population. If the district does not contain a county seat and does not contain any city or incorporated village having a population of 3,250 or more, the court shall sit at a place or places within the district which the judges thereof shall determine. In addition to the place or places where the court is required to sit, but not in lieu thereof, the court may upon agree-

ment of a majority of the judges of the district and upon approval by resolution of the board of supervisors also sit at the county seat of its district control unit situated outside the district, but the court shall sit not less than once each week within the district. If the district does not contain any city, then the foregoing provisions of this subsection shall not apply to such district, and in such a district the court shall sit at the county seat of its district control unit situated outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of this subsection, the court may also sit at such other place or places within the district as the judges thereof determine. Whenever the court sits at a county seat situated outside the district pursuant to the provisions of this subsection, it shall exercise the same powers, jurisdiction and venue as if sitting within the district.

(3) In districts of the third class the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at such other places as the judges of the district determine. However the court shall not be required to sit in any political subdivision if the governing body of that subdivision by resolution and the court agree that the court shall not sit therein.

(4) Each judge of the district shall sit at such places within the district as the presiding judge designates.

(5) Whenever the word "population" is used, it means population according to the most recent federal decennial census, except that the most recent census shall not apply until the expiration of 18 months from the date on which the census is taken.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 11, Act 6, Imd. Eff. Apr. 19;—Am. 1970, p. 648, Act 238, Eff. Jan. 1, 1971.

600.8261 Court facilities.

Sec. 8261. Court facilities shall be provided at those places where the court sits. In districts of the first and second class they shall be provided by the county and in districts of the third class they shall be provided by each political subdivision where the court sits.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17.

600.8262 Magistrates' facilities.

Sec. 8262. Facilities for magistrates shall be provided by the district control unit.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17.

600.8263 Rental of facilities; contracts.

Sec. 8263. Rental of court or magistrate facilities constitutes the providing of such facilities and those units of government responsible for providing same may contract with the state, its political subdivisions, corporations or persons for the rental thereof.

HISTORY: Add. 1968, p. 226, Act 154, Imd. Eff. Jun. 17.

600.8271 Court employees; appointment; compensation; employees of abolished courts.

Sec. 8271. (1) Except as otherwise provided, the judges of the district court shall appoint the employees thereof and fix their compensation within appropriations provided by the governing body of each district control unit.

(2) Compensation of employees of the district court shall be paid by each district control unit, except as otherwise provided in this act.

(3) District court employees when performing services in the courtroom are subject to control of the judge holding court therein.

(4) Full-time employees of abolished municipal courts in districts of the third class are transferred to the district court for the city in which they were previously employed and all other full-time employees of abolished courts shall have preferential employment rights in the district court.

(5) Seniority rights, annual leave, sick leave, longevity pay and retirement benefits to which employees of abolished courts are now entitled shall be preserved and continued in their positions in the district court in a manner not inferior to their prior status. The obligations of municipalities or other agencies of government for retirement benefits to employees and personnel of abolished courts for their accrued service in such courts shall not be transferred from their present system. Any retirement system available to district court personnel shall provide retirement benefits to employees of abolished courts not inferior to those provided therefor under their prior status.

HISTORY: Add. 1968, p. 227, Act 154, Imd. Eff. Jun. 17.

600.8281 Clerk of district court; deputies.

Sec. 8281. (1) In those counties which are in whole or a part of a district of the first class and in which there are elected less than 3 district court judges the county clerk shall act as the clerk of the court. In all other districts the judges of the district court shall appoint the clerk of the court.

(2) The clerk of the court shall appoint deputy clerks of the court subject to the approval of the judges.

(3) In districts of the third class there shall be a clerk of the court in each political subdivision within the district where the court sits.

HISTORY: Add. 1968, p. 227, Act 154, Imd. Eff. Jun. 17.

CHAPTER 83.

DISTRICT COURT: JURISDICTION; POWERS

600.8301 Civil jurisdiction.

Sec. 8301. The district court shall have exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$3,000.00.

HISTORY: Add. 1968, p. 227, Act 154, Imd. Eff. Jun. 17.

600.8311 District court; criminal jurisdiction.

Sec. 8311. The district court shall have jurisdiction of:

(a) Misdemeanors punishable by a fine or imprisonment not exceeding 1 year, or both.

(b) Ordinance and charter violations punishable by a fine or imprisonment, or both.

(c) Arraignments, the fixing of bail and the accepting of bonds.

(d) Preliminary examinations in all felony cases and misdemeanor cases not cognizable by the district court, but there shall not be a preliminary examination for any misdemeanor to be tried in a district court.

HISTORY: Add. 1968, p. 227, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 492, Act 261, Eff. Sep. 1.

600.8312 Venue; civil and criminal.

Sec. 8312. (1) In districts of the first class, venue in criminal actions for violations of state law and all city, village or township ordinances shall be in the county where the violation took place.

(2) In districts of the second class, venue in criminal actions for violations of state law and all city, village or township ordinances shall be in the district where the violation took place.

(3) In districts of the third class, venue in criminal actions for violations of state law and all city, village or township ordinances shall be in the political subdivision thereof where the violation took place, except that when such violation is alleged to have taken place within a political subdivision where the court is not required to sit the action may be tried in any political subdivision within the district where the court is required to sit.

(4) With regard to state criminal violations cognizable by the district court, the following special provisions shall apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel or other conveyance in transit, and it cannot readily be determined in which county, district or political subdivision the offense was committed, venue is proper in any county, district or political subdivision through or over which the conveyance passed in the course of its journey.

(5) In districts of the first class, venue in civil actions shall be in the county in which the subject of the action is situated, in which the cause of action arose or in which any defendant is established or resides.

(6) In districts of the second or third class, venue in civil actions shall be in the district in which the subject of the action is situated, in which the cause of action arose or in which any defendant is established or resides.

(7) For purposes of venue, a city which is located in more than one county and which is placed in one district of the first class by provisions of chapter 81, shall be considered a part of that county which contains the greater portion of its population.

HISTORY: Add. 1968, p. 227, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 760, Act 333, Imd. Eff. Nov. 4.

600.8313 Violation of state law; prosecutor.

Sec. 8313. All violations of state law shall be prosecuted in the district court by the prosecuting attorney. All ordinance violations shall be prosecuted in the district court by the attorney for the political subdivision whose law was violated.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8314 Probation departments.

Sec. 8314. District courts may establish probation departments within a district control unit upon approval of the governing body of the district control unit. The expense of such probation department shall be borne by the district control unit.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8315 Actions prohibited.

Sec. 8315. The district court shall not have jurisdiction in actions for injunctions, divorce or actions which are historically equitable in nature, except as otherwise provided by law.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8316 Marriages; authority to perform; fee.

Sec. 8316. District judges and magistrates shall have authority to perform marriages and shall charge a fee of \$10.00 which fees shall be deposited in the treasury of the district control unit at the end of each month.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8317 District court; powers.

Sec. 8317. The district court has the same power to issue warrants, subpoena witnesses and require the production of books, papers, records, documents and other evidence and to punish for contempt as the circuit courts now have or may hereafter have. The judges and clerks of the district court, may administer oaths and affirmations and take acknowledgments of instruments in writing.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8318 Pleadings and procedures; rules.

Sec. 8318. Pleadings and procedures in the district court shall be governed by rules established by the supreme court and the district court under supervision of the supreme court, except as otherwise provided by law.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8321 Civil process, service.

Sec. 8321. (1) Civil process in the district court shall be served by a sheriff, deputy sheriff or a court officer appointed by the judges of the court for such purpose, except that officers of the department of state police may serve civil process in any action to which the state is a party and police officers of an incorporated city or village may serve civil process in any action to which the incorporated city or village is a party.

(2) Under rules of the supreme court, any other person may serve any process or order of the district court which does not require the seizure, attachment or garnishment of property or the arrest of a person. This section shall apply notwithstanding the provisions of section 1908.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8323 District court; witnesses, fees; payment.

Sec. 8323. Witnesses in the district court shall be entitled to receive the same fees and mileage allowances to which witnesses in circuit court are entitled. Where the county is responsible for such expenses in the circuit court, the district control unit for the place where the trial occurs shall be responsible for such expenses in the district court.

HISTORY: Add. 1968, p. 503, Act 269, Eff. Sep. 1.

600.8331 Proceedings; record; recording devices.

Sec. 8331. All proceedings in the district court, except as otherwise provided in this act, shall be recorded by a qualified court stenographer or by a recording device. Only those recording devices approved by the supreme court may be used in the district courts.

HISTORY: Add. 1968, p. 228, Act 154, Imd. Eff. Jun. 17.

600.8341 Appeals on record.

Sec. 8341. Appeals from the district court shall be on a written transcript of the record made in the district court or on a record settled and agreed to by the parties and approved by the court.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8342 Appeals to circuit court; subsequent appeals.

Sec. 8342. Appeals shall be to the circuit court for the county in which the judgment is rendered. All appeals from final judgments shall be as of right and all other appeals shall be by application. All appeals to the court of appeals from judgments entered by the circuit court on appeals from the district court shall be by application.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8343 Judgments of abolished courts.

Sec. 8343. All orders and judgments entered prior to January 1, 1969 by courts abolished under section 9921 shall be appealable in like manner and to the same courts as applicable prior to January 1, 1969.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8345 Causes transferred from abolished courts.

Sec. 8345. All causes of action transferred to the district court by the provisions of this act from any court abolished by the provisions of this act shall be as valid and subsisting as they were in the court from which they were transferred.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8351 Jurors; selection; compensation; failure to respond to jury duty.

Sec. 8351. Jurors for the district court shall be selected in accordance with the provisions of chapter 13. Jurors in the district court shall be paid by the county in districts of the first and second class and by the political subdivisions where the trial takes place in districts of the third class in like amount as is paid to jurors of the circuit court. Failure to respond to jury duty in the district court shall be punishable in like manner as in the circuit court.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 739, Act 326, Eff. Sep. 1.

600.8353 Civil jury; number; verdict.

Sec. 8353. In civil actions in the district court the jury shall consist of 6 persons. The court shall receive the verdict of 5 of such 6 jurors.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8355 Criminal jury; number; verdict.

Sec. 8355. In criminal actions in the district court the jury shall consist of 6 persons. The court shall receive only a unanimous verdict.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8361 Judgment fee; disposition.

Sec. 8361. For each civil judgment entered in the district court there shall be levied and collected a judgment fee of \$2.00 and for each judgment entered in the small claims division of the district court there shall be levied and collected a judgment fee of \$1.00 which sums shall be paid to the clerk of the court of the district control unit in which the judgment was entered who shall transmit same to the treasurer of such district control unit for deposit in the general fund thereof.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17.

600.8371 Civil fees; disposition; waiver.

Sec. 8371. (1) Before a civil action is commenced in the district court, the moving party shall pay to the clerk the sum of \$12.00 if the amount in controversy exceeds \$500.00 and \$5.00 if it does not.

(2) At the end of each month, the clerk shall transmit 35% of the filing fees collected within the month to the executive secretary of the retirement system for deposit with the state treasurer in the annuity reserve fund created by Act No. 198 of the Public Acts of 1951, as amended, and the balance to the treasurer of the district control unit in which the action was commenced.

(3) The judge may order payment of any statutory fees waived or suspended until the conclusion of the litigation, upon a showing by affidavit of indigency or inability to pay.

HISTORY: Add. 1968, p. 229, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 667, Act 248, Eff. Jan. 1, 1971.

600.8373 Jury fee; disposition.

Sec. 8373. Where a jury is requested, the party requesting it shall pay a jury fee of \$10.00 or 1/2 the jury fee in the circuit court for the circuit in which the district court is located, whichever is less. The clerk of the district court shall forward the jury fee to the treasurer of the district control unit responsible for paying the jurors pursuant to section 8351.

HISTORY: Add. 1968, p. 230, Act 154, Imd. Eff. Jun. 17.

600.8375 Costs; assessment; amount.

Sec. 8375. District courts may assess the same costs as are permitted in circuit courts. Magistrates may assess costs in an amount fixed by rule of the district court.

HISTORY: Add. 1968, p. 230, Act 154, Imd. Eff. Jun. 17.

600.8379 District court; fines and costs, disposition.

Sec. 8379. All fines and costs assessed in the district court shall be paid to the clerk thereof and he shall appropriate them as follows:

(a) All fines imposed for violation of a penal law of the state shall be paid to the county treasurer and applied for library purposes as provided by law.

(b) In districts of the first and second class all costs imposed for violation of a penal law of this state shall be paid to the treasurer of the county in which the action was commenced. In districts of the third class all costs imposed for violation of a penal law of this state shall be paid to the treasurer of the political subdivision where the guilty plea was entered or where the trial took place.

(c) In districts of the first and second class 1/3 of all fines and costs, other than those imposed for violation of a penal law of this state, shall be paid to the political subdivision whose law was violated and 2/3 thereof shall be paid to the county in which the political subdivision is located. In districts of the third class all fines and costs other than those imposed for violation of a penal law of this state shall be paid to the political subdivision whose law was violated except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated then 2/3 thereof shall be paid to the political subdivision where the guilty plea was entered or where the trial took place and the balance thereof shall be paid to the political subdivision whose law was violated.

(d) In any district of the third class, if each political subdivision within the district, by resolution of its governing body, agrees to a distribution of fines and costs, other than fines imposed for violations of the penal laws of this state, differently than as provided by this section, the distribution of such fines and costs among the political subdivisions of that district shall be as thus agreed to.

HISTORY: Add. 1968, p. 230, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 464, Act 239, Eff. Sep. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 48.183.

600.8381 Criminal costs; disposition.

Sec. 8381. Whenever any fines and costs are assessed by a magistrate, a traffic bureau or a judge of the district court, not less than \$4.00 shall be assessed as costs and collected for each such conviction and each such guilty plea except for parking violations. Of the costs so assessed and collected, for each such conviction and each such guilty plea, \$4.00 shall be paid to the clerk of the district court who, on or before the fifteenth of each month, shall transmit same to the state treasurer, who shall deposit 1/16 of the costs so collected to the legislative retirement fund created by Act No. 261 of the Public Acts of 1957, as amended, and shall deposit the balance of the costs so collected in the general fund.

HISTORY: Add. 1968, p. 230, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 667, Act 248, Eff. Jan. 1, 1971.

600.8391 Traffic bureau.

Sec. 8391. With the approval of the governing body of a district control unit, the district court may establish within the court a traffic bureau which may be administered by clerks or other personnel of the district court to accept pleas of guilty for such traffic offenses as authorized by the judges of the district court, when the maximum permissible punishment thereunder does not exceed 90 days in jail or a fine of not more than \$100.00, or both, except for violations of sections 625, 625b, 626, 626b and 904 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.625, 257.625b, 257.626, 257.626b and 257.904 of the Compiled Laws of 1948, or a

local ordinance corresponding thereto, and collect fines and costs as prescribed by the judges of the district. The presiding judge of the district, subject to the supervision of the supreme court, shall have authority over the personnel and determine the location and number of traffic bureau offices. Appeals as of right may be taken from the traffic bureau to the district court. Appeals shall be taken within 10 days of the entry of the guilty plea and shall be heard *de novo*.

HISTORY: Add. 1968, p. 230, Act 154, Imd. Eff. Jun. 17.

600.8395 Parking violations bureaus.

Sec. 8395. Any city, village or township may establish a parking violations bureau to accept pleas of guilty in parking violation cases and to collect and retain fines and costs as prescribed in such ordinances. All expense of operating parking violations bureaus shall be borne by the city, village or township and the personnel of the bureau shall be city, village or township employees.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

CHAPTER 84.

SMALL CLAIMS DIVISION

600.8401 Small claims division; judges; jurisdiction.

Sec. 8401. A small claims division is created in each district as a division of the district court. Judges of the district court shall sit as judges of the small claims division. The jurisdiction of the small claims division shall be confined to cases for the recovery of money only when the amount claimed does not exceed \$300.00.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8402 Commencement of action; affidavit, contents.

Sec. 8402. Actions shall be commenced in the small claims division by filing with the clerk or a deputy clerk of the district court an affidavit together with 1 copy thereof for each defendant to be served. The form and contents of such affidavit shall be as prescribed by the supreme court. On the same form as the affidavit there shall be printed a notice directing the defendant to appear and answer as prescribed in section 8404.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8403 Affidavit forms; availability; preparation.

Sec. 8403. Printed affidavit forms for the commencement of actions in the small claims division shall be available at the office of each clerk and deputy clerk of the district court who shall prepare such affidavit for a claimant upon request.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8404 Service on defendant; notice, contents.

Sec. 8404. Upon the filing of the affidavit, the clerk or deputy clerk shall cause a copy thereof to be served upon each defendant together with a notice directing the defendant to appear and answer before a judge of the small claims division. The notice shall be in a form prescribed by the supreme court and shall inform the defendant when and where to appear, that he is to bring with him all books, papers and witnesses needed to establish his defense and that his failure to appear will result in judgment against him in the amount of the claim stated in the affidavit together with costs of the action.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8405 Service; manner, proof.

Sec. 8405. Service of the affidavit and notice to appear and answer shall be made upon the defendant by certified mail, return receipt requested and deliverable to the addressee only or by personal service. Where service by certified mail is made it shall

be made by the clerk and the receipt of mailing together with the return card signed by the defendant shall constitute proof of service.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8406 Appearance date; failure to serve.

Sec. 8406. (1) The date for the appearance of the defendant provided in the notice shall be not more than 30 days nor less than 15 days from the date of the notice. The person filing the claim shall receive from the clerk a copy of the affidavit and notice of hearing and plaintiff shall thereupon be required to appear on the date shown in the notice of hearing and have with him his books, papers and witnesses necessary to prove his claim. If the notice is not served upon the defendant at least 7 days prior to the appearance date, the plaintiff may apply to the clerk or deputy clerk for a new notice setting a new date for the appearance of the defendant which shall be not more than 30 days nor less than 15 days from the date of the issuance of the new notice.

(2) If a defendant is not personally served or did not sign the certified mail return receipt at least 7 days prior to the appearance date, there shall be no jurisdiction to render judgment, unless the defendant appears on the appearance date and does not request a continuance. If the defendant was not served within the minimum time specified, the matter, upon request of either party, shall be continued for not less than 7 days.

HISTORY: Add. 1968, p. 231, Act 154, Imd. Eff. Jun. 17.

600.8407 Claims prohibited.

Sec. 8407. No claim shall be filed or prosecuted in the small claims division by an assignee of a claim or by a third party beneficiary under a third party beneficiary contract.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8408 Appearance in proper person only; exceptions; removal; waiver.

Sec. 8408. No attorney at law, except on his own behalf, collection agency or agent or employee thereof or person other than the plaintiff and defendant, except as is otherwise provided in this chapter, shall take any part in the filing, prosecution or defense of litigation in the small claims division. Corporations may appear by a full-time employee who is not an attorney at law. Plaintiff or defendant may demand and remove the case to the district court. The judge will inform both parties of this right prior to trial and also inform the parties of all rights waived if they choose to remain in the small claims division. If they agree to try the case in the small claims division, both parties waive all of the rights mentioned in section 8412.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8409 Attachment or garnishment prohibited; execution; judgment, enforcement.

Sec. 8409. Attachment or garnishment shall not issue from the small claims division prior to judgment but execution may issue in the manner prescribed by law and the judgment may be enforced in any other manner provided by law and not prohibited under the provisions of this chapter.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8410 Settlements by parties; installment judgments.

Sec. 8410. The parties prior to or at the hearing may make a settlement upon such terms as they may agree. The settlement shall be in writing and signed by both parties. Upon filing with the court, the settlement shall be considered the judgment of the court. Any judgment in the small claims division may provide for its satisfaction by payment to the clerk or the plaintiff either in a lump sum or in installments in such amounts and at such times as the judge may deem just and reasonable under the cir-

cumstances. For good cause shown, the judge may reinstate any installment payment judgment previously not performed or the judge may alter the amount of installment payments and the time of payment of such judgments and may authorize execution, attachment or garnishment to issue thereon where it appears that the defendant has not paid according to the terms of the judgment. A copy of the judgment shall be delivered or mailed forthwith to each plaintiff and defendant following entry thereof.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8411 Hearings; manner of conducting; no jury or verbatim record.

Sec. 8411. In hearings before the small claims division witnesses shall be sworn. The judge shall conduct the trial in an informal manner so as to do substantial justice between the parties according to the rules of substantive law but shall not be bound by the statutory provisions or rules of practice, procedure, pleading or evidence, except provisions relating to privileged communications, the sole object of such trials is to dispense expeditious justice between the parties. There shall be no jury nor shall a verbatim record of such proceedings be made.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8412 Waiver of rights.

Sec. 8412. Any person commencing an action or defendant who remains and tries his case in the small claims division shall be deemed to have waived his right to counsel, his right to trial by jury and any right of appeal. The affidavit prescribed in section 8402 shall contain a statement that the claimant understands that he has waived such rights.

HISTORY: Add. 1968, p. 232, Act 154, Imd. Eff. Jun. 17.

600.8413 Judgments; conclusiveness; form.

Sec. 8413. All judgments of the small claims division shall be conclusive upon the plaintiff and the defendant and shall be in a form prescribed by the supreme court.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8415 Venue of actions.

Sec. 8415. In districts of the first class actions in the small claims division shall be filed in the county in which the cause of action arose or in the county in which the defendant is established or resides. If there is more than 1 defendant, actions shall be filed in the county in which any defendant is established or resides. In districts of the second or third class actions in the small claims division shall be commenced in the district in which the cause of action arose or in the district in which the defendant is established or resides. If there is more than 1 defendant, actions shall be filed in the district in which any defendant is established or resides.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8416 Place of sitting.

Sec. 8416. The small claims division of the district court shall sit at least once each 30 days at such locations as the district court is required to sit as set forth in section 8251.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8418 Judgments; certification.

Sec. 8418. If the defendant fails to pay the judgment according to the terms and conditions thereof, the clerk or deputy clerk of the court, on application of the plaintiff, shall certify such judgment on a form prescribed by the supreme court.

HISTORY: Add. 1968, p. 233, Act 154, Eff. Jun. 17.

600.8419 Forms and stationery.

Sec. 8419. Every clerk and deputy clerk of the district court shall be furnished a reasonable supply of all forms and stationery necessary for the expeditious and efficient

operation of the small claims division by the governing legislative body of each district control unit.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8420 Fees; disposition.

Sec. 8420. (1) A fee of \$5.00 shall be charged and collected for the filing of the affidavit for the commencement of any action; a fee of \$2.00 shall be charged and collected for each defendant to whom a copy of the affidavit is mailed by the clerk; and a fee of \$1.50 shall be charged and collected for the issuance of a writ of execution, attachment or garnishment. Except as otherwise provided in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees shall be deposited in the general fund of the district control unit, except that 35% of the fees collected for the filing of an affidavit for the commencement of an action shall be transmitted in the same manner and in accordance with the provisions of subsection (2) of section 8371.

(2) Where the affidavit and notice to appear and answer are served by personal service, the person serving the process shall be entitled to the same fee and mileage as for the service of a summons and complaint out of the district court.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17;—Am. 1970, p. 649, Act 238, Eff. Jan. 1, 1971.

600.8421 Costs to prevailing party.

Sec. 8421. The prevailing party in any action in the small claims division is entitled to costs of the action and also the costs of execution upon a judgment rendered therein. The costs shall include cost of service of the notice for the appearance of the defendant.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8422 Counterclaim; continuance.

Sec. 8422. If the defendant files a verified answer stating any new matter which constitutes a counterclaim, the court may grant a continuance upon request of either party.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8423 Separate action by defendant; transmittal fee; transfer of cause.

Sec. 8423. (1) If a defendant in a small claims action has a claim against the plaintiff, which claim is for an amount over the jurisdiction of the small claims division but of a nature which would be subject to counterclaim in accordance with rules of the supreme court, he may commence an action against the plaintiff in a court of competent jurisdiction and file with the clerk or deputy clerk of the small claims division wherein the plaintiff has commenced his action, at or before the time set for the trial of the small claims action, an affidavit in a form prescribed by the supreme court setting forth the fact of the commencement of such action by the defendant. He shall attach to the affidavit a true copy of the complaint filed by him against plaintiff, and pay to the clerk or deputy clerk the sum of \$1.00 for a transmittal fee, and shall mail to the plaintiff a copy of the affidavit and complaint at or before the time above stated. Thereupon the judge of the small claims division shall order that the small claims action shall be transferred to the court set forth in the affidavit and he shall transmit all files and papers in the action to the other court and the actions shall then be tried together in the other court.

(2) The plaintiff in the small claims action shall not be required to pay to the clerk of the court to which the action is transferred any transmittal, appearance or filing fee in the action.

HISTORY: Add. 1968, p. 233, Act 154, Imd. Eff. Jun. 17.

600.8424 Actions and parties prohibited.

Sec. 8424. Actions of fraud, libel and slander shall not be instituted in the small claims division nor shall the state or any political subdivision thereof or any other governmental agency be a party to any such action.

HISTORY: Add. 1968, p. 234, Act 154, Imd. Eff. Jun. 17.

600.8425 Claims in excess of jurisdiction.

Sec. 8425. Any person having a claim in excess of \$300.00 may institute his action in the small claims division but he may not claim or recover more than \$300.00 in such proceedings.

HISTORY: Add. 1968, p. 234, Act 154, Imd. Eff. Jun. 17.

CHAPTER 85.

MAGISTRATES

600.8501 Magistrates; requirement; additional; appointment.

Sec. 8501. In any county which elects by itself less than 2 district judges, the board of supervisors shall provide for 1 magistrate. In all other counties in districts of the first and second class the board of supervisors shall provide for at least 1 magistrate when recommended by the judges of the district court. Additional magistrates may be provided by the board upon recommendation of the judges. All magistrates provided for shall be appointed by the judges of the district court and such appointments shall be approved and confirmed by the board of supervisors before any person assumes the duties of the office of magistrate.

HISTORY: Add. 1968, p. 234, Act 154, Imd. Eff. Jun. 17.

600.8503 District court of first class; deputy clerk as magistrate.

Sec. 8503. Subject to the provisions of section 8501, the judges of the district court within a district of the first class may appoint a deputy clerk as a magistrate to perform the duties and exercise the powers of a magistrate in addition to his duties as a deputy clerk of the district court.

HISTORY: Add. 1970, p. 150, Act 61, Eff. Apr. 1, 1971.

600.8507 Magistrates; qualifications; term; oath, bond.

Sec. 8507. Magistrates shall be registered electors in the county in districts of the first class and of the district in districts of the second class in which they are appointed. All magistrates appointed shall serve at the pleasure of the judges of the district court. Before assuming office, persons appointed magistrates shall take the constitutional oath of office and file a bond with the county treasurer in an amount determined by the district judges.

HISTORY: Add. 1968, p. 234, Act 154, Imd. Eff. Jun. 17.

600.8509 Repealed. 1969, p. 760, Act 333, Imd. Eff. Nov. 4.

Section related to magistrates; jurisdiction and duties.

600.8511 Magistrates; jurisdiction and duties.

Sec. 8511. Magistrates shall have the following jurisdiction and duties:

(a) To arraign and sentence upon pleas of guilty for violations of the following acts, when authorized by the judges of the district court and if the maximum permissible punishment does not exceed 90 days in jail or a fine of not more than \$100.00, or both:

(1) Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, or a local ordinance substantially corresponding thereto, except for violations of sections 625, 625b, 626, 626b and 904 of that act, as amended, or a local ordinance corresponding to such sections.

(2) Act No. 165 of the Public Acts of 1929, as amended, being sections 301.1 to 306.3 of the Compiled Laws of 1948.

(3) Act No. 286 of the Public Acts of 1929, as amended, being sections 311.1 to 315.2 of the Compiled Laws of 1948.

(4) Act No. 303 of the Public Acts of 1967, being sections 281.1001 to 281.1199 of the Compiled Laws of 1948.

(5) Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Compiled Laws of 1948.

(6) Act No. 181 of the Public Acts of 1963, as amended, being sections 480.11 to 480.19 of the Compiled Laws of 1948.

(7) Act No. 74 of the Public Acts of 1968, as amended, being sections 257.1501 to 257.1518 of the Compiled Laws of 1948.

(8) Act No. 339 of the Public Acts of 1919, as amended, being sections 287.261 to 287.290.

(b) To issue warrants for the arrest of any person upon the written authorization of the prosecuting or municipal attorney.

(c) To fix bail and accept bond in all criminal cases.

(d) To issue search warrants, when authorized to do so by a district court judge.

(e) To act as coroner when required to do so, as provided by section 8 of Act No. 343 of the Public Acts of 1925, being section 326.8 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 234, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 362, Act 182, Imd. Eff. Aug. 5;—Am. 1970, p. 649, Act 238, Eff. Jan. 1, 1971.

600.8515 Appeals from magistrate.

Sec. 8515. Appeals as of right may be taken from the magistrate to the district court. Appeals shall be taken within 10 days of the entry of the decision of the magistrate and shall be heard de novo.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8521 Magistrates; compensation.

Sec. 8521. Magistrates shall be paid by the county on a salary or per diem basis as determined by the board of supervisors except that in no case shall the salary of the magistrate be less than \$5,000.00 per year if paid a salary or less than \$20.00 per day and \$10.00 per half day if paid per diem. Uniformity in compensation of magistrates within a county or district of the second class is not essential. Where a magistrate is paid on a per diem basis, the presiding judge of the district shall certify the number of days and half days which the magistrate worked in any pay period.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8525 Attorney magistrates; prohibitions.

Sec. 8525. Any attorney at law who is a magistrate shall be prohibited from the practice of law in the district court for the county or district of the second class in which he serves.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8535 Fines and costs; disposition.

Sec. 8535. Magistrates shall pay all fines and costs received by them to the clerk of the district court on or before the last day of the month following receipt thereof which fines and costs shall be allocated as provided in section 8379.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8541 Superintending control; district judge.

Sec. 8541. The judges of the district court shall exercise superintending control over all magistrates within their districts.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8545 Small claims division; duties.

Sec. 8545. Magistrates shall exercise the same powers and perform the same duties as deputy clerks of the district court for the purpose of carrying out the provisions of chapter 84 although they shall not be considered deputy clerks.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8551 Magistrates; place of sitting.

Sec. 8551. Magistrates shall sit at any county seat and city not having a traffic bureau office and at such other locations as determined by the presiding judge.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

600.8555 Docket on form; reports.

Sec. 8555. Magistrates shall maintain a docket on forms approved by the supreme court and shall submit to such court reports relative to caseload and activity in such manner and form as prescribed by the supreme court.

HISTORY: Add. 1968, p. 235, Act 154, Imd. Eff. Jun. 17.

Chapter 86.

RECORDERS AND STENOGRAPHERS

600.8601 Recorders or stenographers; number; duties.

Sec. 8601. There shall be 1 district court recorder or stenographer for each judge of the district court who in addition to acting as official court recorder or stenographer may act as secretary to the district court judge and perform such other functions and duties as may be required by rule of the supreme court.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8602 Recorders or stenographers; appointment.

Sec. 8602. Each judge of the district court shall appoint his own recorder or stenographer.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8611 Recorders or stenographers; recording of proceedings.

Sec. 8611. All proceedings in the district court except as otherwise provided by law or by rule of the supreme court shall be recorded by the district court recorder by the use of recording devices approved by the supreme court or by the stenographer.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8615 Recorders or stenographers; salary.

Sec. 8615. The salary of district court recorders or stenographers shall be \$6,500.00 per year. Any district control unit may provide for compensation supplemental or in addition to the mandatory salary.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8621 Recorders or stenographers; compensation, by whom paid; recording devices.

Sec. 8621. (1) District court recorders and stenographers shall be paid by each district control unit. In districts consisting of more than 1 district control unit each district control unit shall contribute to the salary in the same proportion as the population of the district control unit bears to the population of all district control units within the district. Commencing January 1, 1970 in districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court.

(2) The state shall purchase and pay for a recording device for each district judge but the replacement, maintenance and repair of such recording devices and the cost of

supplies shall be paid for by the district. The recording devices shall be the property of the district court.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8625 Recorders or stenographers; expenses.

Sec. 8625. The recorders or stenographers of district courts composed of more than 1 county shall be entitled to receive, in addition to the salary provided for in this act, their necessary and actual expenses incurred in attending court in the counties of their district other than the county in which the recorder or stenographer resides. Upon filing with the clerk of the district control unit in which the recorder or stenographer has attended court a sworn statement that the expenses were incurred by the recorder or stenographer and that such expenditures were necessary in performing such services, the district control unit treasurer shall pay such sum to the person entitled thereto on presentation of an order properly drawn by the clerk, which order the clerk shall draw on receiving the sworn statement.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8626 Recorders or stenographers; residence, determination.

Sec. 8626. For the purposes of this act, the residence of a recorder or stenographer who does not reside in the district in which he serves, shall be deemed to be the same as the residence of the district judge for whom he serves.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17.

600.8631 Recorders or stenographers; transcript fees; taxable costs.

Sec. 8631. The district court recorder shall be entitled to receive for transcripts ordered by either party to a cause the sum of 25 cents per folio for the original and 5 cents per folio for each copy thereof. Stenographers shall receive fees for services as provided by law for circuit court stenographers. For transcripts ordered by the district judge, recorders or stenographers shall be entitled to receive from the district control unit the same compensation. The amount of recorders or stenographers fees paid shall be recoverable as a part of the taxable costs by the prevailing party in a motion or on appeal.

HISTORY: Add. 1968, p. 236, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 502, Act 266, Eff. Sep. 1.

600.8635 Preliminary examinations; transcript; payment.

Sec. 8635. An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings, and such other matters as may be required by court rule shall be reduced to writing by the district court recorder or stenographer and upon completion thereof shall be filed with the clerk of the district court or with the clerk of the circuit court, as directed by the district court. The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in section 8631.

HISTORY: Add. 1968, p. 237, Act 154, Imd. Eff. Jun. 17;—Am. 1969, p. 502, Act 267, Eff. Sep. 1.

CHAPTER 99.

REPEALS, SAVINGS CLAUSE AND EFFECTIVE DATE

600.9901 Repeal.

Sec. 9901. The following acts and parts of acts, as amended, are hereby repealed:

(1) Revised Statutes of 1846,

Chapter	Section Numbers	Compiled Law Sections (1948)
43	11 to 14	692.311 to 692.314
107	26	691.626
110	1 to 11	692.401 to 692.411
111	1	692.451
130	1 to 18	692.1 to 692.18
150	10	691.830
150	12	691.832
150	14	691.834
150	16	691.836
150	20	691.840
150	43	691.843

(2) Public Acts,

Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1948)
1848	38		691.581 and 691.582
1869	67		691.431 to 691.434
1879	148		692.19
1885	133		692.31
1893	204		691.441 to 691.466
1895	26		691.411 to 691.416
1895	125	18 and 22	691.248 and 691.252
1897	144		691.731 to 691.737
1897	183		691.301 to 691.352
1899	21		691.348a
1901	41		691.348b
1903	22		691.348c
1903	31		691.473 and 691.474
1905	107		692.201 to 692.203
1905	272		691.261 to 691.266
1905	280		691.591
1911	86		691.761 and 691.762
1911	233		691.571
1915	200		691.681
1915	217		691.691 to 691.693
1915	242		691.221
1915	314		600.1 to 681.13
1917	200		602.46b
1917	214		691.871 to 691.873
1917	216		602.46a
1917	294		615.11 and 615.12
1919	54		602.46d
1919	151		691.881 to 691.883
1919	231		691.348d
1919	311		691.350a and 691.350b
1921	178		691.641 to 691.643

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Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1948)
1921	179		691.631 to 691.633
1921	185		691.891
1921	224		691.281
1923	31		602.119a
1925	84		691.851
1925	104		691.211 to 691.213
1925	110		692.151 to 692.155
1925	122		691.2
1925	142		691.651 to 691.654
1925	257		630.30
1925	389		692.251 to 692.268
1926 (Ex. Sess.)	19		692.20
1927	73		691.701
1927	313		691.231 to 691.233
1927	315		691.521 to 691.524
1929	27		691.21
1929	36		691.501 to 691.507
1929	91		691.271 and 691.272
1929	120		602.46e
1929	147		692.551
1929	212		691.771 to 691.776
1929	255		691.601
1929	294		691.611 and 691.612
1931	93		691.421 to 691.423
1931	111		692.101 to 692.104
1933	153		602.101a
1933	184		691.801 to 691.813
1933	195		617.19a
1935	41		617.85
1935	58		691.51 and 691.52
1935	106		691.711 to 691.720
1937	13		691.751
1937	31		691.781
1937	54		619.23a
1937	107		628.44a
1937	135		628.47 and 676.37
1937	143		692.51
1937	170		622.27 and 671.17
1937	171		692.501
1937	296		691.541 to 691.545
1939	7		602.57a
1939	132		678.2a
1939	135		691.101 to 691.123
1939	297		691.583
1939	317		645.24
1941	4		612.2a
1941	6		628.1a
1941	7		691.661 and 691.662
1941	18		691.671
1941	123		691.531
1941	137		691.111a and 691.112a
1941	265		676.38
1941	270		691.401 and 691.402

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Year of Act	Public Act Number	Section Numbers	Compiled Law Sections (1948)
1941	286		691.803a
1941	303		691.561 to 691.564
1942 (2d Ex. Sess.)	9		601.53a
1945	87		691.141
1945	127		691.151 and 691.152
1945	222		628.48
1945	309		691.901 to 691.911
1945	311		691.348e and 691.348f
1947	8		602.45a
1947	21		606.5
1947	141		614.16
1947	183		678.21a
1949	136		602.45b
1949	138		692.601 and 692.602
1949	304		691.921
1951	6		667.29
1951	135		602.45c
1952	28		692.621 to 692.624
1952	37		692.641 to 692.643
1952	269		692.701 to 692.707
1953	45		692.661 and 692.662
1953	48		617.40a
1953	56		618.38a
1953	164		692.671 to 692.676
1953	177		602.39b and 602.45d
1954	128		692.751 to 692.754
1954	162		692.708
1954	177		691.348g
1954	195		692.721 to 692.724
1955	261		691.351
1956	67		692.581
1956	116		691.931 to 691.935
1957	114		676.39
1957	127		602.46f
1957	130		691.951 and 691.952
1957	149		676.1a
1957	218		671.18
1957	234		692.821 and 692.822
1957	237		602.96a
1958	44		691.463a
1958	126		692.841 to 692.850
1958	182		692.861
1959	1		691.248b
1959	161		691.481 to 691.492
1959	167		691.721
1959	249		669.17a

HISTORY: New 1961, p. 688. Act 236, Eff. Jan. 1, 1963.

600.9905 Savings clause.

Sec. 9905. (1) Except as specifically stated or reasonably inferred from the provisions of this act, this act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as if this act had not been passed.

Special cases and special proceedings; law applicable.

(2) Laws relating to actions in special cases and in special proceedings, the subject matter of which is not embraced within the provisions of this act, and not specifically repealed, are not to be deemed repealed or superseded by this act, but the same are retained and the procedure therein shall be as in such laws provided.

HISTORY: New 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

600.9906 Special nonsevering clause as to court fees and retirement funds.

Sec. 9906. Notwithstanding section 5 of chapter 1 of the Revised Statutes of 1846, being section 8.5 of the Compiled Laws of 1948, if any part of section 2528 is declared to be unconstitutional by a court of competent jurisdiction, the entire section 2528 shall be deemed unconstitutional and inoperative.

HISTORY: New 1961, p. 691, Act 236, Eff. Jan. 1, 1963.

600.9911 Effective date of act.

Sec. 9911. This act shall become effective on January 1, 1963.

HISTORY: New 1961, p. 691, Act 236, Eff. Jan. 1, 1963.

600.9921 Courts abolished; extension of term of certain judges.

Sec. 9921. (1) Effective January 1, 1969, the following courts are abolished except as provided in section 9928:

- (a) Justices of the peace.
- (b) Circuit court commissioners.
- (c) Municipal courts.
- (d) Police courts.
- (e) Recorders court of the city of Cadillac.

(2) Notwithstanding any provision of law or charter to the contrary, the term of office of all incumbent municipal and associate municipal judges ending at any time prior to December 31, 1968, is extended through December 31, 1968.

HISTORY: Add. 1968, p. 237, Act 154, Imd. Eff. Jun. 17.

600.9922 Transfer of duties and powers to district court; circuit court referees.

Sec. 9922. All duties and powers which by law may be performed by justices of the peace, circuit court commissioners, judges of municipal courts, judges of police courts and judges of the recorders court of Cadillac shall be performed after December 31, 1968 by the district court. In any district in which there is a common pleas court, the duties and powers of the circuit court commissioner shall be performed by 4 referees appointed by the circuit court, which referees shall be court clerks of the circuit court commissioners court with 25 years' experience as such court clerks, and if an insufficient number of such qualified court clerks are available, the remaining referees shall be persons licensed to practice law in this state. The present employees of the circuit court commissioners shall become employees of the circuit court in similar positions with salary ranges and benefits not inferior to their present status. The circuit court shall appoint all bailiffs of the superseded circuit court commissioner's court to continue to act as bailiffs and to serve all process in the same manner and with the same fee schedule as formerly issued by the circuit court commissioner's court and formerly served by such bailiffs. All the rights, privileges and benefits of the bailiffs shall be

maintained. Appeals from the referee shall be to the circuit court in the manner prescribed by rules of the supreme court. Fees payable under any statutory provisions for the performance of any of the duties of the offices abolished by this act shall be payable to the clerk of the district court for forwarding to the political subdivision involved. Unless the context otherwise indicates references in all laws to the courts so abolished shall be deemed to refer to the district court. This act shall supersede and revoke any acts or parts of acts in conflict with its provisions but only to the extent of such conflict.

HISTORY: Add. 1968, p. 237, Act 154, Imd. Eff. Jun. 17.

600.9923 Municipal judges in third class districts.

Sec. 9923. (1) After December 31, 1968, any elected incumbent associate municipal judge who is prohibited from practicing law pursuant to state statute or city charter or ordinance and any elected incumbent municipal judge who serves in a city which is in and of itself a district of the third class or an election division thereof or who serves in a city which contains more than 85% of the population of a district of the third class, and whose term of office does not expire until after December 31, 1968, shall become a judge of the district court, unless he files with the city clerk within 10 days after the effective date of this section, an affidavit of intent not to be made a district judge, and shall serve through December 31 of the year in which his term as municipal or associate municipal judge would normally expire, except that when such term would normally expire in an odd numbered year he shall serve as district judge through December 31 of the next even numbered year. Commencing with the 1968 general elections, the number of district judges to be elected in a district of the third class or an election division thereof shall be reduced by the number of municipal and associate municipal judges made district judges under this subsection. As the term of each such municipal and associate municipal judge becoming a judge of the district court expires, the number of district judges to be elected within such district or election division thereof shall be increased by 1. This subsection shall not apply to any city having more such elected incumbent municipal and associate municipal judges than the number of district judges authorized such city pursuant to the provisions of this act.

(2) In seeking election after the 1968 general election to the district court, such judges or associate judges becoming judges of the district court may file affidavits of candidacy in like manner as elected incumbent district court judges and shall be entitled to designation on the ballot as a judge of the district court.

(3) In the primary and general election of judges of the district court to be held in 1968 any elected incumbent municipal or associate municipal judge who is a candidate for district judge shall be entitled to the designation on the ballot that he holds the judicial office of which he is then incumbent.

HISTORY: Add. 1968, p. 237, Act 154, Imd. Eff. Jun. 17.

600.9924 Transfer of files; records, funds and pending cases.

Sec. 9924. All files, records, funds and pending cases of the court abolished under section 9921 shall be transferred to the district court of the district control unit in which the courts have served, in accordance with rules prescribed by the supreme court, and the district court shall exercise all powers in regard thereto as provided by rules of the supreme court. The district court shall have jurisdiction to hear and determine all cases transferred under this section.

HISTORY: Add. 1968, p. 238, Act 154, Imd. Eff. Jun. 17.

600.9925 Primary election in 1968.

Sec. 9925. In the primary election of judges of the district court to be held in 1968, all candidates for the office shall file petitions or a filing fee of \$100.00 as provided by law.

HISTORY: Add. 1968, p. 238, Act 154, Imd. Eff. Jun. 17.

600.9926 Election in 1968; terms.

Sec. 9926. (1) The first general election of judges of the district court shall be held in 1968 and in that election only, the terms of office of the judges of the district court shall be as follows:

NUMBER OF JUDGES TO BE ELECTED

IN A DISTRICT OR DIVISION	LENGTH OF TERM OF JUDGES
1	4 years
2	1 judge 4 years; 1 judge 6 years.
3	1 judge 4 years; 1 judge 6 years; 1 judge 8 years.
4 or more judges	1/3 of the judges 4 years; 1/3 of the judges 6 years; and 1/3 of the judges 8 years.

(2) Where the number of judges to be elected in 1968 are not divisible by 3, there shall first be an additional 1 for a term of 4 years and then an additional 1 for a term of 6 years.

HISTORY: Add. 1968, p. 238, Act 154, Imd. Eff. Jun. 17.

600.9926a District judges; staggered terms.

Sec. 9926a. To effectuate staggered terms for district judges in those districts and election divisions in which 1 or more municipal or associate municipal judges were made district judges pursuant to section 9923, the following formula shall be applied:

(a) Where the terms of any 3 district judges within such a district expire at the same time, the 3 candidates receiving the highest number of votes in the general election to fill those offices shall serve the longest terms available at such election, which terms shall be 8 years, 6 years and 4 years respectively.

(b) Where the terms of any 2 district judges in such a district or election division thereof expire at the same time prior to 1975, provided the district or election division has been allocated 2, 3, or 5 district judges under chapter 81, the candidate receiving the highest number of votes in the general election to fill those offices shall serve a term of 6 years and the candidate receiving the next highest number of votes shall serve a term of 4 years, except that in the first election division of the ninth district such candidates shall serve terms of 8 years and 6 years respectively.

HISTORY: Add. 1970, p. 110, Act 43, Imd. Eff. Jul. 2.

600.9927 Election of 1968; terms, determination.

Sec. 9927. The candidates receiving the highest number of votes in the 1968 general election shall serve the longest terms available at such election.

HISTORY: Add. 1968, p. 239, Act 154, Imd. Eff. Jun. 17.

600.9928 Municipal courts; retention in certain cities.

Sec. 9928. (1) The district court shall not function nor shall district judges be elected in any district of the third class in which 1 or more cities which maintain municipal or police courts and which contain, individually or in the aggregate, more than 50% of the population of the district elect to retain their municipal or police courts by resolution adopted by their respective governing bodies within 7 days after the effective date of this section.

(2) Municipal and police courts retained under the provisions of this section shall perform all duties and powers which by law may be performed by justices of the peace and the circuit court commissioners.

(3) The jurisdiction of such municipal or police courts is limited to their respective cities except that where the district contains 1 or more townships such courts shall exercise the same jurisdiction and powers in such townships as they exercise in their respective cities.

(4) Notwithstanding any other provision of law, a city shall not establish a municipal or police court after July 1, 1968.

(5) The city clerks of cities adopting resolutions under this section shall file copies of such resolutions with the court administrator within 30 days after the adoption of such resolutions.

HISTORY: Add. 1968, p. 239, Act 154, Imd. Eff. Jun. 17.

600.9930 Municipal courts; abolition.

Sec. 9930. (1) Effective January 1, 1971, all municipal courts which were not abolished by section 9921 due to the action of municipal governing bodies pursuant to the provisions of section 9928 are abolished.

District court; effective date; judges, election, member.

(2) Effective January 1, 1971, the district court shall function in those districts in which municipal courts were retained under section 9928 except as otherwise provided in subsection (8). In such districts, district judges shall be elected in 1970 as provided in chapter 21a of Act No. 116 of the Public Acts of 1954, being sections 168.467 to 168.467m of the Compiled Laws of 1948. Except as otherwise provided in subsection (7), the number of district judges to be elected in each such district or election division thereof shall be as provided in chapter 81.

Judges, terms.

(3) Where only 1 judge is to be elected in a district or election division at the 1970 general election, he shall serve a term of 6 years. Where 2 or more judges are to be elected in a district or election division at the 1970 general election, their terms of office shall be determined in accordance with the formula prescribed in section 9926 for the 1968 general election, and the candidates who receive the highest number of votes in the 1970 general election shall serve the longest terms available at that election.

Transfer of cases.

(4) All files, records, funds and pending cases of municipal courts abolished by this section shall be transferred to the district court in the same manner as prescribed in section 9924. The district court shall have jurisdiction to hear and determine all cases transferred under this section. All causes of action so transferred shall be as valid and subsisting as they were in the court from which they were transferred. All orders and judgments entered prior to January 1, 1971, by municipal courts abolished by this section shall be appealable in like manner and to the same courts as applicable prior to January 1, 1971.

Municipal court employees.

(5) The rights and privileges accorded under subsections (4) and (5) of section 8271 to employees of courts abolished by section 9921 shall apply to employees of the municipal courts abolished by this section to the same extent and effect.

Municipal judges, term, extension.

(6) After the effective date of this amendatory act, the term of office of all incumbent municipal and associate municipal judges ending prior to December 31, 1970, is extended through December 31, 1970, notwithstanding any provision of law or charter to the contrary.

Municipal judges as district judges.

(7) Where the total number of incumbent attorney municipal judges, in all cities having a population of 22,500 or more within a district of the third class or election division thereof, having terms of office which do not expire until after December 31, 1970, is equal to or less than the number of district judges to which such district or election division is entitled, such judge or judges shall become a judge of the district court, unless he files with the city clerk of the city in which he serves on or before May 1, 1970, an affidavit of intent not to be made a district judge, and shall serve through December 31 of the year in which his term as municipal judge would normally expire, except that when such term would normally expire in an odd numbered year he shall serve as a district judge through December 31 of the next even numbered year. Commencing with the 1970 general elections, the number of district judges to be elected in a district of the third class or an election division thereof, under the provisions of this section, shall be reduced by the number of municipal judges made district judges under this subsection. As the term of each such municipal judge becoming a judge of the district court expires, the number of district judges to be elected within such district or election division thereof shall be increased by 1. Under this subsection the term "municipal judge" or "municipal judges" shall be deemed to include an associate municipal judge only if such associate municipal judge is prohibited from practicing law pursuant to city charter or ordinance. In seeking election after the 1970 general election to the district court, such judges becoming judges of the district court may file affidavits of candidacy in like manner as elected incumbent district court judges and shall be entitled to designation on the ballot as a judge of the district court.

Municipal court, retention, procedure.

(8) The district court shall not function nor shall district judges be elected in any district of the third class in which 1 or more cities presently maintain municipal courts if:

(a) In a district which has only 1 city which maintains a municipal court, the governing body of that city elects to retain its municipal court by resolution adopted by its governing body within 17 days after the effective date of this 1969 amendatory act.

(b) In a district which has 2 cities which maintain municipal courts, the city having the largest population of those 2 cities elects to retain its municipal court by resolution adopted by its governing body within 17 days after the effective date of this 1969 amendatory act.

(c) In a district which has more than 2 cities which maintain municipal courts, a majority of the cities within the district elect to retain their municipal courts by resolution adopted by their respective governing bodies within 17 days after the effective date of this 1969 amendatory act.

Resolutions, filing.

(9) The city clerk of cities adopting resolutions under subsection (8) shall file copies of the resolutions with the court administrator and with the elections division of the department of state within 30 days after the adoption of the resolutions.

HISTORY: Add. 1969, p. 781, Act 344, Imd. Eff. Jan. 3, 1970.

8037

JUDICATURE ACT

§ 601.1-681.3

JUDICATURE ACT

JUDICATURE ACT

Act 314 of 1915

601.1-681.3 Repealed.

601.1-681.3 Repealed. 1961, p. 688, Act 236, Eff. Jan. 1, 1963.

Sections related to "The judicature act of 1915".

CHAPTER 691. JUDICATURE ACT—SUPPLEMENTAL CHAPTER

RESIGNATION OR RETIREMENT OF SUPREME COURT JUSTICES Act 122 of 1925	JURORS IN UPPER PENINSULA Act 26 of 1895
691.2 Repealed.	691.411-691.416 Repealed.
RULES OF APPELLATE PROCEDURE Act 27 of 1929	JURY OF 14 Act 93 of 1931
691.21 Repealed.	691.421, 691.423 Repealed.
JUDICIAL COUNCIL Act 64 of 1929	CHARGE AND INSTRUCTION TO JURY Act 67 of 1869
691.31, 691.33 Repealed.	691.431-691.434 Repealed.
STATE BAR OF MICHIGAN Act 58 of 1935	WAYNE JURY COMMISSIONERS Act 204 of 1893
691.51, 691.52 Repealed.	691.441-691.466 Repealed.
COURT OF CLAIMS Act 135 of 1939	WAYNE JURORS Act 31 of 1903
691.101-691.123 Repealed.	691.473, 691.474 Repealed.
ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION Act 87 of 1945	DECLARATIONS OF RIGHTS Act 36 of 1929
691.141 Repealed.	691.501-691.507 Repealed.
ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION Act 127 of 1945	ACTIONS AGAINST COMMON CARRIERS Act 315 of 1927
691.51-691.152 Repealed.	691.521-691.524 Repealed.
PRESIDING CIRCUIT JUDGE Act 213 of 1915	MINORS' CONTRACTS Act 123 of 1941
691.201-691.203 Repealed.	691.531 Repealed.
ABSENCE OR DISABILITY OF CIRCUIT JUDGE Act 104 of 1925	THIRD PARTY BENEFICIARIES Act 296 of 1937
691.211-691.213 Repealed.	691.541-691.545 Repealed.
DEATH OF JUDGE Act 242 of 1915	JOINT TORT-FEASORS Act 303 of 1941
691.221 Repealed.	691.561-691.564 Repealed.
SPECIAL TERMS Act 313 of 1927	JOINT TORT FEASORS IN LIBEL CASES Act 233 of 1911
691.231-691.233 Repealed.	691.571 Repealed.
INGHAM COUNTY, TERMS OF COURT Act 125 of 1895	ACTION FOR WRONGFUL DEATH Act 38 of 1848
691.248, 691.252 Repealed.	691.581-691.583 Repealed.
CALHOUN COUNTY, TERMS OF COURT Act 272 of 1905	ACTION FOR WRONGFUL DEATH Act 280 of 1905
691.261-691.266 Repealed.	691.591 Repealed.
RESIGNATION OR RETIREMENT OF CIRCUIT JUDGE Act 91 of 1929	PROCESS AGAINST DOMESTIC INSURANCE ASSOCIATION Act 255 of 1929
691.271, 691.272 Repealed.	691.601 Repealed. NEWSPAPER DEFINED
ADDITIONAL SALARY TO CIRCUIT COURT COMMISSIONER Act 224 of 1921	691.611, 691.612 Repealed.
691.281 Repealed.	ADMINISTRATION OF OATHS R.S. 1846, Ch. 107
CIRCUIT COURT STENOGRAPHERS Act 183 of 1897	691.626 Repealed.
691.301-691.352 Repealed.	DEPOSITIONS FOR FOREIGN COURT Act 179 of 1921
FREEHOLDERS ON CIRCUIT COURT JURY Act 270 of 1941	691.631-691.633 Repealed.
691.401, 691.402 Repealed.	PROOF OF FOREIGN STATUTES Act 178 of 1921
	691.641-691.643 Repealed.

<p>LIBRARY RECORDS Act 142 of 1925 691.651-691.654 Repealed.</p> <p>STATE AND COUNTY RECORDS Act 7 of 1941 691.661, 691.662 Repealed. Act 7 of 1945</p> <p>PHYSICAL EXAMINATION OF LITIGANTS Act 18 of 1941 691.671 Repealed.</p> <p>DISCONTINUANCE OR NON-SUIT Act 200 of 1915 691.681 Repealed.</p> <p>JUDGMENT NOTWITHSTANDING VERDICT Act 217 of 1915 691.691-691.693 Repealed.</p> <p>JUDGMENT UPON DISAGREEMENT OF JURY Act 73 of 1927 691.701 Repealed.</p> <p>INSTALLMENT PAYMENT OF JUDGMENTS Act 106 of 1935 691.711-691.720 Repealed.</p> <p>TOWNSHIP BONDS Act 144 of 1897 691.731-691.737 Repealed.</p> <p>SECURITY FOR DAMAGES OR COSTS Act 13 of 1937 691.751 Repealed.</p> <p>CITY BONDS Act 86 of 1911 691.761, 691.762 Repealed.</p> <p>CASH OR SECURITIES IN LIEU OF BAIL OR BOND Act 212 of 1929 691.771-691.776 Repealed.</p> <p>MILK OR CREAM PRODUCERS, GARNISHMENT Act 31 of 1937 691.781 Repealed.</p> <p>ASSIGNMENT OF FUTURE WAGES Act 184 of 1933 691.801-691.813 Repealed. R.S. 1846, Ch. 150</p> <p>FEES OF WITNESSES 691.830 Repealed.</p> <p>FEES OF CORONERS 691.832 Repealed.</p> <p>FEES OF NOTARIES PUBLIC 691.834 Repealed.</p> <p>FEES OF REGISTERS OF DEEDS 691.836 Repealed.</p> <p>FEES OF JURORS 691.839 Repealed. 691.840 Repealed.</p>	<p>GENERAL PROVISIONS 691.843 Repealed.</p> <p>REPLEVIN AND ATTACHMENT Act 84 of 1925 691.851 Repealed.</p> <p>SALARIES OF JUSTICES Act 214 of 1917 691.871-691.873 Repealed.</p> <p>SALARIES OF CLERKS IN JUSTICE COURTS Act 151 of 1919 691.881-691.883 Repealed.</p> <p>JUSTICE COURT FEES Act 185 of 1921 691.891 Repealed.</p> <p>ASSIGNMENTS OF ACCOUNTS RECEIVABLE Act 309 of 1945 691.901-691.911 Repealed.</p> <p>ADMISSION IN EVIDENCE OF PHOTOSTATIC BUSINESS RECORDS Act 304 of 1949 691.921 Repealed.</p> <p>REPRODUCTION OF FILED OR RECORDED DOCUMENTS Act 116 of 1956 691.931-691.934 Repealed.</p> <p>ADDITIONAL PLACE FOR HOLDING ST. JOSEPH COUNTY CIRCUIT COURT Act 130 of 1957 691.951, 691.952 Repealed.</p> <p>EMERGENCY INTERIM JUDICIAL SUCCESSION ACT Act 227 of 1963</p> <p>691.971 Emergency interim judicial succession act; short title. 691.972 Emergency interim judicial succession act; definitions. 691.973 Judges; unavailability; special emergency judges, designations, duration of service. 691.974 Special emergency judges; oath. 691.975 Special emergency judges; powers and duties; termination of authority by legislature. 691.976 Special emergency judges; removal or replacement. 691.977 Questions of fact; adjudication.</p> <p>VOID CONSTRUCTION CONTRACTS Act 165 of 1966 691.991 Building construction; certain contracts for indemnification void.</p> <p>JURY COMMISSIONERS AND JURIES (OAKLAND COUNTY) Act 104 of 1962 691.1001-691.1023 Repealed.</p> <p>ACTIONS INVOLVING ELECTIONS Act 161 of 1969 691.1031 Actions involving elections; filing, laches. 691.1032 Actions involving elections; exceptions.</p>
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PUBLICATION OF NOTICES IN NEWSPAPERS
Act 247 of 1963

691.1051 Newspaper; definition; publication of notices.

SUPREME COURT JUSTICES. TRANSITIONAL PROVISIONS
Act 52 of 1963 (2nd Ex. Ses.)

691.1061 Supreme court justices; extension of term of office.

691.1062 Retirement act.

691.1063 Elections; time.

691.1064 Vacancy by death; retirement; resignation.

REPRODUCTION OF PUBLIC RECORDS
Act 105 of 1964

691.1101 Public records; municipal court of record records; photographs; destruction.

691.1102 Register of deeds; microphotographs, duplicates; display equipment.

691.1103 Photographs and microphotographs; admissibility in evidence.

Act 106 of 1964

691.1111 Public records; photostatic standards.

691.1112 Public records; certification of replacement of originals.

691.1113 Public records; correction, alteration and indorsement; procedure.

691.1114 Transcripts.

691.1115 Copies and replacements; admissibility in evidence.

UNIFORM FOREIGN MONEY—JUDGMENTS
RECOGNITION ACT
Act 191 of 1967

691.1151 Uniform foreign money judgment recognition act; definitions.

691.1152 Applicability of act; final, conclusive, enforceable judgments; appeal.

691.1153 Conclusiveness of foreign judgment; enforceability.

691.1154 Inconclusiveness of foreign judgment; nonrecognizable judgments.

691.1155 Basis for jurisdiction.

691.1156 Appeal; stay of proceedings until determination.

691.1157 Recognition of judgments not covered by act.

691.1158 Construction of act.

691.1159 Uniform foreign money judgments recognition act; short title.

ENVIRONMENTAL PROTECTION ACT OF 1970
Act 127 of 1970

691.1201 Environmental protection; short title.

691.1202 Actions for declaratory and equitable relief for environmental protection; parties; standards, judicial action.

691.1202a Actions for relief; plaintiff, posting of surety bond or cash, amount.

691.1203 Actions for relief; plaintiff, rebuttal of evidence or affirmative defense; referee; costs.

691.1204 Granting of relief; administrative, licensing or other proceedings, remand; adjudication; judicial review.

691.1205 Administrative, licensing or other proceedings; intervenors; determinations; doctrines applicable.

691.1206 Act supplementary.

691.1207 Effective date of act.

GOVERNMENTAL LIABILITY FOR NEGLIGENCE
Act 170 of 1964

691.1401 Liability when engaged in governmental function; definitions.

691.1402 Defective highways; liability for injuries; limitations.

691.1403 Defective highways; knowledge of defect, repair.

691.1404 Defective highways; notice of injury, contents.

691.1405 Government owned vehicles; liability for negligent operation.

691.1406 Public buildings; dangerous condition; liability; notice, contents, service.

691.1407 Governmental tort immunity; continuance.

691.1408 Action against government officer or employee; attorney; compromise and settlement; indemnity by governmental agency.

691.1409 Liability insurance; waiver of defense.

691.1410 Claims against state or governmental agency; procedure.

691.1411 Claim against government agency; limitation of actions.

691.1412 Claims under act; defenses available.

691.1413 Proprietary function of state; limitation on actions.

691.1414 Repeal.

691.1415 Effective date of act.

PHYSICIANS AND NURSES. LIABILITY FOR EMERGENCY CARE
Act 17 of 1963

Act 17 of 1963

691.1501 Physicians' and nurses' liability for emergency care; civil liability.

BLOOD BANKING AND TRANSFUSION PROCEDURES

Act 174 of 1967

691.1511 Blood banking and transfusion procedures; considered service not sale.

691.2, 691.21 Repealed. 1961, p. 689, Act 236, Eff. Jan. 1, 1963.

Sections were set out in supplemental chapter to 1915 judicature act.

691.31-691.33 Repealed. 1955, p. 271, Act 180, Eff. Oct. 14.

Sections were set out in supplemental chapter to 1915 judicature act.

691.51-691.152 Repealed. 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

Sections were set out in supplemental chapter to 1915 judicature act.

691.201-691.203 Repealed. 1954, p. 470, Act 195, Eff. Aug. 13.

Sections were set out in supplemental chapter to 1915 judicature act.

691.211-691.952 Repealed. 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

Sections were contained in supplemental chapter to 1915 judicature act.

Act 227, 1963, p. 366; Eff. Sep. 6.

AN ACT to provide, in the event of an enemy attack on the United States, for the continuity of judicial functions of the state and the political subdivisions, by providing for automatic interim emergency succession for judges.

The People of the State of Michigan enact:

691.971 Emergency interim judicial succession act; short title.

Sec. 1. This act shall be known and may be cited as the "emergency interim judicial succession act".

HISTORY: New 1963, p. 366, Act 227, Eff. Sep. 6.

691.972 Emergency interim judicial succession act; definitions.

Sec. 2. As used in this act:

(a) "Unavailable" means that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this act who, in the event the judge is unavailable, is to exercise the powers and discharge the duties of office until a successor is appointed or elected and qualified as may be provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

(d) "Political subdivisions" includes counties, cities, towns, villages, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

HISTORY: New 1963, p. 366, Act 227, Eff. Sep. 6.

691.973 Judges; unavailability; special emergency judges, designations, duration of service.

Sec. 3. (1) If any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and if no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with law is available to exercise the powers and discharge the duties of the office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) The governor, upon approval of this act, shall designate not less than 3 special emergency judges for each member of each court of record and specify the order of their succession. These courts shall include the supreme court, circuit courts, probate courts, common pleas court of Detroit, recorder's court of Detroit, superior court of Grand Rapids and any state or other municipal court of record.

(b) Upon the approval of this act, the duly appointed or elected authority of a political subdivision which has the authority to appoint successors to justices of courts not of record, shall designate for each member of each such court not of record, special

emergency justices of not less than 3 for each member of each court and specify their order of succession.

(2) Special emergency judges, in the order specified, shall exercise the powers and discharge the duties of such office in case of the unavailability of the regular judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this act to insure their current status.

(3) Special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy is filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

HISTORY: New 1963, p. 367, Act 227, Eff. Sep. 6.

691.974 Special emergency judges; oath.

Sec. 4. At the time of their designation special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

HISTORY: New 1963, p. 367, Act 227, Eff. Sep. 6.

691.975 Special emergency judges; powers and duties; termination of authority by legislature.

Sec. 5. Those authorized to act as special emergency judges may exercise the powers and discharge the duties of office only after an attack upon the United States has occurred. The legislature by concurrent resolution at any time may terminate the authority of the special emergency judges to exercise the powers and discharge the duties of office.

HISTORY: New 1963, p. 367, Act 227, Eff. Sep. 6.

691.976 Special emergency judges; removal or replacement.

Sec. 6. Until such time as the persons designated as special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this act, the persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by the designating authority at any time, with or without cause.

HISTORY: New 1963, p. 367, Act 227, Eff. Sep. 6.

691.977 Questions of fact; adjudication.

Sec. 7. Any dispute concerning a question of fact arising under this act shall be adjudicated by the governor, or other official authorized under the constitution and this act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final.

HISTORY: New 1963, p. 368, Act 227, Eff. Sep. 6.

Act 165, 1966, p. 186; Eff. Mar. 10, 1967.

AN ACT to invalidate certain requirements for indemnity in the construction industry.

The People of the State of Michigan enact:

691.991 Building construction; certain contracts for indemnification void.

Sec. 1. A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance and appliance, including moving, demolition and excavating connected therewith, purporting to indemnify the promisee against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable.

HISTORY: New 1966, p. 186, Act 165, Eff. Mar. 10, 1967.

691.1001-691.1023 Repealed. 1968, p. 594, Act 326, Eff. Nov. 15.

Sections created boards of jury commissioners for certain counties and prescribed their powers and duties.

Act 161, 1969, p. 325; Eff. Mar. 20, 1970.

AN ACT to regulate the filing of certain actions involving elections.

The People of the State of Michigan enact:

691.1031 Actions involving elections; filing, laches.

Sec. 1. In all civil actions brought in any circuit court of this state affecting elections, dates of elections, candidates, qualifications of candidates, ballots or questions on ballots, there shall be a rebuttable presumption of laches if the action is commenced less than 28 days prior to the date of the election affected. This section shall not apply to actions brought after the date of the affected election.

HISTORY: New 1969, p. 325, Act 161, Eff. Mar. 20, 1970.

691.1032 Actions involving elections; exceptions.

Sec. 2. This act shall not apply to actions based upon acts of the state legislature or the legislative body of any county, city, village or township when such acts take effect less than 28 days before the date of election.

HISTORY: New 1969, p. 325, Act 161, Eff. Mar. 20, 1970.

Act 247, 1963, p. 436; Eff. Sep. 6.

AN ACT to define the term "newspaper" as used in the statutes of this state regarding publication of notices.

The People of the State of Michigan enact:

691.1051 Newspaper; definition; publication of notices.

Sec. 1. The term "newspaper" as used in any statute of this state, except the revised judicature act of 1961 relative to the publication of a notice of any kind, shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and

(b) has been published and of general circulation at not less than weekly intervals without interruption for at least 1 year in the county, township, city, village or district where the notice is required to be published. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or be-

cause of military service of the publisher for a period of not to exceed 2 years and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term "news and editorial content" for the purpose of this section means any printed matter other than advertising.

If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this act is qualified to publish notice of actions commenced therein.

HISTORY: New 1963, p. 436, Act 947, Eff. Sep. 6.

Act 52, 1963 (2nd Ex. Ses.), p. 69; Imd. Eff. Dec. 27.

AN ACT to provide for the extension of the terms of the incumbent supreme court justices; to provide for retirement benefits; to provide for the election of such justices and to fix the number of justices of the supreme court.

The People of the State of Michigan enact:

691.1061 Supreme court justices; extension of term of office.

Sec. 1. The terms of office of the justices of the supreme court who are holding office on January 1, 1964 and whose terms would otherwise expire December 31, 1965, 1967, 1969 and 1971, are extended 1 year.

HISTORY: New 1963, 2nd Ex. Ses., p. 69, Act 52, Imd. Eff. Dec. 27;—Am. 1964, p. 138, Act 145, Eff. Aug. 28.

691.1062 Retirement act.

Sec. 2. For the purpose of the retirement act, this additional period of service shall be considered a part of the term of office for which each of the respective justices was elected as provided in section 12 of Act No. 198 of the Public Acts of 1951, being section 38.812 of the Compiled Laws of 1948.

HISTORY: New 1963, 2nd Ex. Ses., p. 69, Act 52, Imd. Eff. Dec. 27.

691.1063 Elections; time.

Sec. 3. The first general election for justices of the supreme court shall be held in 1966 and every 2 years thereafter.

HISTORY: New 1963, 2nd Ex. Ses., p. 69, Act 52, Imd. Eff. Dec. 27.

691.1064 Vacancy by death; retirement; resignation.

Sec. 4. The first vacancy in the office of justice of the supreme court occurring after January 1, 1964 caused by death, retirement or resignation of a justice shall not be filled.

HISTORY: New 1963, 2nd Ex. Ses., p. 69, Act 52, Imd. Eff. Dec. 27.

Act 105, 1964, p. 104; Eff. Aug. 28.

AN ACT to provide for photostating, photographing, microphotographing or filming of records of the state, political subdivisions thereof and municipal courts of record; and to provide for the use thereof as evidence.

The People of the State of Michigan enact:

691.1101 Public records; municipal court of record records; photographs; destruction.

Sec. 1. When a department, commission, board or officer of the state, a political subdivision, or a municipal court of record, shall have photographed or microphotographed or filmed all or any part of the records kept by or in such department, commission, board, office or court, in a manner and on film or paper that complies with the minimum standards of quality approved for photographic records by the microfilm laboratory of the department of administration and published in the administrative code, and when such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining, and using the same, the department, commission, board, officer or court may cause the original records from which the photographs or microphotographs or films have been made, or any part thereof, to be disposed of or destroyed in accordance with section 13c of Act No. 51 of the Public Acts of the First Extra Session of 1948, being section 18.13c of the Compiled Laws of 1948, and section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Compiled Laws of 1948. No record of any such court shall be disposed of or destroyed until the records shall have been in the custody of the court for at least 6 years.

HISTORY: New 1964, p. 104, Act 105, Eff. Aug. 28.

691.1102 Register of deeds; microphotographs, duplicates; display equipment.

Sec. 2. The register of deeds of any county, when so instructed by a resolution of the board of supervisors, may microphotograph any and all deeds, mortgages, maps and instruments or writings, authorized by law to be recorded in his office, and left with him for that purpose and all of the records and indexes required by law to be kept by him. The register of deeds shall make such microfilms in duplicate and store 1 microfilm in a building separate from his office. He shall retain the other microfilm in his office with suitable equipment for displaying such filmed record by projection to not less than its original size or for preparing copies for persons entitled to the same.

HISTORY: New 1964, p. 104, Act 105, Eff. Aug. 28.

691.1103 Photographs and microphotographs; admissibility in evidence.

Sec. 3. Photographs, microphotographs or films of a record thus prepared under this or any other law shall have the same force and effect as the originals thereof would have had, and shall be treated as originals for the purpose of admissibility in evidence. Duly certified or authenticated copies of such photographs, microphotographs or films shall be admitted in evidence equally with the original photographs, microphotographs or films.

HISTORY: New 1964, p. 104, Act 105, Eff. Aug. 28.

Act 106, 1964, p. 105; Eff. Aug. 28.

AN ACT to authorize the recording, copying and recopying of documents, plats, papers, written instruments, records, and books on file or of record and the replacement and certification of originals previously filed and of record, by county and city officers, by photostatic, photographic, microphotographic, microfilm or other mechanical process; to provide for the effect and use of such copies, records, reproductions, replacements and transcripts, or certified copies thereof; and to provide for revision of and entries to be made on originals so produced or replaced.

The People of the State of Michigan enact:

691.1111 Public records; photostatic standards.

Sec. 1. When an officer of a county or city is required or authorized by law to record, copy, recopy or replace any document, plat, paper, written instrument or book, on file or of record in his office, he may do so by photostatic, photographic, microphotographic, microfilm or other mechanical process which produces a clear, accurate, and permanent copy or reproduction of the original document, plat, paper, written instrument, or record, in accordance with standards approved for permanent records by the microfilm laboratory of the department of administration and published in the administrative code.

HISTORY: New 1964, p. 105, Act 106, Eff. Aug. 28.

691.1112 Public records; certification of replacement of originals.

Sec. 2. When an original document, plat, paper, written instrument, record or book of record, previously filed or of record in the office of such officer is, whether because of the worn or injured condition thereof or for any other reason, copied or replaced by such process, and when such officer is required by law to certify in or on the paper or book replacing the original so copied that the replacement is a true and correct copy of the original, a copy of the certification by the officer, similarly made and produced and included at the end of the replacement, shall be sufficient compliance with such law.

HISTORY: New 1964, p. 105, Act 106, Eff. Aug. 28.

691.1113 Public records; correction, alteration and indorsement; procedure.

Sec. 3. When any record or replacement thereof in the office of any such officer is produced by such process, a correction, alteration, indorsement or entry, required or authorized to be made of or on any instrument or paper or on the record thereof, may be made by filing or inserting copies or recopies produced by the same process of the page or part of the page, so corrected, altered, or on which such indorsement or entry is made, next to the place wherein the copy or record of such instrument or paper is contained or in such other manner as such officer shall deem advisable or practicable. The uncorrected or unaltered record or copy shall also be preserved in its original condition and location and not destroyed or obliterated. The re-recording, re-filing or new instrument shall contain a statement that it is given to correct, and shall state where the original record or file may be found.

HISTORY: New 1964, p. 105, Act 106, Eff. Aug. 28.

691.1114 Transcripts.

Sec. 4. Transcripts or certified copies of such copies, records, reproductions and replacements, shall be considered as transcripts or certified copies of the originals.

HISTORY: New 1964, p. 105, Act 106, Eff. Aug. 28.

691.1115 Copies and replacements; admissibility in evidence.

Sec. 5. Copies, records, reproductions and replacements, or enlarged reproductions thereof, thus produced under this or any other law, shall be considered as original copies, records, papers, or books of record, for all purposes, and shall be admissible in evidence in like manner and under the same conditions as original copies, records, papers, or books of record, produced or copied in any other manner authorized by law.

HISTORY: New 1964, p. 105, Act 106, Eff. Aug. 28.

Act 191, 1967, p. 253; Eff. Nov. 2.

AN ACT to prescribe conditions for the recognition of foreign money judgments; and to make uniform the law relating thereto.

The People of the State of Michigan enact:

691.1151 Uniform foreign money judgment recognition act; definitions.

Sec. 1. As used in this act:

(a) "Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama canal zone, the trust territory of the Pacific islands or the Ryukyu islands.

(b) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

HISTORY: New 1967, p. 253, Act 191, Eff. Nov. 2.

691.1152 Applicability of act; final, conclusive, enforceable judgments; appeal.

Sec. 2. This act applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal.

HISTORY: New 1967, p. 253, Act 191, Eff. Nov. 2.

691.1153 Conclusiveness of foreign judgment; enforceability.

Sec. 3. Except as provided in section 4, a foreign judgment meeting the requirements of section 2 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

HISTORY: New 1967, p. 253, Act 191, Eff. Nov. 2.

691.1154 Inconclusiveness of foreign judgment; nonrecognizable judgments.

Sec. 4. (1) A foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if:

(a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend.

(b) The judgment was obtained by fraud.

(c) The cause of action on which the judgment is based is repugnant to the public policy of this state.

(d) The judgment conflicts with another final and conclusive judgment.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

HISTORY: New 1967, p. 254, Act 191, Eff. Nov. 2.

691.1155 Basis for jurisdiction.

Sec. 5. (1) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

- (a) The defendant was served personally in the foreign state.
- (b) The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him.
- (c) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.
- (d) The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state.
- (e) The defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign state.
- (f) The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of such operation.

(2) The courts of this state may recognize other bases of jurisdiction.

HISTORY: New 1967, p. 254, Act 191, Eff. Nov. 2.

691.1156 Appeal; stay of proceedings until determination.

Sec. 6. If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

HISTORY: New 1967, p. 254, Act 191, Eff. Nov. 2.

691.1157 Recognition of judgments not covered by act.

Sec. 7. This act does not prevent the recognition of a foreign judgment in situations not covered by this act.

HISTORY: New 1967, p. 254, Act 191, Eff. Nov. 2.

691.1158 Construction of act.

Sec. 8. This act shall also be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1967, p. 254, Act 191, Eff. Nov. 2.

691.1159 Uniform foreign money judgments recognition act; short title.

Sec. 9. This act shall be known and may be cited as the "uniform foreign money-judgments recognition act".

HISTORY: New 1967, p. 255, Act 191, Eff. Nov. 2.

Act 127, 1970, p. 390; Imd. Eff. Oct. 1.

AN ACT to provide for actions for declaratory and equitable relief for protection of the air, water and other natural resources and the public trust therein; to prescribe the rights, duties and functions of the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity; and to provide for judicial proceedings relative thereto.

The People of the State of Michigan enact:

691.1201 Environmental protection; short title.

Sec. 1. This act, shall be known and may be cited as the "Thomas J. Anderson, Gordon Rockwell environmental protection act of 1970".

HISTORY: New 1970, p. 390, Act 127, Imd. Eff. Oct. 1.

691.1202 Actions for declaratory and equitable relief for environmental protection; parties; standards, judicial action.

Sec. 2. (1) The attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity may maintain an action in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against the state, any political subdivision thereof, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity for the protection of the air, water and other natural resources and the public trust therein from pollution, impairment or destruction.

(2) In granting relief provided by subsection (1) where there is involved a standard for pollution or for an anti-pollution device or procedure, fixed by rule or otherwise, by an instrumentality or agency of the state or a political subdivision thereof, the court may:

(a) Determine the validity, applicability and reasonableness of the standard.

(b) When a court finds a standard to be deficient, direct the adoption of a standard approved and specified by the court.

HISTORY: New 1970, p. 390, Act 127, Imd. Eff. Oct. 1.

691.1202a Actions for relief; plaintiff, posting of surety bond or cash, amount.

Sec. 2a. If the court has reasonable ground to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment which might be rendered against him in an action brought under this act the court may order the plaintiff to post a surety bond or cash not to exceed \$500.00.

HISTORY: New 1970, p. 390, Act 127, Imd. Eff. Oct. 1.

691.1203 Actions for relief; plaintiff, rebuttal of evidence or affirmative defense; referee; costs.

Sec. 3. (1) When the plaintiff in the action has made a prima facie showing that the conduct of the defendant has, or is likely to pollute, impair or destroy the air, water or other natural resources or the public trust therein, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative to defendant's conduct and that such conduct is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction. Except as to the affirmative defense, the principles of burden of proof and weight of the evidence generally applicable in civil actions in the circuit courts shall apply to actions brought under this act.

(2) The court may appoint a master or referee, who shall be a disinterested person and technically qualified, to take testimony and make a record and a report of his findings to the court in the action.

(3) Costs may be apportioned to the parties if the interests of justice require.

HISTORY: New 1970, p. 390, Act 127, Imd. Eff. Oct. 1.

691.1204 Granting of relief; administrative, licensing or other proceedings, remand; adjudication; judicial review.

Sec. 4. (1) The court may grant temporary and permanent equitable relief, or may impose conditions on the defendant that are required to protect the air, water and other natural resources or the public trust therein from pollution, impairment or destruction.

(2) If administrative, licensing or other proceedings are required or available to determine the legality of the defendant's conduct, the court may remit the parties to such proceedings, which proceedings shall be conducted in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948. In so remitting the court may grant temporary equitable relief where necessary for the protection of the air, water and other natural resources or the public trust therein from pollution, impairment or destruction. In so remitting the court shall retain jurisdiction of the action pending completion thereof for the purpose of determining whether adequate protection from pollution, impairment or destruction has been afforded.

(3) Upon completion of such proceedings, the court shall adjudicate the impact of the defendant's conduct on the air, water or other natural resources and on the public trust therein in accordance with this act. In such adjudication the court may order that additional evidence be taken to the extent necessary to protect the rights recognized in this act.

(4) Where, as to any administrative, licensing or other proceeding, judicial review thereof is available, notwithstanding the provisions to the contrary of Act No. 306 of the Public Acts of 1969, pertaining to judicial review, the court originally taking jurisdiction shall maintain jurisdiction for purposes of judicial review.

HISTORY: New 1970, p. 391, Act 127, Imd. Eff. Oct. 1.

691.1205 Administrative, licensing or other proceedings; intervenors; determinations; doctrines applicable.

Sec. 5. (1) Whenever administrative, licensing or other proceedings, and judicial review thereof are available by law, the agency or the court may permit the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is likely to have, the effect of polluting, impairing or destroying the air, water or other natural resources or the public trust therein.

(2) In any such administrative, licensing or other proceedings, and in any judicial review thereof, any alleged pollution, impairment or destruction of the air, water or other natural resources or the public trust therein, shall be determined, and no conduct shall be authorized or approved which does, or is likely to have such effect so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.

(3) The doctrines of collateral estoppel and res judicata may be applied by the court to prevent multiplicity of suits.

HISTORY: New 1970, p. 391, Act 127, Imd. Eff. Oct. 1.

691.1206 Act supplementary.

Sec. 6. This act shall be supplementary to existing administrative and regulatory procedures provided by law.

HISTORY: New 1970, p. 391, Act 127, Imd. Eff. Oct. 1.

691.1207 Effective date of act.

Sec. 7. This act shall take effect October 1, 1970.

HISTORY: New 1970, p. 391, Act 127, Imd. Eff. Oct. 1.

Act 170, 1964, p. 221; Eff. Jul. 1, 1965.

AN ACT to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit such liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of such liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; and to repeal certain acts and parts of acts. Am. 1970, p. 497, Act 155, Imd. Eff. Aug. 1.

The People of the State of Michigan enact:

691.1401 Liability when engaged in governmental function; definitions.

Sec. 1. As used in this act:

(a) "Municipal corporation" means any city, village, township or charter township, or any combination thereof, when acting jointly.

(b) "Political subdivision" means any municipal corporation, county, township, charter township, school district, port district, or metropolitan district, or any combination thereof, when acting jointly, and any district or authority formed by 1 or more political subdivisions.

(c) "State" means the state of Michigan and its agencies, departments, and commissions, and shall include every public university and college of the state, whether established as a constitutional corporation or otherwise.

(d) "Governmental agency" means the state, political subdivisions, and municipal corporations as herein defined.

(e) "Highway" means every public highway, road and street which is open for public travel and shall include bridges, sidewalks, crosswalks and culverts on any highway. The term "highway" shall not be deemed to include alleys.

HISTORY: New 1964, p. 221, Act 170, Eff. Jul. 1, 1965.

691.1402 Defective highways; liability for injuries; limitations.

Sec. 2. Each governmental agency having jurisdiction over any highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. Any person sustaining bodily injury or damage to his property by reason of failure of any governmental agency to keep any highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit for travel, may recover the damages suffered by him from such governmental agency. The liability, procedure and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21, chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, being section 224.21 of the Compiled Laws of 1948. The duty of the state and the county road commissions to repair and maintain highways, and the liability therefor, shall extend only to the improved portion of the highway designed for vehicular travel and shall not include sidewalks, crosswalks or any other installation outside of the improved portion of the highway designed for vehicular travel. No action shall be brought against the state under this section except for injury or loss suffered on or after July 1, 1965. Any judgment against the state based on a claim arising under this section from acts or omissions of the state highway department shall be payable

only from restricted funds appropriated to the state highway department or funds provided by its insurer.

HISTORY: New 1964, p. 222, Act 170, Eff. Jul. 1, 1965.

691.1403 Defective highways; knowledge of defect, repair.

Sec. 3. No governmental agency is liable for injuries or damages caused by defective highways unless the governmental agency knew, or in the exercise of reasonable diligence should have known, of the existence of the defect and had a reasonable time to repair the defect before the injury took place. Knowledge of the defect and time to repair the same shall be conclusively presumed when the defect existed so as to be readily apparent to an ordinarily observant person for a period of 30 days or longer before the injury took place.

HISTORY: New 1964, p. 222, Act 170, Eff. Jul. 1, 1965.

691.1404 Defective highways; notice of injury, contents.

Sec. 4. (1) As a condition to any recovery for injuries sustained by reason of any defective highway, the injured person, within 120 days from the time the injury occurred, except as otherwise provided in subsection (3) shall serve a notice on the governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

(2) The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. In case of the state, such notice shall be filed in triplicate with the clerk of the court of claims. Filing of such notice shall constitute compliance with section 6431 of Act No. 236 of the Public Acts of 1961, being section 600.6431 of the Compiled Laws of 1948, requiring the filing of notice of intention to file a claim against the state. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, if he is physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, or the chief administrative officer, or his deputy, or a legal officer of the governmental agency as directed by the legislative body or chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury.

(3) If the injured person is under the age of 21 years at the time the injury occurred, he shall serve the notice required by subsection (1) not more than 180 days from the time the injury occurred, which notice may be filed by a parent, attorney, next friend or legally appointed guardian. If the injured person is physically or mentally incapable of giving notice, he shall serve the notice required by subsection (1) not more than 180 days after the termination of the disability. In all civil actions in which the physical or mental capability of the person is in dispute, that issue shall be determined by the trier of the facts. The provisions of this subsection shall apply to all charter provisions, statutes and ordinances which require written notices to counties or municipal corporations.

HISTORY: New 1964, p. 222, Act 170, Eff. Jul. 1, 1965;—Am. 1970, p. 497, Act 155, Imd. Eff. Aug. 1.

691.1405 Government owned vehicles; liability for negligent operation.

Sec. 5. Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the gov-

ernmental agency, of a motor vehicle of which the governmental agency is owner, as defined in Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 223, Act 170, Eff. Jul. 1, 1965.

691.1406 Public buildings; dangerous condition; liability; notice, contents, service.

Sec. 6. Governmental agencies have the obligation to repair and maintain public buildings under their control when open for use by members of the public. Governmental agencies are liable for bodily injury and property damage resulting from a dangerous or defective condition of a public building if the governmental agency had actual or constructive knowledge of the defect and, for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect the public against the condition. Knowledge of the dangerous and defective condition of the public building and time to repair the same shall be conclusively presumed when such defect existed so as to be readily apparent to an ordinary observant person for a period of 90 days or longer before the injury took place. As a condition to any recovery for injuries sustained by reason of any dangerous or defective public building, the injured person, within 120 days from the time the injury occurred, shall serve a notice on the responsible governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the responsible governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, when physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, the chief administrative officer, his deputy, or a legal officer of the governmental agency, as directed by the legislative body or by the chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury. Notice to the state of Michigan shall be given as provided in section 4. No action shall be brought under the provisions of this section against any governmental agency, other than a municipal corporation, except for injury or loss suffered after July 1, 1965.

HISTORY: New 1964, p. 223, Act 170, Eff. Jul. 1, 1965;—Am. 1970, p. 498, Act 155, Imd. Eff. Aug. 1.

691.1407 Governmental tort immunity; continuance.

Sec. 7. Except as in this act otherwise provided, all governmental agencies shall be immune from tort liability in all cases wherein the government agency is engaged in the exercise or discharge of a governmental function. Except as otherwise provided herein, this act shall not be construed as modifying or restricting the immunity of the state from tort liability as it existed heretofore, which immunity is affirmed.

HISTORY: New 1964, p. 223, Act 170, Eff. Jul. 1, 1965;—Am. 1970, p. 498, Act 155, Imd. Eff. Aug. 1.

691.1408 Action against government officer or employee; attorney; compromise and settlement; indemnity by governmental agency.

Sec. 8. Whenever any claim is made or any civil action is commenced against any officer or employee of any governmental agency for injuries to persons or property caused by negligence of the officer or employee while in the course of his employment and while acting within the scope of his authority, the governmental agency is authorized, but not required, to pay for or engage or furnish services of an attorney to advise the officer or employee as to the claim and to appear for and represent the officer or employee in the action and the governmental agency may compromise, settle and pay

such claim before or after the commencement of any civil action. Whenever any judgment for damages is awarded against any officer or employee of any governmental agency as a result of any civil action for personal injuries or property damage caused by the officer or employee while in the course of his employment and while acting within the scope of his authority, the governmental agency is authorized, but not required, to indemnify the officer or employee or pay, settle, or compromise the judgment. Nothing in this section shall be deemed to impose any liability on any governmental agency.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1409 Liability insurance; waiver of defense.

Sec. 9. The purchase of liability insurance to indemnify and protect governmental agencies against loss or to protect governmental agencies and some or all of its agents, officers, and employees against loss on account of any judgment secured against it, or them, arising out of any claim for personal injury or property damage caused by such governmental agency, its officers, or employees, is authorized, and all governmental agencies are authorized to pay premiums for the insurance out of current funds. The existence of any policy of insurance indemnifying any governmental agency against liability for damages is not a waiver of any defense otherwise available to the governmental agency in the defense of the claim.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1410 Claims against state or governmental agency; procedure.

Sec. 10. Claims against the state authorized under this act shall be brought in the manner provided in sections 6401 to 6475 of Act No. 236 of the Public Acts of 1961, being sections 600.6401 to 600.6475 of the Compiled Laws of 1948, and against any political subdivision, municipal corporation or other governmental agency by civil action in any court having jurisdiction.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1411 Claim against government agency; limitation of actions.

Sec. 11. (1) Every claim against any governmental agency shall be subject to the general law respecting limitations of actions except as otherwise provided in this section.

(2) The period of limitations for claims arising under section 2 of this act shall be 2 years.

(3) The period of limitations for all claims against the state, except those arising under section 2 of this act, shall be governed by chapter 64 of Act No. 236 of the Public Acts of 1961.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1412 Claims under act; defenses available.

Sec. 12. Claims under this act are subject to all of the defenses available to claims sounding in tort brought against private persons.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1413 Proprietary function of state; limitation on actions.

Sec. 13. The immunity of the state shall not apply to actions to recover for bodily injury or property damage arising out of the performance of a proprietary function as herein defined. Proprietary function shall mean any activity which is conducted primarily for the purpose of producing a pecuniary profit for the state, excluding, however, any activity normally supported by taxes or fees. No action shall be brought against the state for injury or property damage arising out of the operation of proprietary function, except for injury or loss suffered on or after July 1, 1965.

HISTORY: New 1964, p. 224, Act 170, Eff. Jul. 1, 1965.

691.1414 Repeal.

Sec. 14. Chapter 22 of Act No. 283 of the Public Acts of 1909, as amended, being sections 242.1 to 242.8 of the Compiled Laws of 1948; section 2904 of Act No. 236 of the Public Acts of 1961, being section 600.2904 of the Compiled Laws of 1948; Act No. 59 of the Public Acts of 1951, as amended, being sections 124.101 to 124.103 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1964, p. 225, Act 170, Eff. Jul. 1, 1965.

691.1415 Effective date of act.

Sec. 15. This act shall take effect July 1, 1965.

HISTORY: New 1964, p. 225, Act 170, Eff. Jul. 1, 1965.

Act 17, 1963, p. 21; Eff. Sep. 6.

AN ACT to relieve physicians and registered nurses from civil liability when rendering emergency care at the scene of an emergency. Am. 1964, p. 67, Act 60, Imd. Eff. May 12.

The People of the State of Michigan enact:

691.1501 Physicians' and nurses' liability for emergency care; civil liability.

Sec. 1. A physician or registered nurse who in good faith renders emergency care at the scene of an emergency, where a physician-patient or registered nurse-patient relationship did not exist prior to the advent of such emergency, shall not be liable for any civil damages as a result of acts or omissions by the physician or registered nurse in rendering the emergency care, except acts or omissions amounting to gross negligence or wilful and wanton misconduct.

HISTORY: New 1963, p. 21, Act 17, Eff. Sep. 6;—Am. 1964, p. 67, Act 60, Imd. Eff. May 12.

Act 174, 1967, p. 237; Eff. Nov. 2.

AN ACT to define blood banking and transfusion procedures as a service.

The People of the State of Michigan enact:

691.1511 Blood banking and transfusion procedures; considered service not sale.

Sec. 1. The procurement, processing, storage, distribution or use of whole blood, plasma, blood products, and blood derivatives, for the purpose of injecting or transfusing them, or any of them, into the human body for any purposes whatsoever where there is no medical test to determine the fitness of such whole blood, plasma, blood products, or blood derivatives, is the rendering of a service and does not constitute a sale by any person participating therein, whether or not any remuneration is paid therefor.

HISTORY: New 1967, p. 237, Act 174, Eff. Nov. 2.

CHAPTER 692. JUDICATURE ACT—SUPPLEMENTAL CHAPTER

FORECLOSURE OF MORTGAGES BY ADVERTISEMENT
R.S. 1846, Ch. 130
692.1-692.20 Repealed.

ATTORNEY FEE, FORECLOSURE OF MORTGAGES
Act 133 of 1885
692.31 Repealed.

DEFICIENCY JUDGMENTS, FORECLOSURE OF
MORTGAGES
Act 143 of 1937
692.51 Repealed.

TRUST MORTGAGE PROPERTY
Act 111 of 1931
692.101-692.104 Repealed.

ESTATES OF DECEASED PERSONS, MINORS AND
INCOMPETENTS
Act 110 of 1925
692.151-692.155 Repealed.

ARTESIAN AND FLOWING WELLS
Act 107 of 1905
692.201-692.203 Repealed.

NUISANCES
Act 389 of 1925
692.251-692.268 Repealed.

GAMING
R.S. 1846, Ch. 43
692.311-692.314 Repealed.

WASTE
R.S. 1846, Ch. 110
692.401-692.411 Repealed.

TRESPASSES ON LANDS
R.S. 1846, Ch. 111
692.451 Repealed.

RECEIVERS OF MORTGAGED PROPERTY, WASTE
Act 171 of 1937
692.501 Repealed.

RECEIVERS FOR CORPORATIONS
Act 147 of 1929
692.551 Repealed.

RESTITUTION OF COUNTY FUNDS
Act 67 of 1956
692.581 Repealed.

SALARIES OF CIRCUIT COURT CLERKS
Act 138 of 1949
692.601, 692.602 Repealed.

UNLAWFUL USE OF LETHAL GASES FOR FUMIGATION
Act 28 of 1952
692.621-692.624 Repealed.

PRESERVATION OF PUBLIC UTILITY RECORDS
Act 37 of 1952
692.641-692.643 Repealed.

RECOVERY OF DAMAGES FOR DESTRUCTION OF
PROPERTY BY MINORS
Act 45 of 1953
692.661, 692.662 Repealed.

SERVICE OF PROCESS ISSUED BY CIRCUIT COURT
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Act 164 of 1953
692.671-692.676 Repealed.

COURT ADMINISTRATORS
Act 269 of 1952
692.701-692.708 Repealed.

JUDICIAL MEETINGS
Act 195 of 1954
692.721-692.724 Repealed.

BLOOD TESTS TO DETERMINE PATERNITY
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692.751-592.755 Repealed.

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692.821, 692.822 Repealed.

SUITS TO ADJUDICATE QUESTIONS OF OBSCENITY
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692.841-692.850 Repealed.

DEFENSE IN CIVIL ACTIONS RELATED TO SUSPECTED
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692.861 Repealed.

692.1-692.755 Repealed. 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

Sections were set out in supplemental chapter to 1915 judicature act.

692.801-692.803 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28

Sections were set out in supplemental chapter to 1915 judicature act.

692.821-692.861 Repealed. 1961, p. 690, Act 236, Eff. Jan. 1, 1963.

Sections were set out in supplemental chapter to 1915 judicature act.

CHAPTERS 701-713. PROBATE CODE

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Act 288, 1939, p. 558; Eff. Sep. 29.

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the probate courts of this state; the powers and duties of such courts, and the judges and other officers thereof; the statutes of descent and distribution of property, and the statutes governing the probating of estates of decedents, disappeared persons and wards, change of name of adults, the adoption of children and the jurisdiction of the juvenile division of the probate courts over children; to prescribe the manner and time within which claims against estates and other actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in actions and proceedings in said courts; appeals from said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER I.

ORGANIZATION, JURISDICTION, POWERS AND DUTIES OF PROBATE COURTS.

701.1	Probate judges; election procedure; location of offices.		
701.2	Probate judges; number in each county; referendum on increase, contents.	701.24	years. Warrant or reference; revocation; re-issuance.
701.2a	Probate court districts.	701.25	Security for costs.
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701.3	Probate judges; salary; payment; determination of amount.	701.26	Court of record; seal.
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701.4a	Probate judges; visiting judges; grounds, powers.	701.28	Custody of records, books and files; order, sentence, decree; record, public inspection.
701.5	Probate judges; oath; filing.	701.29	Index of records of proceedings.
701.6	Probate judges; counties having two or more judges; equal powers, duties and compensation; appointment of employees; division of work.	701.30	Holding of court; terms abolished; adjournment.
701.7	Probate judges; disqualification; another judge to act.		TESTIMONY
701.8	Probate judges; employees; activities prohibited.	701.31	Testimony; manner of taking, preservation; hospitalization cases.
701.9	Probate judges; disqualification; grounds.		NOTICES
701.10	Probate judges; partner prohibited from practicing; interest in suit prohibited.	701.32	Probate notices; manner of service; service upon attorney; service upon foreign council.
701.11	Probate judges; absence or disqualification; another judge to act, compensation; request.	701.33	Probate notices; personal service.
701.12	Probate register; appointment, bond, powers, compensation.	701.34	Probate notices; waiver of notice; attorney or guardian, execution and filing of waiver and authorization.
701.13	Deputy probate register and clerks; appointment, oath, salary.	701.35	Probate notices; affidavit of publication; proof of mailing; nonservice.
701.14	Court stenographer; appointment, oath, salary.		APPEALS
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701.17	Decedents' estate charges; other fees. Fees; permitted, prohibited, waived; construction of act. Disposition of fees; final accounting.	701.45b	Appeals; stays.
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701.18a	Collection or receipt of certain fees by probate judges prohibited; malfeasance.	701.45d	Jury trial; rights, procedures.
	JURISDICTION AND POWERS	701.46	Appeals; stay of proceedings; appointment of special administrator.
701.19	Probate judges; jurisdiction.	701.47	Appeals; prosecution by next of kin for person under guardianship.
701.19a	Expired.	701.48	Appeals; surety on fiduciary's bond; appearance in support or opposition to allowance of account.
701.19b	Minor; gift of kidney, procedure.	701.49	Repealed.
701.20	Probate judges; authority.	701.50	Repealed.
701.21	Probate judges; jurisdiction; collateral attack based on residence.	701.51	Appeals; costs; cases contested in probate and circuit courts.
701.22	Concurrent probate court jurisdiction of two counties; court in which proceedings first instituted retains jurisdiction.	701.52	Appeals; costs; collection, issuance of execution or garnishment process.
701.23	Order or decree; presumption of validity upon collateral attack after twenty		CONVENTION
		701.53	Probate judges annual convention; election of presiding judge, president and officers; committee on rules and procedure.
		701.54	Repealed.
		701.55	Petitions; verification not required; signing; responsibilities, liabilities, penalties; exception.

701.1 Probate judges; election procedure; location of offices.

Sec. 1. Judges of probate shall be elected in the manner provided in Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948. The probate judge shall maintain an office at the county seat of each county and may also maintain an office in any city of such county where sessions of the circuit court are authorized by law to be held.

HISTORY: CL 1948, 701.1;—Am. 1963, 2nd Ex. Ses., p. 24, Act 16, Imd. Eff. Dec. 27.

This section supersedes with additions Sec. 1 of Ch. III of Act 314 of 1915, being CL 1915, 12229;—CL 1929, 13863.

CITED IN OTHER SECTIONS: Sections 701.1 to 713.6 are cited in § 168.557.

701.2 Probate judges; number in each county; referendum on increase, contents.

Sec. 2. In counties having less than 100,000 inhabitants there shall be 1 judge of probate. In counties having more than 1,000,000 inhabitants there shall be 6 judges of probate, 3 of whom shall be elected at each alternate biennial election for terms of 4 years each. Counties having more than 100,000 inhabitants and 2 judges of probate shall continue to have 2 judges of probate. Counties having more than 100,000 and less than 1,000,000 inhabitants shall have 1 judge of probate unless the electors of such county vote in favor of having 2 judges of probate as provided in this section. Such question shall be submitted to the voters of any such county at the next general election which is held at least 30 days after either the adoption of a resolution by a majority vote of the members of the board of supervisors of such county or by the filing of a petition with the county clerk of such county signed by a number of the qualified electors of such county equal to at least 10% of the entire vote cast for the office of secretary of state in such county at the last general election, and requesting the submission of such question to the electors of such county. Such question shall be submitted by ballot in substantially the following form:

“Shall there be 2 judges of probate of county instead of 1?

Yes ()

No ()”

All votes on the question shall be counted, canvassed and returned in the same manner as is provided by law for the counting, canvassing and returning of votes cast for county officers. Ballots shall be furnished by the election commission of such county. In case a majority of the electors voting upon such question at such election shall vote in favor thereof, such county shall thenceforth have 2 judges of probate and the additional office shall be filled at the next general election except as otherwise provided in this section. If the board of supervisors resolves or a petition to provide for a second probate judge is filed more than 20 days prior to the time for the filing of primary nominating petitions for probate judge, candidates for the office of probate judge may file for the office and the nominees at such primary election shall be candidates for the office at the next general election. If the office is created, the probate judge shall serve a term of 6 years commencing January 1 next following and until his successor is elected and qualified. If the proposition is submitted at a general election at which a probate judge is elected, the board of supervisors shall designate whether the additional probate judge shall have a term of 4 or 8 years.

In counties which now have 2 probate judges and which now have or which shall hereafter attain a population of at least 250,000 but less than 1,000,000 inhabitants, the board of supervisors of such counties, by a majority vote of all members of the board, may provide for the election of a third probate judge at the next biennial November election. In order to insure that the 3 probate judges of such counties are elected in staggered November elections, the first term of a third probate judge so elected

shall expire January 1 of the next odd numbered year in which neither existing term ends. In no instance, however, shall the term be for less than 6 years.

Counties having more than 150,000 and less than 250,000 inhabitants, and not having 2 probate judges, shall have 2 probate judges, and the boards of supervisors in counties affected by this amendatory act shall provide for the election of a second judge of probate at the next biennial November election. In order to insure that the 2 judges of probate are elected in staggered November elections, the term of the second judge of probate herein created shall be either for a 2 or 4-year term, as determined by the board of supervisors, if the election of the incumbent judge of probate is also required at the next biennial November election.

Nothing contained herein shall be construed to affect the tenure of office of those judges of probate or their successors heretofore elected and qualified.

HISTORY: Am. 1945, p. 314, Act 224, Imd. Eff. May 18;—CL 1948, 701.2;—Am. 1960, p. 43, Act 54, Imd. Eff. Apr. 21;—Am. 1964, p. 55, Act 50, Imd. Eff. May 7;—Am. 1965, p. 473, Act 279, Eff. Mar. 31, 1966.

This section as originally enacted superseded with additions part of Sec. 2 of Ch. III of Act 314 of 1915, being CL 1915, 12230;—Am. 1927, p. 952, Act 403, Imd. Eff. June 4;—Am. 1929, p. 334, Act 141, Imd. Eff. May 13;—CL 1929, 13864;—Am. 1st Ex. Ses., 1932, p. 40, Act 23, Imd. Eff. May 10;—Am. 1933, p. 354, Act 226, Imd. Eff. July 6.

701.2a Probate court districts.

Sec. 2a. Probate court districts are created in each of the following districts when a majority of the electors voting on the question in each affected county approves the same. The districts shall consist of the following counties:

- (a) The first district consists of the counties of Houghton and Keweenaw.
- (b) The second district consists of the counties of Ontonagon and Gogebic.
- (c) The third district consists of the counties of Iron and Baraga.
- (d) The fourth district consists of the counties of Menominee and Dickinson.
- (e) The fifth district consists of the counties of Schoolcraft and Alger.
- (f) The sixth district consists of the counties of Mackinac and Luce.
- (g) The seventh district consists of the counties of Emmet and Charlevoix.
- (h) The eighth district consists of the counties of Cheboygan and Presque Isle.
- (i) The ninth district consists of the counties of Alpena and Montmorency.
- (j) The tenth district consists of the counties of Kalkaska, Antrim and Otsego.
- (k) The eleventh district consists of the counties of Grand Traverse and Leelanau.
- (l) The twelfth district consists of the counties of Manistee and Benzie.
- (m) The thirteenth district consists of the counties of Wexford and Missaukee.
- (n) The fourteenth district consists of the counties of Roscommon and Crawford.
- (o) The fifteenth district consists of the counties of Alcona, Oscoda and Ogemaw.
- (p) The sixteenth district consists of the counties of Iosco and Arenac.
- (q) The seventeenth district consists of the counties of Clare and Gladwin.
- (r) The eighteenth district consists of the counties of Mecosta and Osceola.
- (s) The nineteenth district consists of the counties of Newaygo and Lake.
- (t) The twentieth district consists of the counties of Oceana and Mason.

HISTORY: Add. 1969, p. 506, Act 271, Imd. Eff. Aug. 11.

701.2b Probate court districts; special election for creation; referendum, contents; first election, eligibility; non-attorney judge.

Sec. 2b. (1) At a special election to be held on November 4, 1969, there shall be submitted to the electors for vote in the counties named in section 2a the following question:

“Shall this county join in a probate court district, which will consist of the counties of and (naming counties) if the majority of the electors voting on the question in each affected county approve?”

Yes ()

No ()"

All votes on the question shall be counted, canvassed and returned in the manner provided by law.

(2) If approved by a majority of the electors voting on the question in each of the counties affected, those counties shall constitute the probate court district effective January 1, 1971.

(3) The first election of judges in the probate districts shall be held in 1970 in the manner provided by law for the election of probate judges in counties except that nominating petitions or incumbency affidavits of candidacy shall be filed with the secretary of state, who shall perform the duties prescribed by law to be performed by the county clerk.

(4) Any non-attorney judge of probate serving on the effective date of this amendatory act shall be eligible for election as probate judge in a probate district.

HISTORY: Add. 1969, p. 506, Act 271, Imd. Eff. Aug. 11.

701.3 Probate judges; salary; payment; determination of amount.

Sec. 3. (1) Commencing January 1, 1971, the judges previously elected or appointed, or to be thereafter elected or appointed, except judges of a county comprising part of a proposed probate court district in which the electors of 1 or more counties thereof did not approve the same, shall not engage in the practice of law other than as a judge and shall receive an annual salary of \$20,000.00, 3/4 to be paid by the state and 1/4 by the county or counties comprising the district, which may be increased but shall not be decreased during the term for which they shall have been elected or appointed, except to the extent of a general salary reduction in all other branches of government. Such salary shall be in full compensation for all services performed by them as such judges, except as is or may otherwise be provided by law. In probate districts, each county shall contribute to the salary in the same proportion as the population of the county bears to the population of the district. In addition to the salary provided herein, commencing January 1, 1971, each judge of probate may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all judges of probate regularly holding court therein. The total salary of a probate judge, including the salary provided herein and any additional salary granted by the county, shall not exceed \$29,000.00 per year in counties having a population of 500,000 or more and in counties or districts having a population of less than 500,000 shall not exceed per year the annual total salary allowed by law for district court judges in this state.

(2) Prior to January 1, 1971, all judges and thereafter those judges of a county comprising part of a proposed probate court district in which the electors of 1 or more counties thereof did not approve the same shall each receive an annual salary, 1/2 to be paid by the state and 1/2 by the county, which may be increased but shall not be decreased during the term for which they shall have been elected, except to the extent of a general salary reduction in all other branches of government. The amount of such salary to be paid to the judge of probate of the several counties shall be based upon and determined by the population of their respective counties, except as herein provided, as shown by the last preceding federal census, and such salary shall be in full compensation for all services performed by them as such judges, except as is or may otherwise be provided by law.

HISTORY: CL 1949, 701.3;—Am. 1966, p. 559, Act 315, Eff. Mar. 10, 1967;—Am. 1969, p. 507, Act 271, Imd. Eff. Aug. 11.

This section re-enacts Sec. 3 of Ch. III of Act 314 of 1915, being CL 1915, 12231;—CL 1929, 13465.

701.4 Probate judge; annual salary; additional salary.

Sec. 4. Prior to January 1, 1971, the annual salary of all probate judges and thereafter the annual salary of those judges of a county comprising part of a proposed probate court district in which the electors of 1 or more counties thereof did not approve the same shall be based upon the population of the county as follows: For counties having a population of less than 5,000, \$6,500.00; for counties having a population of 5,000 and less than 10,000, \$6,500.00; for counties having a population of 10,000 and less than 15,000, \$7,000.00; for counties having a population of 15,000 and less than 20,000, \$7,500.00; for counties having a population of 20,000 and less than 25,000, \$8,000.00; for counties having a population of 25,000 and less than 30,000, \$9,000.00; for counties having a population of 30,000 and less than 35,000, \$9,500.00; for counties having a population of 35,000 and less than 40,000, \$10,000.00; for counties having a population of 40,000 and less than 45,000, \$11,000.00; for counties having a population of 45,000 and less than 50,000, \$11,000.00; for counties having a population of 50,000 and less than 55,000, \$12,250.00; for counties having a population of 55,000 and less than 60,000, \$12,250.00; for counties having a population of 60,000 and less than 70,000, \$12,250.00; for counties having a population of 70,000 and less than 80,000, \$12,500.00; for counties having a population of 80,000 and less than 90,000, \$12,500.00; for counties having a population of 90,000 and less than 100,000, \$14,500.00; for counties having a population of 100,000 and less than 110,000, \$14,500.00; for counties having a population of 110,000 and less than 120,000, \$15,000.00; for counties having a population of 120,000 and less than 130,000, \$15,000.00; for counties having a population of 130,000 and less than 140,000, \$16,000.00; for counties having a population of 140,000 and less than 150,000, \$16,000.00; for counties having a population of 150,000 and less than 160,000, \$16,000.00; for counties having a population of 160,000 and less than 170,000, \$16,000.00; for counties having a population of 170,000 and less than 180,000, \$16,000.00; for counties having a population of 180,000 and less than 190,000, \$16,000.00; for counties having a population of 190,000 and less than 200,000, \$16,000.00; for counties having a population of 200,000 and less than 300,000, \$16,500.00; for counties having a population of 300,000 and less than 400,000, \$17,500.00; for counties having a population of 400,000 and less than 500,000, \$17,500.00; for counties having a population of 500,000 and less than 600,000, \$20,000.00; for counties having a population of 600,000 and less than 700,000, \$20,000.00; for counties having a population of 700,000 and less than 800,000, \$20,000.00; for counties having a population of 800,000 and more, \$20,000.00.

Additional salary; quality; maximum.

In addition to the salary provided herein each judge of probate may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all judges of probate regularly holding court therein. The total salary of a probate judge, including the salary provided herein and any additional salary granted by the county, shall not exceed \$29,000.00 per year in counties having a population of 500,000 or more and in counties having a population of less than 500,000 shall not exceed per year the annual total salary allowed by law for district court judges in this state.

HISTORY: Am. 1941, p. 36, Act 38, Imd. Eff. April 4;—Am. 1947, p. 167, Act 128, Eff. Oct. 11;—CL 1948, 701.4;—Am. 1952, p. 399, Act 242, Eff. Jan. 1, 1953;—Am. 1952, p. 470, Act 276, Eff. Jan. 1, 1953;—Am. 1956, p. 172, Act 84, Imd. Eff. Apr. 5;—Am. 1956, p. 725, Act 228, Eff. Jan. 1, 1957;—Am. 1960, p. 100, Act 99, Eff. Jan. 1, 1961;—Am. 1966, p. 559, Act 315, Eff. Mar. 10, 1967;—Am. 1969, p. 507, Act 271, Imd. Eff. Aug. 11.

This section as originally enacted superseded and merged Sec. 4 of Ch. III of Act 314 of 1915, being CL 1915, 12232;—Am. 1919, p. 616, Act 343, Eff. Aug. 14;—CL 1929, 13866;—Am. 1931, p. 411, Act 237, Eff. May 29.

701.4a Probate judges; visiting judges; grounds, powers.

Sec. 4a. (1) The supreme court, through its direct order or through the court administrator, may direct and compel a probate judge to serve as a judge of any other probate court. Particular consideration shall be given those cases where the presiding judge of a probate court has asked that another judge be sent to that probate court and has properly shown:

- (a) That the business of that court has increased beyond the capacity of the judge or judges of that probate court to properly dispose of;
- (b) That a vacancy, other than a vacancy resulting in a county becoming part of an operating probate court district, exists in the office of the probate judge;
- (c) That any probate judge is unable to discharge the duties of his office; or
- (d) Any other sufficient reason.

(2) A judge so designated shall hold court and fulfill the duties of the office as though he had been elected in the respective probate court for the time he was designated to serve.

HISTORY: Add. 1989, p. 506, Act 271, Imd. Eff. Aug. 11.

701.5 Probate judges; oath; filing.

Sec. 5. Each probate judge, after having been elected, shall qualify by taking the constitutional oath of office and shall subscribe the same and file it in the office of the county clerk.

HISTORY: CL 1948, 701.5.

CONSTITUTION: For form of oath, see Const. XI, 1.

701.6 Probate judges; counties having two or more judges; equal powers, duties and compensation; appointment of employees; division of work.

Sec. 6. Where 2 or more probate judges are elected in any county, they shall have equal powers, duties and compensation except that the power of nomination, appointment and removal of the several employees as provided by law for such court, and of the offices connected therewith, and the general direction and control of the business of such court, including the division of the work between the judges, shall be vested, in the counties having less than 1,000,000 population, in the judge having served for the longest period continuously, or if 2 or more judges have been elected at the same election and have served the same number of years continuously, then in the judge receiving the highest vote at the last election, and, in counties having 1,000,000 inhabitants or more, in the judge who shall be chosen by the several probate judges in said county or, in the case no judge shall receive a majority vote of such judges, then in the judge of such court selected by the governor.

The selection herein provided for in counties of more than 1,000,000 population shall be made within 15 days after the commencement of each year, and the judge so selected shall exercise the duties and powers therein provided for the full calendar year then commencing, until his successor as such presiding judge is selected, or is designated by the governor.

HISTORY: Am. 1945, p. 315, Act 224, Imd. Eff. May 18;—CL 1948, 701.6. This section as originally enacted superseded with additions part of Sec. 2 of Ch. III of Act 314 of 1915, being CL 1915, 12230;—Am. 1927, p. 952, Act 403, Imd. Eff. June 4;—Am. 1929, p. 334, Act 141, Imd. Eff. May 13;—CL 1929, 13864;—Am. 1st Ex. Ses., 1932, p. 40, Act 23, Imd. Eff. May 10;—Am. 1933, p. 354, Act 226, Imd. Eff. July 6.

701.7 Probate judges; disqualification; another judge to act.

Sec. 7. Whenever a judge of probate is disqualified within the meaning of section 9 of this chapter, or when such judge shall be a creditor of an estate, or otherwise interested in any question to be decided by the court, or when he or his law partner, or any employe or assistant in his office, shall have been attorney or counsel for any party interested therein in relation thereto, such judge of probate shall be deemed incapaci-

tated for acting in the decision of that question, and another probate judge or a circuit judge shall hold the court in his place, as provided in section 11 of this chapter.

HISTORY: CL 1948, 701.7. This section supersedes Sec. 12 of Ch. III of Act 314 of 1915, being CL 1915, 12240;—CL 1929, 13674.

701.8 Probate judges; employees; activities prohibited.

Sec. 8. No judge of probate, probate register or employe in his office shall be a fiduciary of an estate under the jurisdiction of such judge or be retained or employed as attorney or counsel, in any suit or matter which may depend on, or in any way relate to, any sentence or decree made or passed by him; nor shall he, or the probate register, or any employe in his office, be attorney or counsel for or against any fiduciary appointed within his jurisdiction, in any suit brought by or against the fiduciary, as such, nor in any suit relating to the official conduct of such party; nor shall any clerk or other person employed in the office of any probate court be appraiser, referee, or divider of any estate, in any case that is within the jurisdiction of such court.

HISTORY: CL 1948, 701.8. This section supersedes Sec. 16 of Ch. III of Act 314 of 1915, being CL 1915, 12244;—CL 1929, 13678.

JUDGE AS ATTORNEY: See GCR 405.

701.9 Probate judges; disqualification; grounds.

Sec. 9. No judge of any court shall sit as such in any cause or proceeding in which he is a party, or in which he is interested, or in which he would be excluded from being a juror by reason of consanguinity or affinity to either of the parties; nor shall any judge decide, or take part in the decision of any question which shall have been argued in the court, when he was not present and sitting therein as a judge. Nor shall any judge sit as a court in any cause in which he is related within the third degree of consanguinity to either of the attorneys or counselors of either party to said cause: Provided, That such last mentioned disqualification shall be made to appear and that it may be waived by stipulation filed in the cause; and it shall be deemed to have been waived unless the objection on account of such disqualification shall have been filed in writing at or before the commencement of the trial or hearing. Each probate judge shall be disqualified to sit as a court in any hearing or trial which will, or may, involve the validity, or interpretation, of any will, contract, deed, mortgage, bill of sale, note or other document which he has prepared, or in the preparation of which he has assisted, or to the execution of which he acted as a witness; or which involves any contested matter concerning which the probate judge has theretofore advised 1 or more of the parties to such contest. Such judge shall likewise be disqualified if any register of probate or other employe of his office, appointed or employed by him or by any other probate judge of said county, shall while holding such office, or during such employment, have prepared or assisted in the preparation of any will, contract, deed, mortgage, bill of sale, note or other document involved in such hearing or trial, or acted as a witness to the execution thereof.

HISTORY: CL 1948, 701.9.

701.10 Probate judges; partner prohibited from practicing; interest in suit prohibited.

Sec. 10. No judge shall have any partner practicing in the court of which he is judge; nor shall any judge be directly or indirectly interested in the costs of any suit that shall be brought in said court except in those suits in which he shall be a party, or be interested in the subject matter thereof.

HISTORY: CL 1948, 701.10.

701.11 Probate judges; absence or disqualification; another judge to act, compensation; request.

Sec. 11. If a judge of probate shall remove out of his county, or shall be temporarily absent therefrom or shall die, resign, or shall be necessarily occupied in the performance of other duties required of him by law, or otherwise become incapacitated for ex-

executing the duties of his office, the judge of the circuit court for such county shall hold the probate court unless he also be incapacitated for executing such duties, or the judge of any circuit court or the probate judge of any county of this state, who is not legally incapacitated for so executing the duties of such probate judge, may, upon the written request of such probate judge or in case of his absence or legal disability to make such request, then upon the request of the circuit judge or the probate register of such county, hold the probate court in such county, or the judge of probate or the probate register may request the presiding judge of the probate judges' association to appoint a probate judge of another county to hold the probate court in such county, and the judge so acting shall have all the powers and perform all the duties of the judge of probate therein, until the return of the judge of probate so temporarily absent or the removal of such incapacity, or until another judge of probate shall be elected or appointed and qualified, and if any such judge so acting as judge of probate shall have begun any hearing which is not concluded at that time, he shall have authority to hear such matter to its conclusion and give judgment thereon. In all cases where a circuit judge or a probate judge of any other county shall perform the duties of the judge of probate, an entry of the reason for such circuit judge or probate judge so performing such duties shall be made in the records of such probate court.

When the acting probate judge is a probate judge of another county, he shall receive compensation in the amount of \$25.00 and if he be a retired judge appointed under the provisions of the constitution, he shall receive compensation in the amount of \$100.00, for each day or part of a day spent in the discharge of his duties as acting judge, and reimbursement for all his actual and necessary expenses. The county treasurer shall pay the compensation and expenses, upon receipt of a voucher approved by the local probate judge, out of the general funds of the county, and in the event of the death of the local probate judge or his entire incapacity to act, the voucher shall be approved by the circuit judge of the county.

The compensation shall be in addition to the salary paid to the probate judge by the county of his residence.

HISTORY: CL 1948, 701.11;—Am. 1965, p. 409, Act 237, Imd. Eff. Jul. 21.

This section supersedes with additions Sec. 11 of Ch. III of Act 314 of 1915, being CL 1915, 12239;—CL 1929, 13873.

701.12 Probate register; appointment, bond, powers, compensation.

Sec. 12. In every county in this state, the judge of probate may appoint a probate register, who shall hold such office during the term for which the judge of probate making the appointment shall have been elected, unless sooner removed by such judge of probate; such register so appointed shall take and subscribe the oath of office prescribed by the constitution, and give a bond to the judge of probate in the penal sum of \$1,000.00 to be approved by the probate judge, which bond and oath shall be filed in the office of the county clerk of such county and shall exercise the power of, and be competent to do all acts required of the judge of probate except judicial acts, and to that end may, upon a general order having been filed by the judge of probate authorizing him so to do, issue and sign orders for the hearing of petitions for administration, for the probate of a will, for determination of heirs, for sale, mortgage or lease, or conveyance of real estate, for the settlement and allowance of any account, for partial or final distribution, orders limiting the time to file claims, fixing the time and place of hearing thereon, and in general to fix the time and place for hearing in all matters. He shall also be authorized to take acknowledgments, to administer oaths and sign notices to county agents to investigate citations and subpoenas.

Such register so appointed and qualifying shall receive in compensation for his services an annual salary to be paid monthly out of the county treasury of his county of not less than \$2,400.00. The board of supervisors of the several counties of this state may, by a majority vote of all the members-elect, give such additional salary to the probate

register of their respective counties as they may deem just. All local and special acts relating to the appointment of probate registers, or probate clerks, and their salaries and compensation are hereby repealed.

HISTORY: Am. 1941, p. 281, Act 176, Eff. Jan. 10, 1942;—CL 1948, 701.12;—Am. 1949, p. 151, Act 145, Eff. Sep. 23;—Am. 1965, p. 285, Act 183, Imd. Eff. Jul. 15.

This section as originally enacted superseded with additions Sec. 13 of Ch. III of Act 314 of 1915, being CL 1915, 12241;—CL 1929, 13875.

701.13 Deputy probate register and clerks; appointment, oath, salary.

Sec. 13. The probate judge or judges of any county having a probate register may appoint 1 or more deputy probate registers who shall have such compensation as shall be fixed by the board of supervisors of said county. The term of office of such deputy probate registers and their powers shall be the same as those prescribed by law for probate registers. They shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk of the county. The probate judge or judges of any county having a probate register may appoint such probate clerks as may be necessary, who shall receive such salaries as shall be determined by the board of supervisors. The duties of such probate clerks shall be such as may be prescribed by the probate judge or judges of the county in which such clerks are appointed.

HISTORY: CL 1948, 701.13. This section supersedes Sec. 14 of Ch. III of Act 314 of 1915, being CL 1915, 12242;—Am. 1917, p. 51, Act 26, Eff. Aug. 10;—CL 1929, 13876.

701.14 Court stenographer; appointment, oath, salary.

Sec. 14. The probate judge of any county may appoint, and in counties of 50,000 or over shall appoint, 1 or more official court stenographers of such probate court, at a reasonable salary fixed by the county board of supervisors. Such stenographers so appointed shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk of the county.

HISTORY: CL 1948, 701.14. This section supersedes with additions Sec. 15 of Ch. III of Act 314 of 1915, being CL 1929, 13877.

701.15 Deputy registers, clerks and stenographers; allocation and combination of duties.

Sec. 15. The probate judge may allocate the duties of the deputy registers, clerks and stenographers, and may combine the title and powers in any 1 or more persons.

HISTORY: CL 1948, 701.15.

701.16 Fiduciaries, appraisers, dividers of estate; oaths, administration, filing.

Sec. 16. All oaths required to be taken by fiduciaries, appraisers, and dividers of estates, or by any other person in relation to any proceeding in the probate court, may be administered by the judge of probate, register of probate, any justice of the peace or notary public, and a certificate thereof shall be returned and filed in the probate court.

HISTORY: CL 1948, 701.16. This section supersedes Sec. 6 of Ch. LI of Act 314 of 1915, being CL 1915, 13769;—CL 1929, 15524.

701.17 Decedents' estate charges; other fees.

Sec. 17. (1) In all decedents' estates in which proceedings are instituted for probate on and after January 1, 1970, the probate judge shall charge and collect the following fees as an expense of administration: In small estates under section 41 of chapter 8, \$6.25; in small estates under section 39 of chapter 8, \$18.75; in other estates, on the value of all assets, real and personal, as of the date of the death of the decedent, as follows: Estates of value of less than \$3,000.00, \$25.00; on value of \$3,000.00 and less than \$10,000.00, \$25.00 plus 5/8 of 1% over \$3,000.00; on value of \$10,000.00 but less than \$25,000.00, \$68.75 plus 1/2 of 1% over \$10,000.00; on value of \$25,000.00 but less than \$50,000.00, \$143.75 plus 3/8 of 1% over \$25,000.00; on value of \$50,000.00 but less than \$100,000.00, \$237.50 plus 1/4 of 1% over \$50,000.00; on value of \$100,000.00 to \$500,000.00, \$362.50 plus 1/8 of 1% over \$100,000.00; for each additional

\$100,000.00 value, or larger fraction thereof, over \$500,000.00, \$62.50; for each additional \$100,000.00 value, or larger fraction thereof, over \$1,000,000.00, \$31.25.

Fees; permitted, prohibited, waived; construction of act.

(2) The probate judge or the probate register shall make 1 certified copy or exemplification of any record, paper or proceeding in such probate court, and shall furnish the same to the fiduciary of the estate or his attorney of record on request therefor, except as shall be hereinafter specifically provided; and shall charge and collect fees for such exemplifications and certified copies as follows: For letters of authority, \$2.50; for order confirming adoption, \$2.50; for order authorizing waiver of 3-day waiting period and immediate issuance of marriage license, \$3.75; for performing a marriage ceremony, \$6.25; and for all other exemplifications and certified copies in closed estates, guardianships, and in matters not connected with estates in process of administration or for any other exemplifications and certified copies which the probate judge may issue, at the rate of \$2.50 for the first page and \$1.25 for each additional page thereof, such charge to cover the entire cost of such certified copy or exemplification, including the certification thereof; issuance of commission to take testimony, \$6.25, which fees shall accrue 2/5 to the county treasurer and 3/5 to the state treasurer, to be deposited in the general fund of the county and of the state. Such court, where such order shall necessarily be entered in the administration of an estate, shall deliver to the printer or publisher a certified copy of each order for publication. Such court may in its discretion waive the fee for performing a marriage ceremony where the parties thereto are indigent and the prospective bride is pregnant. No charge shall be made nor shall any fee be collected on account of or by reason of the furnishing of certified copies in connection with proceedings for the admission and commitment of persons to mental hospitals or any facility or institution maintained or operated by the state of Michigan or the federal government for the care of mentally ill persons, or for determining inheritance tax. Fees for taking, certifying, sealing and forwarding depositions shall be \$5.00, and 10 cents per folio, which shall be considered as costs in the case, and for each copy of the deposition furnished 3 cents per folio. The probate court stenographer may collect for transcripts of testimony requested by any interested party, unless ordered by the probate judge, other than depositions, the sum of 25 cents per original folio and 10 cents for each copy thereof unless a lower rate is agreed upon, and such fees collected shall be paid to such probate court stenographer by the party ordering him, which shall accrue to him in addition to his salary. This section shall not be so construed as to modify or repeal Act No. 243 of the Public Acts of 1919, being section 35.41 of the Compiled Laws of 1948.

Disposition of fees; final accounting.

(3) All fees received by the probate court during each month shall be paid to the county treasurer and the state treasurer on or before the tenth day of the succeeding month and shall be credited to the general fund of such county and the state. All fees chargeable under paragraph (1) of this section shall be due and payable to the probate judge before the filing of the final account or within a period of 1 year after the commencement of probate proceedings, whichever occurs first, and no such final accounting shall be accepted by the probate judge until such fees have been paid in full and shown as part of the final accounting; an official receipt shall be issued to the payer at the time of each collection of fees.

HISTORY: CL 1948, 701.17;—Am. 1952, p. 400, Act 242, Eff. Jan. 1, 1953;—Am. 1953, p. 88, Act 91, Eff. Oct. 2;—Am. 1954, p. 87, Act 71, Imd. Eff. Apr. 8;—Am. 1963, p. 293, Act 206, Eff. Sep. 6;—Am. 1966, p. 560, Act 315, Eff. Mar. 10, 1967;—Am. 1967, p. 538, Act 276, Imd. Eff. Jul. 20;—Am. 1969, p. 508, Act 271, Eff. Aug. 11.

This section supersedes with additions Sec. 17 of Ch. III of Act 314 of 1915, being CL 1915, 12245.—CL 1929, 13879.

701.18 Collecting cost of publication; fee prohibited; grounds for removal from office.

Sec. 18. No judge of probate, probate register, clerk or employe of the probate office shall receive or accept any compensation whatever for collecting from any fiduciary or estate, any fees for the publishing of any notice or matter required in any proceeding in said court, and the receiving of such compensation therefor from any person, corporation, partnership or association, owning or controlling a newspaper publication, shall be a sufficient cause for removal from office of such judge of probate, probate register, clerk or employe.

HISTORY: CL 1948, 701.18. This section re-enacts except changes words "executor, administrator" to "fiduciary" Sec. 18 of Ch. III of Act 314 of 1915, being CL 1915, 12246;—CL 1929, 13890.

701.18a Collection or receipt of certain fees by probate judges prohibited; malfeasance.

Sec. 18a. It shall be unlawful for any judge of probate to collect or receive any fee from or charge any costs to any person unless the payment of such fee or costs is expressly authorized by law. Any judge of probate violating the provisions of this section shall be guilty of malfeasance in office.

HISTORY: Add. 1949, p. 98, Act 88, Eff. Sept. 23.

JURISDICTION AND POWERS.**701.19 Probate judges; jurisdiction.**

Sec. 19. Each judge of probate shall have jurisdiction:

- (1) Of all matters relating to the settlement of the estates of all deceased persons, whether testate or intestate, who were at the time of their decease inhabitants of, or residents in his county, and of all who shall die without the state leaving any estate within such county to be administered;
- (2) Of all trusts and trustees in the execution of wills and administration of estates of deceased persons;
- (3) To appoint guardians of minors and others in the cases prescribed by law, and of the settlement of the estates of such minors and others under guardianship;
- (4) Of all cases of juvenile delinquents and dependents;
- (5) When, following the inception of proceedings for the appointment of any administrator, executor or guardian, it is discovered that the decedent, or the subject of the guardianship proceeding, had utilized any name additional to the name set forth in the original petition for administration, probate of will, or guardianship, upon the filing of a petition setting forth the additional names, and following a hearing upon the petition, held with or without notice thereof, in the court's discretion, to order the proceedings amended to include all of the names by which the decedent or the subject of the guardianship proceedings may be or have been known;
- (6) And shall have and exercise all such other powers and jurisdiction as are or may be conferred by law;

To that end he may, upon the filing in said court of a petition therein, within 3 months of the original hearing, or of the rendering or making of any order, sentence or decree, as the case may be, and after due notice to all parties interested, grant rehearings, and may modify and set aside orders, sentences and decrees rendered in such court. The jurisdiction conferred by this section shall not be construed to deprive the circuit court in chancery in the proper county of concurrent jurisdiction as originally exercised over the same matter. The court shall make and enter an order with respect to the original hearing or rehearing of contested matters within 3 months after the termination of such hearing or rehearing.

HISTORY: Am. 1941, p. 24, Act 26, Eff. Jan. 10, 1942;—CL 1948, 701.19;—Am. 1965, p. 36, Act 22, Imd. Eff. Apr. 22.

This section as originally enacted superseded Sec. 1 of Ch. I.I of Act 314 of 1915, being CL 1915, 13764;—CL 1929, 15519.

701.19a. Expired December 31, 1970.

Section (Sec. 19a, Act 9, 1969, p. 14, Imd. Eff. Apr. 25, as added) contained a provision similar to that set out in section 701.19b. It expired December 31, 1970 by the terms of the act.

701.19b Minor; gift of kidney, procedure.

Sec. 19b. Each probate judge shall have jurisdiction of the matters hereinafter described. A person of 14 years of age or more may give 1 of his 2 kidneys to a father, mother, son, daughter, brother or sister for a transplantation needed by him, when authorized by order of the probate court which has jurisdiction of the person. The petition for an order may be made by the guardian, parent, spouse, child or other next of kin of the person other than the intended donee. If the person has no guardian, the probate court shall appoint a guardian ad litem to protect his interests. The probate court shall hold a hearing on the petition and cause notice of the hearing to be given as prescribed in section 2 of chapter 3. The prospective donor shall be present at the hearing and shall be examined by the petitioner or the court, or both. If the court determines that the prospective donor is sufficiently sound of mind to understand the needs and probable consequences of the gift to both the donor and donee and agrees to the gift, the court may enter an order authorizing the making of the gift.

HISTORY: Add. 1970, p. 16, Act 5, Imd. Eff. Mar. 5.

701.20 Probate judges; authority.

Sec. 20. Each judge of probate shall have power:

1. To administer all oaths necessary in the transaction of business before the probate court, and all oaths required by law to be administered to persons executing trusts under the appointment of such court;

2. To issue all executions, and to issue all warrants and processes in conformity to the rules of law, which may be necessary to compel the attendance of witnesses residing in any part of this state, or to carry into effect any order, sentence or decree of the probate courts, or the powers granted them by law, and to issue warrants directed to any sheriff, constable or other proper officer in this state, requiring him to apprehend and imprison any person who shall refuse or neglect to perform any order, sentence or decree of a probate court, requiring such officer to apprehend and imprison such person in the common jail of the county, until he shall perform such orders, sentence or decree, or be delivered by due course of law; and all such officers shall serve and execute all legal warrants and processes to them directed by any judge of probate; service and enforcement of the executions mentioned in this chapter and the return thereof shall be had in accordance with the law applicable in courts of record;

3. To keep order in his court, and to punish any contempt of his authority, in like manner as such contempt may be punished in the circuit court;

4. And he shall have such other powers as may be conferred by law.

HISTORY: CL 1948, 701.20. This section supersedes with addition Sec. 2 of Ch. LI of Act 314 of 1915, being CL 1915, 13765;—CL 1929, 15520.

701.21 Probate judges; jurisdiction; collateral attack based on residence.

Sec. 21. Jurisdiction assumed in any case by a judge of probate, so far as it depends on the place of residence of any person, or the location of his estate, shall not be contested in any suit or proceeding whatever, except in an appeal from the probate court in the original case, or when the want of jurisdiction appears on the same record.

HISTORY: CL 1948, 701.21. This section re-enacts Sec. 3 of Ch. LI of Act 314 of 1915, being CL 1915, 13766;—CL 1929, 15521.

701.22 Concurrent probate court jurisdiction of two counties; court in which proceedings first instituted retains jurisdiction.

Sec. 22. When a case shall be originally within the jurisdiction of the probate court of 2 or more counties, the court which shall first take cognizance thereof by the commencement of proceedings, shall retain the same throughout.

HISTORY: CL 1948, 701.22. This section re-enacts Sec. 4 of Ch. LI of Act 314 of 1915, being CL 1915, 13767;—CL 1929, 15522.

701.23 Order or decree; presumption of validity upon collateral attack after twenty years.

Sec. 23. When the validity of any order or decree of a probate court shall be drawn in question in any other suit or proceeding, everything necessary to have been done or proved to render the order or decree valid, and which might have been proved by parol at the time of making the order or decree, and was not required to be recorded, shall, after 20 years from such time, be presumed to have been done or proved, unless the contrary appears on the same record.

HISTORY: CL 1948, 701.23. This section re-enacts Sec. 5 of Ch. LI of Act 314 of 1915, being CL 1915, 13768;—CL 1929, 15523.

701.24 Warrant or reference; revocation; re-issuance.

Sec. 24. Any warrant or reference for the appraisal of any estate, for examining claims against any estate, for partition of real estate, or for the assignment of dower, may be revoked by the judge of probate for sufficient cause, and the judge may thereupon issue a new warrant or order of reference, or proceed otherwise therein, as the circumstances of the case shall require.

HISTORY: CL 1948, 701.24. This section supersedes Sec. 7 of Ch. LI of Act 314 of 1915, being CL 1915, 13770;—CL 1929, 15525.

701.25 Security for costs.

Sec. 25. The judge of probate may, when it shall appear reasonable and proper, require either party to any proceeding before him to give sufficient security for all such costs as may be awarded against him.

HISTORY: CL 1948, 701.25. This section re-enacts Sec. 8 of Ch. LI of Act 314 of 1915, being CL 1915, 13771;—CL 1929, 15526.

RECORDS.

701.26 Court of record; seal.

Sec. 26. Every probate court shall be a court of record and have a seal. The seals of the several probate courts now used by them, respectively, shall continue to be the seals of such courts until others shall be provided according to law.

In case the probate court of any county shall have no proper seal, the judge shall, at the expense of his county, cause a seal to be made for his office, with such device as he shall think proper, and with the words "probate seal", and the name of the county inscribed thereon, and shall deliver a description thereof to the secretary of state, to be deposited and recorded in his office.

HISTORY: CL 1948, 701.26. This section re-enacts Sec. 7 of Ch. III of Act 314 of 1915, being CL 1915, 12235;—CL 1929, 13869; and Sec. 8 of Ch. III of Act 314 of 1915, being CL 1915, 12236;—CL 1929, 13870.

701.27 Stationery, equipment and supplies; county to furnish.

Sec. 27. Each county shall provide all books, printed blanks and other stationery necessary for keeping the records in the office of the judge of probate, and all furniture, equipment and supplies necessary for equipping and maintaining said office.

HISTORY: CL 1948, 701.27. This section re-enacts Sec. 6 of Ch. III of Act 314 of 1915, being CL 1915, 12234;—CL 1929, 13868.

701.28 Custody of records, books and files; order, sentence, decree; record, public inspection.

Sec. 28. The judge of probate shall have possession of the seal, records, books, files and papers belonging to said court, and shall keep a true and correct record of each order, sentence and decree of the court, and of all other official acts made or done by him, and of all wills proved therein with the probate thereof, of all letters testamen-

tary, and of administration, and of all other things proper to be recorded in said court. Such records, except as otherwise provided by law, may be inspected without charge by all persons interested.

HISTORY: CL 1948, 701.28. This section re-enacts except adds "except as otherwise provided by law" Sec. 10 of Ch. III of Act 314 of 1915, being CL 1915, 12238;—CL 1929, 13872.

701.29 Index of records of proceedings.

Sec. 29. Each judge of probate shall make an alphabetical index to the records of proceedings in the probate court, and keep the same in his office.

HISTORY: CL 1948, 701.29. This section re-enacts Sec. 19 of Ch. III of Act 314 of 1915, being CL 1915, 12247;—CL 1929, 13881.

701.30 Holding of court; terms abolished; adjournment.

Sec. 30. There shall be no terms of probate court but the court shall be open at all reasonable times as fixed by the judge of probate, and matters not heard may be adjourned from time to time at the convenience of the probate judge or by stipulation of the parties, in the event of disputed matters.

HISTORY: CL 1948, 701.30. See Sec. 9 of Ch. III of Act 314 of 1915, being CL 1915, 12237;—CL 1929, 13871.

TESTIMONY.

701.31 Testimony; manner of taking, preservation; hospitalization cases.

Sec. 31. Testimony in all matters in probate court shall be taken in 1 of 2 ways:

First, In those courts not having an official court stenographer by taking the statement of the witnesses to a will or the substance of the testimony of any other witness to the execution of a will or disinterested persons on license to sell or mortgage or lease, in writing, and having the signature of such witnesses affixed thereto before the probate judge or probate register, and all other hearings may be held orally with no record made of the testimony, except that in contested matters or in matters pertaining to the hospitalization of mentally diseased persons, or to the sterilization of mentally defective persons, or to the hospitalization of persons with contagious diseases, the testimony shall be taken before the judge of probate in the same manner as testimony is taken in the circuit court, and such testimony shall be transcribed and filed in such matters. The probate judge is hereby authorized to employ a qualified stenographer in such cases and fix the compensation to be paid, upon the order of the probate judge, by the county treasurer from the general fund of the county. Such costs may be assessed against the parties in the same manner as costs are assessed in the circuit court at the discretion of the judge of probate.

Second, In those courts having an official court stenographer, testimony may be taken before either the probate judge or probate register in the manner above provided or in the same manner as testimony is taken in the circuit court except that in those courts all testimony in contested matters shall be taken before the judge of probate and taken stenographically by such stenographer. In the event the testimony is taken stenographically, the stenographer shall keep sufficient index of such testimony and the court shall keep such index and the original notebooks and notes thereof for a period of 15 years, at the end of which time such notes may be destroyed. It shall not be necessary for the stenographer to transcribe the testimony, except when a transcript is ordered by the court or any party. Notes pertaining to hearing for the admission of any person to a state hospital as a mentally diseased person, or as a person with a contagious disease, shall be destroyed only after the discharge of such person from such hospital, but in no event in less than 15 years from the date of such hearing, except in those cases in which the testimony has been transcribed and filed with the record of such case.

HISTORY: New section;—CL 1948, 701.31;—Am. 1951, p. 164, Act 132, Eff. Sep. 28.

NOTICES.

701.32 Probate notices; manner of service; service upon attorney; service upon foreign council.

Sec. 32. Except as otherwise provided by law, all probate and other legal notices required by law or by the probate judge of any county to be served upon any party, shall be served as the court shall direct; either

(a) By delivering a copy of the same at least 5 full days before the day of hearing personally to such party if he can be found within the county, and in case personal service in the manner provided in this subsection is required, the order shall also specify the names of all persons upon whom such service shall be made; or

(b) By publishing once in each week for 3 weeks consecutively in some newspaper printed and circulating in the county where said probate judge holds court, if there be one printed and circulating in said county; and in case there be no newspaper printed and circulating in said county, then in some newspaper published in an adjoining county and circulating in the county where the proceedings are pending: Provided, however, That the last day of publication shall be at least 2 full days prior to the date set for hearing in such order and notice: Provided further, That if an attorney shall have entered his appearance in writing for any party in any matter pending in said court, all notices required to be given to said party in said matter shall be served on said attorney, in the same manner as provided for service of pleadings in suits pending in circuit court, and such service shall be in lieu of service upon the client for whom said attorney appears.

In all cases where notice has been given solely by publication, as aforesaid, copies of such notice shall be sent by the petitioner, fiduciary or his attorney by registered or certified mail, with return receipt demanded, at least 14 days prior to the time appointed therein for hearing, to all persons appearing at the time of such mailing from the records of the estate or proceeding with respect to which such notice is given to have an interest therein, and such copies shall be mailed as aforesaid to the persons entitled thereto at their respective last known addresses: Provided, however, That such service by registered or certified mail may be dispensed with whenever the names or addresses of such interested persons are unknown and cannot be ascertained by the exercise of reasonable diligence or whenever such interested persons are unborn, unascertained or have only contingent future interests, or have signed a petition for an order of said court with respect to which such notice by registered or certified mail would otherwise be required, or by writing filed in said court have waived such notice; or

(c) Solely by registered or certified mail in the manner above provided where the names and addresses of the persons required to be served are known.

(d) Nothing herein contained shall be construed to modify the provisions of section 65 of chapter 2 with reference to service upon a foreign consul, vice-consul or consular agent, or the notices required by section 6 of chapter 5 of this act: And provided further, That in all cases of commitment, the court may direct personal service to be made not less than 24 hours before the time set for hearing.

HISTORY: Am. 1941, p. 262, Act 176, Eff. Jan. 10, 1942;—CL 1948, 701.32;—Am. 1951, p. 410, Act 253, Eff. Sep. 26;—Am. 1956, p. 282, Act 148, Imd. Eff. Apr. 16.

This section as originally enacted superseded with additions Sec. 9 of Ch. LII of Act 314 of 1915, being CL 1915, 13781;—CL 1929, 15538.

CITED IN OTHER SECTIONS: The above section is cited in § 326.8a.

701.33 Probate notices; personal service.

Sec. 33. All notices, citations or subpoenas may be personally served in any part of this state by any competent person.

HISTORY: CL 1948, 701.33.

701.34 Probate notices; waiver of notice; attorney or guardian, execution and filing of waiver and authorization.

Sec. 34. Any person legally competent who is interested in any hearing in the court of probate may in person or by attorney duly authorized in writing which authorization shall be filed in said cause, waive notice of such hearing. Such waiver and authorization shall be in writing and acknowledged before the judge or register of probate, or any person authorized by law to take acknowledgments of deeds, and upon the filing of such waiver by all interested parties the order may be entered forthwith.

A guardian of the person, or an estate of any person or testamentary trustee who is interested in any hearing in a court of probate may as such guardian or trustee, on behalf of his ward or beneficiary, as the case may be, waive notice of hearing in the manner above set forth, except that such guardian or trustee shall not waive notice of hearing on petitions or reports made by him as such guardian or trustee.

The court may forthwith and upon its own motion appoint a guardian ad litem whose appearance in any matter for and on behalf of any minor or incompetent person will constitute waiver of service or such guardian ad litem may make and file in any such case written waiver of such notice of hearing.

Such waiver of notice may be made by a foreign consul, vice-consul or consular agent whose appearance has been entered on behalf of any person residing in another country.

HISTORY: CL 1948, 701.34. This section supersedes with additions Secs. 9-a and 9b of Ch. LII of Act 314 of 1915, Add. 1919, p. 309, Act 170, Eff. Aug. 14, being CL 1929, 15539 and 15540.

701.35 Probate notices; affidavit of publication; proof of mailing; non-service.

Sec. 35. Affidavit of publication by the printer, foreman or principal clerk of the newspaper in which such publication is made, or like proof of personal service by any competent person, or like proof of mailing by the petitioner or any competent person who attended to the mailing in his behalf, to which proof of mailing are attached the receipts for such mailing, together with the return receipts received, shall be filed at the time of, or before the hearing. Whenever the address of any person entitled to service, but who has not been personally served, is unknown and cannot be ascertained by the exercise of reasonable diligence, or such person for any other reason is not served with notice by registered mail, the affidavit shall so state, together with the reason for such non-service. In the case of certified mail the receipt of mailing shall be postmarked.

HISTORY: CL 1948, 701.35;—Am. 1951, p. 410, Act 253, Eff. Sep. 28;—Am. 1956, p. 283, Act 148, Imd. Eff. Apr. 16.

APPEALS.

701.36-701.45 Repealed. 1970, p. 474, Act 143, Imd. Eff. Jan. 1, 1971.

Sections related to appeals from probate court.

701.45a Appeals from probate court; notice.

Sec. 45a. (1) In all cases not specifically prohibited by statute, any person aggrieved by any order, sentence or judgment of a judge of the probate court may appeal therefrom to the circuit court for the county in which the order, sentence or judgment is rendered, except that condemnation cases under Act No. 40 of the Public Acts of 1956, as amended, shall be appealable directly to the court of appeals.

(2) Notice of appeal shall be given to all interested parties as provided by rules of the supreme court. Appeals from the probate court shall be on a written transcript of the record made in the probate court or on a record settled and agreed to by the parties and approved by the court. The appeals shall not be tried de novo.

(3) All appeals to the court of appeals from judgments entered by the circuit court on appeals from the probate court shall be by application.

HISTORY: Add. 1970, p. 472, Act 143, Imd. Eff. Jan. 1, 1971.

701.45b Appeals; stays.

Sec. 45b. An order of the probate court removing a fiduciary for failure to give a bond or to render an accounting, appointing special administrators or special guardians, granting a new trial or rehearing, granting an allowance to the widow or children of a decedent or granting permission to sue on a fiduciary's bond, shall not be stayed pending appeal unless ordered by the court on motion for good cause shown.

HISTORY: Add. 1970, p. 473, Act 143, Imd. Eff. Jan. 1, 1971.

701.45c Contested wills; certification to circuit court.

Sec. 45c. In all contests over the allowance or disallowance of wills, the probate judge at the request of any interested party before trial in the probate court, shall certify such contest for trial in the circuit court for the same county as provided by rules of the supreme court.

HISTORY: Add. 1970, p. 473, Act 143, Imd. Eff. Jan. 1, 1971.

701.45d Jury trial; rights, procedures.

Sec. 45d. (1) If a party to a proceeding in the probate court had a right to demand a jury to determine a particular issue of fact in the circuit court upon a de novo appeal from such proceeding to the circuit court prior to January 1, 1971, he shall on and after January 1, 1971 have the right to demand a jury to determine such an issue of fact in the probate court proceeding.

(2) Whenever a jury is demanded pursuant to law in a proceeding in the probate court, such jury shall be summoned and selected in accordance with sections 1301 to 1354 of Act No. 236 of the Public Acts of 1961, as amended, being sections 600.1301 to 600.1354 of the Compiled Laws of 1948. With respect to jurors any examination, challenge, replacement, oath or other practice which is not governed by the provisions of sections 1301 to 1354 of Act No. 326 of the Public Acts of 1961, as amended, shall be governed by rules adopted by the supreme court.

HISTORY: Add. 1970, p. 473, Act 143, Imd. Eff. Jan. 1, 1971.

701.46 Appeals; stay of proceedings; appointment of special administrator.

Sec. 46. When objection to admission of a will to probate is filed or after an appeal is claimed and notice thereof given at the probate office, all further proceedings in pursuance of the sentence, order, decree or denial appealed from shall cease until such contest or appeal shall be determined: Provided, That when an appeal is taken from a decree admitting or denying probate of a will or when a contested will shall have been certified by the judge of probate to the circuit court of the same county for hearing, the probate court may appoint 1 or more special administrators to take charge of and protect the estate, with such powers not exceeding those of a general administrator as the said probate court may deem necessary and by order may confer in the particular case.

HISTORY: CL 1948, 701.46;—Am. 1949, p. 37, Act 45, Eff. Sept. 23.

This section re-enacts Sec. 15 of Ch. LXV of Act 314 of 1915, being CL 1915, 14159;—Am. 1925, p. 133, Act 97, Eff. Aug. 27;—CL 1929, 15972.

701.47 Appeals; prosecution by next of kin for person under guardianship.

Sec. 47. The husband, wife or next of kin of any person under guardianship, may appeal from any order of the probate court allowing the account of the guardian or guardians of such person under guardianship or any other order of such courts, directing or sanctioning any action of such guardian affecting the estate of such person under guardianship, upon the same terms and conditions as are or may be provided by

statute for appeals from other orders of such courts, such appellant being hereby authorized to prosecute such appeal in any court into which said proceedings may be removed the same as any other person appealing.

HISTORY: CL 1948, 701.47. This section re-enacts except leaving out words "or the circuit court in chancery" Sec. 16 of Ch. LXV of Act 314 of 1915, being CL 1915, 14160;—CL 1929, 15973.

701.48 Appeals; surety on fiduciary's bond; appearance in support or opposition to allowance of account.

Sec. 48. Any surety on the bond given by any fiduciary and filed in any probate court of this state may appear in such court in support of or in opposition to the allowance of the account of such fiduciary and may appeal from the final decree of such court thereon when aggrieved by such decree, and prosecute such appeal to effect.

HISTORY: CL 1948, 701.48. This section supersedes Sec. 17 of Ch. LXV of Act 314 of 1915, being CL 1915, 14161;—CL 1929, 15974.

701.49 Repealed. 1970, p. 474, Act 143, Imd. Eff. Jan. 1, 1971.

Section related to failure to prosecute appeal with diligence.

701.50 Repealed. 1970, p. 474, Act 143, Imd. Eff. Jan. 1, 1971.

Section related to disposition of appeal by circuit court.

701.51 Appeals; costs; cases contested in probate and circuit courts.

Sec. 51. In all cases that shall be contested, either in the probate court or in the circuit court, such court may award costs to either party, in its discretion, to be paid by the other, or to be paid out of the estate which is the subject of the controversy, as justice and equity shall require.

HISTORY: CL 1948, 701.51. This section re-enacts Sec. 20 of Ch. LXV of Act 314 of 1915, being CL 1915, 14164;—CL 1929, 15977.

701.52 Appeals; costs; collection, issuance of execution or garnishment process.

Sec. 52. When costs are awarded to 1 party to be paid by the other, the said courts, respectively, may issue execution therefor, or garnishment process for the collection thereof, in like manner as is practiced in the circuit courts in other cases.

HISTORY: Am. 1947, p. 39, Act 32, Eff. Oct. 11;—CL 1948, 701.52. This section as originally enacted re-enacted Sec. 21 of Ch. LXV of Act 314 of 1915, being CL 1915, 14165;—CL 1929, 15978.

CONVENTION.

701.53 Probate judges annual convention; election of presiding judge, president and officers; committee on rules and procedure.

Sec. 53. The several probate judges may meet in annual convention before the first day of October in each year, at which convention they shall elect from among the judges a presiding probate judge for the ensuing year, commencing on the first day of January next following. In case of the death, removal or disability of the presiding probate judge, the governor shall designate his successor from among the probate judges to serve for the remainder of the unexpired term. The presiding probate judge shall appoint probate judges to hold court in another county as provided in this act. The association shall elect a president and such other officers who shall have such powers and perform such duties as the association may determine. The presiding judge shall appoint as 1 of the committees of the probate judges' association a committee on rules and procedure which committee shall draft rules for uniform practice and procedure in the several probate courts of this state, which rules if and when adopted by the supreme court shall be binding upon all probate courts in the state of Michigan.

HISTORY: CL 1948, 701.53;—Am. 1952, p. 37, Act 34, Eff. Sep. 18.

CITED IN OTHER SECTIONS: The above section is cited in § 38.902.

701.54 Repealed. 1952, p. 37, Act 34, Eff. Sep. 18.

Section provided for reimbursement of expenses for attending probate judges' convention.

701.55 Petitions; verification not required; signing; responsibilities, liabilities, penalties; exception.

Sec. 55. No petition to the probate court need be verified, acknowledged or made on oath if the petitioner states in the petition immediately above the date and his signature: "I declare under the penalties of perjury that this petition has been examined by me and that the contents thereof are true to the best of my information, knowledge and belief." Any petitioner filing a petition in the probate court under this provision with such a statement shall be subject to the same responsibilities, liabilities and penalties as he would have been had he made the petition on oath.

This provision shall not apply to the nomination of guardians by minors.

HISTORY: Add. 1985, p. 235, Act 150, Imd. Eff. Jul. 12.

CHAPTER II.

WILLS AND THE PROBATE THEREOF

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702.1 Real estate; disposition by last will and testament; estate of intestate.

Sec. 1. Every person of full age and sound mind being seized in his own right of any lands or of any right thereto, or entitled to any interest therein descendable to his heirs, may devise and dispose of the same by his last will and testament in writing, and all such estate not disposed of by the will, shall descend as the estate of an intestate, being chargeable in both cases with the payment of all his debts.

HISTORY: CL 1946, 702.1. This section re-enacts Sec. 1 of Ch. 68 of the R.S. 1846, being CL 1857, 2825;—CL 1871, 4322;—Am. 1873, p. 13, Act 15, Eff. July 31;—How. 5785;—CL 1897, 9262;—CL 1915, 11817;—CL 1929, 13478.

TRUST COMPANY: As fiduciary, see Compilers' § 487.486.

FIDUCIARIES: General powers, see Compilers' § 704.1 et seq.

WILL: Definition, see Compilers' § 8.3.

BANK: As fiduciary, see Compilers' § 487.481.

702.1a Devises or bequests; invalid when used for subversion.

Sec. 1a. No person shall, by his last will and testament or by any codicil thereto, devise or bequeath, in trust or otherwise, any part of his estate to or for any association or corporation, existing or to be created, so constituted as to use said devise or bequest for subversion as defined in section 22 of article 2 of the constitution, and such devise or bequest shall be invalid.

HISTORY: Add. 1951, p. 189, Act 157, Eff. Sep. 25.

702.2 Devise of land; conveyance of entire interest of testator.

Sec. 2. Every devise of land, in any will hereafter made, shall be construed to convey all the estate of the devisor therein which he could lawfully devise, unless it shall clearly appear by the will that the devisor intended to convey a less estate.

HISTORY: CL 1946, 702.2. This section re-enacts Sec. 2 of Ch. 68 of the R.S. 1846, being CL 1857, 2826;—CL 1871, 4323;—How. 5786;—CL 1897, 9263;—CL 1915, 11818;—CL 1929, 13479.

702.3 Property acquired after execution of will.

Sec. 3. Any estate, right or interest in lands acquired by the testator after the making of his will, shall pass thereby in like manner as if possessed at the time of making

the will, if such shall manifestly appear by the will to have been the intention of the testator.

HISTORY: CL 1948, 702.3. This section re-enacts Sec. 3 of Ch. 68 of the R.S. 1846, being CL 1857, 2827;—CL 1871, 4324;—How. 5787;—CL 1897, 9264;—CL 1915, 11819;—CL 1929, 13480.

702.4 Personal estate; disposition by last will and testament.

Sec. 4. Every person of full age and sound mind may by his last will and testament in writing, bequeath and dispose of all his personal estate remaining at his decease, and all his right thereto, and interest therein, and all such estate, not disposed of by the will, shall be administered as intestate estate.

HISTORY: CL 1948, 702.4. This section re-enacts Sec. 4 of Ch. 68 of the R.S. 1846, being CL 1857, 2828;—CL 1871, 4325;—How. 5788;—CL 1897, 9265;—CL 1915, 11820;—CL 1929, 13481.

702.5 Wills; requirements; subsequent incompetency of witnesses.

Sec. 5. No will made within this state, except such nuncupative wills as are mentioned in the following section, shall be effectual to pass any estate, whether real or personal, nor to charge or in any way affect the same, unless it be in writing and signed by the testator or by some person in his presence, and by his express direction, and attested and subscribed in the presence of the testator by 2 or more competent witnesses; and if the witnesses are competent at the time of attesting the execution of the will, their subsequent incompetency, from whatever cause it may arise, shall not prevent the probate and allowance of the will, if it be otherwise satisfactorily proved.

HISTORY: CL 1948, 702.5. This section re-enacts Sec. 5 of Ch. 68 of the R.S. 1846, being CL 1857, 2829;—CL 1871, 4326;—How. 5789;—CL 1897, 9266;—CL 1915, 11821;—CL 1929, 13482.

WILLS EXECUTED OUTSIDE STATE: See Compilers' § 702.27.

702.6 Nuncupative wills; limitation; requirements.

Sec. 6. Nothing contained herein shall affect the validity of a nuncupative will, in which the value of the estate bequeathed shall not exceed \$300.00, provided the same shall be proved by 2 competent witnesses; nor prevent any soldier, being in actual military service, nor any mariner, being on shipboard, from disposing of his wages and other personal estate by a nuncupative will, as he might heretofore have done.

HISTORY: CL 1948, 702.6. This section re-enacts Sec. 6 of Ch. 68 of the R.S. 1846, being CL 1857, 2830;—CL 1871, 4327;—How. 5790;—CL 1897, 9267;—CL 1915, 11822;—CL 1929, 13483.

702.7 Devise to subscribing witness; requirement; creditors as witnesses.

Sec. 7. All beneficial devises, legacies and gifts whatsoever, made or given in any will to a subscribing witness thereto, shall be wholly void, unless there be 2 other competent subscribing witnesses to the same; but a mere charge on the lands of the devisor for the payment of debts shall not prevent his creditors from being competent witnesses to his will.

HISTORY: CL 1948, 702.7. This section re-enacts Sec. 7 of Ch. 68 of the R.S. 1846, being CL 1857, 2831;—CL 1871, 4328;—How. 5791;—CL 1897, 9268;—CL 1915, 11823;—CL 1929, 13484.

702.8 Devise to witness entitled as heir.

Sec. 8. But if such witness to whom any beneficial devise may have been made or given, would have been entitled to any share of the estate of the testator, in case the will was not established, then so much of the share that would have descended or been distributed to such witness as will not exceed the devise or bequest made to him in the will shall be saved to him, and he may recover the same of the devisees or legatees named in the will, in proportion to, and out of the parts devised or bequeathed to them.

HISTORY: CL 1948, 702.8. This section re-enacts Sec. 8 of Ch. 68 of the R.S. 1846, being CL 1857, 2832;—CL 1871, 4329;—How. 5792;—CL 1897, 9269;—CL 1915, 11824;—CL 1929, 13485.

702.9 Will; revocation, manner; exception.

Sec. 9. No will nor any part thereof shall be revoked, unless by burning, tearing, canceling or obliterating the same, with the intention of revoking it, by the testator, or by some person in his presence and by his direction; or by some other will or codicil in writing, executed as prescribed in this chapter; or by some other writing, signed, attested and subscribed in the manner provided in this chapter for the execution of a will; excepting only that nothing contained in this section shall prevent the revocation implied by law from subsequent changes in the condition or circumstances of the testator.

HISTORY: CL 1948, 702.9. This section re-enacts Sec. 9 of Ch. 68 of the R.S. 1846, being CL 1857, 2833;—CL 1871, 4330;—How. 5793;—CL 1897, 9270;—CL 1915, 11825;—CL 1929, 13486.

702.10 Devise of property; contract for sale does not revoke.

Sec. 10. Whenever any testator, after the execution of his will, makes a contract for the sale or conveyance of any property therein specifically devised or bequeathed to any person and the whole or any part of the purchase money remains unpaid at such testator's death, the disposition of the property by such contract shall not be deemed a revocation of the devise or bequest either at law or in equity unless it clearly appears by the contract or by some other instrument in writing to be intended as a revocation, and such property then shall pass to such devisee or legatee subject to the same remedy for specific performance thereof in favor of persons entitled thereto, against the person to whom such devise was made, as might be had in law or in equity against the heirs of such testator had the same descended or passed to them, and any portion of the purchase money recovered by the executor of the testator shall be paid to the devisee or legatee of such property.

HISTORY: CL 1948, 702.10. This section re-enacts Sec. 1 of Act 312 of 1927, being CL 1929, 13487.

702.11 Issue of predeceased devisee or legatee; degree of relationship to testator.

Sec. 11. When a devise or legacy shall be made to any child or other relation of the testator, and the devisee or legatee shall die before the testator, leaving issue who shall survive the testator, such issue shall take the estate so given by the will, in the same manner as the devisee or legatee would have done, if he had survived the testator; unless a different disposition shall be made or directed by the will: Provided, however, That except in the case of a residuary devise or legacy, such issue shall not take the devise or bequest where the relationship of the devisee or legatee to the testator is beyond the fourth degree, but in such case the devise or legacy shall become a part of the residue of the estate.

HISTORY: CL 1948, 702.11. This section re-enacts with additions Sec. 21 of Ch. LII of Act 314 of 1915, being CL 1915, 13793;—CL 1929, 15552.

CITED IN OTHER SECTIONS: The above section is cited in § 556.130.

702.12 Child; birth after execution of will; effect.

Sec. 12. When any child shall be born after the making of his father's or his mother's will and no provision shall be made therein for such child, he or she shall have the same share in the estate of the testator as if the parent had died intestate. And the share of such child shall be assigned to him as provided by law in case of intestate estates, unless it shall be apparent from the will that it was the intention of the testator that no provision should be made for such child.

HISTORY: CL 1948, 702.12. This section re-enacts Sec. 18 of Ch. LII of Act 314 of 1915, being CL 1915, 13790;—CL 1929, 15549.

702.13 Child; omission of provision; effect.

Sec. 13. When any testator shall omit to provide in his will for any of his children, or for the issue of any deceased child, and it shall appear that such omission was not intentional, but was made by mistake or accident, such child, or the issue of such child,

shall have the same share in the estate of the testator as if he had died intestate, to be assigned as provided in the preceding section.

HISTORY: CL 1948, 702.13. This section re-enacts Sec. 19 of Ch. LII of Act 314 of 1915, being CL 1915, 13791;—CL 1929, 15550.

702.14 Child; apportionment from balance of estate.

Sec. 14. When any share of the estate of a testator shall be assigned to a child born after the making of a will, or to a child, or the issue of a child omitted in the will, as hereinbefore mentioned, the same shall first be taken from the estate not disposed of by the will, if any; if that shall not be sufficient, so much as shall be necessary shall be taken from all the devisees or legatees, in proportion to the value of the estate they may respectively receive under the will, unless the obvious intention of the testator, in relation to some specific devise or bequest, or other provision in the will would thereby be defeated; in which case, such specific devise, legacy or provision may be exempted from such apportionment, and a different apportionment may be adopted, in the discretion of the probate court.

HISTORY: CL 1948, 702.14. This section re-enacts Sec. 20 of Ch. LII of Act 314 of 1915, being CL 1915, 13792;—CL 1929, 15551.

702.14a Adopted persons; child, grandchild, issue, heir, descendant, beneficiary.

Sec. 14a. In the construction of any trust agreement or will, whether executed before or after the effective date of this enactment, the term “child”, “grandchild”, “issue”, “heir”, “descendant”, “beneficiary” or other equivalent term shall be construed to include any adopted person and his descendants whether natural or adopted unless a contrary intention appears by the terms thereof or unless, at the effective date of this enactment, the estate granted or devised to the “child”, “grandchild”, “issue”, “heir”, “descendant”, “beneficiary” or equivalent person has vested in an already ascertained person or persons who have an immediate indefeasible right of enjoyment or a present indefeasible fixed right of future enjoyment therein.

HISTORY: Add. 1966, p. 154, Act 128, Imd. Eff. Jun. 23.

702.14b Unclaimed legacy; disposition.

Sec. 14b. In an estate where the sum of \$1.00 or less is bequeathed to a legatee, whose whereabouts after diligent inquiry cannot be ascertained or who has declined to accept the legacy, the court may order such sum distributed as a part of the residue of the estate.

HISTORY: Add. 1970, p. 149, Act 59, Imd. Eff. Jul. 10.

702.15 Wills; deposit with probate court.

Sec. 15. Any will in writing, being enclosed in a sealed wrapper, and having indorsed thereon the name of the testator, his place of residence and his social security number or state of Michigan driver's license number, if any, and the day when, and the person by whom it is delivered, may be deposited by the person making the will, or by any person for him, with the judge of probate in the county where the testator lives, and the judge of probate shall receive and safely keep such will, and give a certificate of the deposit thereof, and for this service shall charge a fee of \$1.00.

HISTORY: CL 1948, 702.15;—Am. 1966, p. 19, Act 7, Eff. Mar. 10, 1967;—Am. 1967, p. 547, Act 279, Eff. Nov. 2.

This section re-enacts Sec. 1 of Ch. LII of Act 314 of 1915, being CL 1915, 13773;—CL 1929, 15528.

702.16 Wills; deposit with probate court; delivery during lifetime of testator; opening after death.

Sec. 16. Such will shall, during the lifetime of the testator, be delivered only to himself, or to some person authorized by him by an order in writing, duly proved by the

oath of a subscribing witness; and after the death of the testator, and at the first session of said probate court after notice thereof, it shall be publicly opened by the judge of probate and be retained by him.

HISTORY: CL 1948, 702.16. This section re-enacts except adds "session" Sec. 2 of Ch. LII of Act 314 of 1915, being CL 1915, 13774;—CL 1929, 15529.

702.17 Wills; deposit with probate court; notification of executor; transmission to court having jurisdiction.

Sec. 17. The judge of probate shall give notice of such will being in his possession, to the executor therein appointed, if there be one, otherwise to the persons interested in the provisions of the will; or if the jurisdiction of the case belongs to any other court, such will shall be delivered to the executor, or to some other trusty person interested in the provisions of the same, to be presented for probate in such other court.

HISTORY: CL 1948, 702.17. This section re-enacts Sec. 3 of Ch. LII of Act 314 of 1915, being CL 1915, 13775;—CL 1929, 15530.

702.18 Wills; delivery to court following death of testator, time limitation; noncompliance, penalty.

Sec. 18. It is the duty of any custodian of a will or codicil or person having possession or care of a will or codicil to forward the same to the probate court having jurisdiction within 30 days after the death of the testator either by delivering it personally or by sending it properly addressed by registered mail, return receipt demanded. Any person who shall neglect to perform such duty without reasonable cause shall be liable in the sum of \$10.00 damages for each and every day he shall so neglect, after the 30 days above mentioned, to be recovered for the benefit of the estate by the fiduciary or any other person interested in the estate in an action on the case with costs.

If any person, having the custody of any will, after the death of the testator, shall, without reasonable cause, neglect to deliver the same to the probate court, after he shall have been duly notified by such court for that purpose, he may be committed to the jail of the county, by warrant issued by such court, and there be kept in close confinement until he shall deliver the will as above directed.

HISTORY: CL 1948, 702.18. This section supersedes and merges Sec. 4 of Ch. LII of Act 314 of 1915, being CL 1915, 13776;—CL 1929, 15531; Sec. 6 of Ch. LII of Act 314 of 1915, being CL 1915, 13778; CL 1929, 15533; and Sec. 7 of Ch. LII of Act 314 of 1915, being CL 1915, 13779;—CL 1929, 15534.

Sec. 19.

HISTORY: Rep. 1941, p. 267. Act 176, Eff. Jan. 10, 1942. New section.

This section related to opening of deposit box for will. See Compilers' § 205.209.

702.20 Wills; admission to probate, requirement.

Sec. 20. No will shall be effectual to pass either real or personal estate, unless it shall have been duly proved and allowed in the probate court as provided in this chapter, or on appeal, in the circuit court or supreme court; and the probate of a will of real or personal estate, as above mentioned, shall be conclusive as to its due execution.

HISTORY: CL 1948, 702.20. This section re-enacts Sec. 12 of Ch. LII of Act 314 of 1915, being CL 1915, 13784;—CL 1929, 15543.

702.21 Wills; admission to probate, petition, contents; devisees incompetent, counsel by guardian; allowance in jurisdiction other than domicile of testator.

Sec. 21. At any time after the death of a resident testator, the executor named in the will, any heir of the deceased or beneficiary under the will, or 60 days after death of a resident testator, a creditor or the attorney general may petition the probate court of the county in which the testator was domiciled, at the time of his death, that the will be admitted to probate. The failure of a resident testator to leave any property, real or personal, in this state shall not be a bar to the admission to probate of the will of the testator.

Such petition shall contain the name of the testator, his last domicile, the date of his death, the estimated amount of his property, real and personal, the date of the will,

the names of the witnesses thereto, the name and address of the executor nominated under the will or the name and address of the person nominated for administrator with will annexed, together with the names, ages and addresses of all of the heirs, devisees, and legatees of the deceased, if known.

In case the executor shall refuse to act, or in case no executor is named in the will and there are legatees or devisees named in the will who are not competent to act for themselves, the guardian of such person, or if such person has no guardian, or is not born, or his present existence cannot after diligent search and inquiry be ascertained, then the court having jurisdiction thereof may appoint a guardian ad litem for such person, who shall, subject to the approval of the judge of probate, be authorized to engage counsel and obtain evidence to assist in securing the admission of such will to probate, and the reasonable expenses thereof shall be a proper charge against the estate of such testator.

The will of any deceased person domiciled within the state, which shall have been filed for or presented for probate and allowance in any jurisdiction other than the domicile of such deceased person, may be established and probated in the probate court of the county in this state in which the testator was domiciled, by duly filing an exemplified copy of the will and a petition praying for the probate of the will, which petition shall contain the names of the subscribing witnesses and if living, their places of residence, together with the names and residences of all known persons who have personal knowledge of the execution of the will. The execution of the will may be proven on the testimony of 1 of the subscribing witnesses or on the testimony of any person who has personal knowledge of the execution of the will. Upon satisfactory proof that the subscribing witnesses and all known persons who have personal knowledge of the execution of the will are not within the state, the court may grant probate thereof on the filing of an exemplified copy of the proof of the will in the other jurisdiction.

HISTORY: CL 1948, 702.21;—Am. 1965, p. 278, Act 177, Imd. Eff. Jul. 15.

This section supersedes with additions part of Sec. 5 of Ch. LII of Act 314 of 1915, being CL 1915, 13777;—Am. 1923, p. 450, Act 281, Eff. Aug. 30;—CL 1929, 15532; and re-enacts Sec. 7-b of Ch. LII of Act 314 of 1915, Add. 1921, p. 557, Act 299, Eff. Aug. 18, being CL 1929, 15536.

702.22 Wills; probate on testimony of one subscribing witness.

Sec. 22. If no person appears to contest the probate of a will at the time appointed for that purpose, the court may grant probate thereof, on the testimony of 1 of the subscribing witnesses only, if such witness testifies that the will was executed in all particulars as required by law. If all parties in interest in the proceedings consent in writing to admission of the will to probate, the court may order the will admitted without taking testimony of a subscribing witness as to execution of the will.

HISTORY: CL 1948, 702.22;—Am. 1970, p. 148, Act 58, Imd. Eff. Jul. 10.

This section re-enacts Sec. 10 of Ch. LII of Act 314 of 1915, being CL 1915, 13782;—CL 1929, 15541.

702.23 Wills; subscribing witnesses not residents of state; probate on testimony of other witnesses, proof.

Sec. 23. If none of the subscribing witnesses shall reside in this state, at the time appointed for proving the will, the court may, in its discretion, admit the testimony of other witnesses to prove the execution of the will; and as evidence of the execution of the will, may admit proof of the handwriting of the testator and of the subscribing witnesses.

HISTORY: CL 1948, 702.23. This section re-enacts Sec. 11 of Ch. LII of Act 314 of 1915, being CL 1915, 13783;—CL 1929, 15542.

702.24 Wills; objections to admission of will, filing; council for executor or proponent.

Sec. 24. Objections to the admission of the will may be offered by any interested party and shall be filed in writing and served on the proponent, or his attorney, at or

prior to the hearing for the admission thereof. If objections are filed less than 5 days prior to the date of hearing, the proponent shall be entitled to an adjournment of at least 5 days as a matter of right. The filing of objections shall not be a prerequisite to an appeal from any order of the probate court admitting the will to probate or to the certification of the will to the circuit court for contest. In the event of a contest on the will, the probate court may in its discretion authorize or instruct the person therein nominated as executor or proponent to retain counsel for the purpose of sustaining the will and the reasonable expense thereof and of procuring evidence thereon shall be a proper charge against the estate.

HISTORY: CL 1948, 702.24,—Am. 1965, p. 39, Act 24, Imd. Eff. Apr. 22.

See Sec. 5 of Ch. LII of Act 314 of 1915, being CL 1915, 13777,—Am. 1923, p. 450, Act 281, Eff. Aug. 30,—CL 1929, 15532; and Sec. 8 of Ch. LII of Act 314 of 1915, being CL 1915, 13780,—CL 1929, 15537,—Am. 1931, p. 548, Act 321, Eff. Sept. 18,—Am. 1935, p. 22, Act 9, Imd. Eff. March 29.

702.25 Wills; loss, destruction or suppression; petition, contents, requirements.

Sec. 25. Whenever it is proposed to establish an alleged lost, destroyed or suppressed last will and testament, the petition filed in the probate court praying for the probate of such alleged will, shall contain a full and complete statement of the contents of such alleged will, so far as the same can be ascertained, and shall disclose the names of the subscribing witnesses, if known, and if living, their place of residence, together with the names and residences of all known persons who have personal knowledge of the execution of said alleged will and the contents thereof. No such alleged will shall be admitted to probate unless and until its due execution and the contents thereof shall be established by at least 2 reputable witnesses.

HISTORY: CL 1948, 702.25. This section re-enacts Sec. 16 of Ch. LII of Act 314 of 1915, being CL 1915, 13788,—CL 1929, 15547.

702.26 Wills; loss, destruction or suppression; revoking clause, effect.

Sec. 26. No revoking clause in any alleged, lost, destroyed or suppressed will, and no alleged disposition of property, terms or conditions contained therein, claimed to be inconsistent with a former will which has been produced for probate, shall be sufficient to defeat or destroy the effect of such former will, unless the legal execution of said alleged, lost, destroyed or suppressed will, together with the fact that it contained such revoking clause or such inconsistent disposition of property, terms or conditions, shall be established by at least 2 reputable witnesses, having knowledge thereof.

HISTORY: CL 1948, 702.26. This section re-enacts Sec. 17 of Ch. LII of Act 314 of 1915, being CL 1915, 13789,—CL 1929, 15548.

702.27 Wills; execution outside of state; validity; proof; persons in armed forces or merchant seamen.

Sec. 27. A last will and testament executed without this state in the mode prescribed by the law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state and may be proved in the same manner and by the same procedure as a will which has been executed within and according to the laws of this state: Provided, That said last will and testament is in writing and signed by the testator: Provided further, That the execution of the will of any person while serving in or present with the armed forces of the United States or serving as a merchant seaman, and who is otherwise competent to make a will, which bears the signature of 1 or more witnesses, may be established and admitted to probate as the last will and testament of such person, by proof of the genuineness of the signature of the testator from testimony given by any of said attesting witnesses if within this state at the time appointed for proving said will or by proof of the genuineness of the signature of said testator if, upon filing of an affidavit by the proponent that, after diligent search and inquiry none of said attesting witnesses is so present such fact be so determined by the judge of probate at said time: Provided further,

That if it be proved that such person who has served in or was present with the armed forces or served as a merchant seaman has been released from such service for a period of more than 1 year, the preceding proviso shall not be applicable, and in any event the preceding proviso shall expire 8 years after the effective date of this amendatory act.

HISTORY: Am. 1945, p. 25, Act 28, Imd. Eff. March 8;—Am. 1947, p. 52, Act 46, Eff. Oct. 11;—CL 1948, 702.27.

This section as originally enacted superseded with additions Sec. 1 of Act 45 of 1911, being CL 1915, 11826;—CL 1929, 13488.

FOREIGN WILLS: Probate in chancery, see Compilers' § 600.2936.

702.28 Wills; non-resident decedent; admission to probate; foreign heirs; administration as intestate.

Sec. 28. After due notice by publication has been given as provided in section 29 of this chapter, a will of a nonresident which has been admitted to probate in any other state or country may be admitted to probate in any county of this state in which the decedent left real or personal property upon the filing of an exemplified copy of said will and of the record admitting the same to probate: Provided, however, That upon proof being shown that such exemplified copy of the will and of the record admitting the same to probate is not secured from such foreign country within 1 year after request is made therefor, a certified photostatic copy of the will may be admitted if secured through the office of any United States consul for such foreign country, or the estate may be administered as an intestate estate.

The will of any deceased person domiciled without the state of Michigan leaving any estate within the state of Michigan which shall not have been filed or presented for probate and allowance in the jurisdiction of the domicile of such deceased person, may be delivered into the probate court of any county in this state in which there may be an estate of such deceased person to be administered, and thereupon the same proceedings may be had in relation to the probate of such will and the administration of such estate as though such deceased person had been an inhabitant of or resident in such county, and with like force and effect as to all estate of such deceased person within the state of Michigan.

HISTORY: Am. 1947, p. 361, Act 239, Eff. Oct. 11;—CL 1948, 702.28;—Am. 1949, p. 112, Act 109, Eff. Sep. 23.

This section as originally enacted superseded Sec. 13 of Ch. LII of Act 314 of 1915, being CL 1915, 13785;—CL 1929, 15544; and re-enacts Sec. 7-a of Ch. LII of Act 314 of 1915, Add. 1921, p. 557, Act 299, Eff. Aug. 18;—CL 1929, 15535.

702.28a Foreign will; administrator; authority.

Sec. 28a. An administrator of a foreign will, with will annexed, shall have the same authority over that portion of the estate of the deceased, located within the jurisdiction of the Michigan probate court appointing said ancillary administrator, as the executor under the will would have had if that portion of said estate had been situated within his jurisdiction.

HISTORY: Add. 1952, p. 285, Act 195, Eff. Sep. 18.

702.29 Wills; admission to probate; hearing; notice, mailing to heirs, devisees and legatees.

Sec. 29. When any will shall have been delivered into or deposited in any probate court having jurisdiction of the same, such court shall appoint a time and place for proving it, when all concerned may appear and contest the probate of the will and shall cause notice thereof to be given by service as provided in sections 32 to 35 of chapter 1 of this act; and no will shall be proved until notice shall be given as herein provided: Provided, That if such notice shall be given by publication the proponent for the will, or his attorney, shall at least 10 days prior to the time appointed for proving the will, cause a copy of such notice to be mailed to each of the heirs at law named in the petition for probate and to each of the devisees and legatees named in the will offered for probate, except such of them as have signed a petition for the probate of such will, or who, by writing filed in said court, waive such notice, together with no-

tice that they are persons in interest, at their last known post office address by registered mail and a return receipt demanded therefor. Proof by affidavit shall be required of such mailing, and whether or not a return receipt was received and if one was received, it shall be attached to such affidavit and in case the address of any of the persons entitled to notice shall be unknown the affidavit shall so state and such mailing shall not be required as to such persons.

HISTORY: CL 1948, 702.29. This section supersedes Sec. 8 of Ch. LII of Act 314 of 1915, being CL 1915, 13780;—CL 1929, 15537;—Am. 1931, p. 548, Act 321, Eff. Sept. 18;—Am. 1935, p. 22, Act 9, Imd. Eff. March 29.

702.30 Wills; estates of non-residents; letters of administration; payment of debts, distribution.

Sec. 30. When any will shall be allowed, as mentioned in section 28 of this chapter, the probate court shall grant letters testamentary, or letters of administration, with the will annexed; and such letters testamentary or letters of administration shall extend to all of the estate of the testator in this state; and such estate, after payment of all charges against the estate, shall be disposed of according to such will, so far as such will may operate upon it; and the residue shall be disposed of as is provided by law in cases of estates in this state, belonging to persons who are inhabitants of any other state or country.

HISTORY: CL 1948, 702.30. This section supersedes Sec. 15 of Ch. LII of Act 314 of 1915, being CL 1915, 13787;—CL 1929, 15546.

702.31 Wills; provision for payment of debts and expenses.

Sec. 31. If the testator shall designate in his will, the estate to be appropriated for the payment of any charges against his estate, they shall be paid according to the provisions of the will, and out of the estate thus appropriated, in so far as the same may be sufficient.

HISTORY: CL 1948, 702.31. This section supersedes Sec. 23 of Ch. LII of Act 314 of 1915, being CL 1915, 13795;—CL 1929, 15554.

702.32 Wills; provision for payment of debts and expenses; insufficient property; use of intestate property.

Sec. 32. If the provision made by will, or the estate appropriated, shall not be sufficient to pay all of the charges against the estate, such part of the estate, real or personal, as shall not have been disposed of by the will, if any, shall be appropriated according to the provisions of the law for that purpose.

HISTORY: CL 1948, 702.32. This section supersedes Sec. 24 of Ch. LII of Act 314 of 1915, being CL 1915, 13796;—CL 1929, 15555.

702.33 Devised estate; liability to debts and share of widow and child; priority of devises and bequests.

Sec. 33. The estate, real or personal, given by will to any devisee or legatee shall be held liable to the payment of all charges against the estate, for the payment of the share of the widow in the event that she elects to take against the will and there is no provision in the will as to the estate to be used for such purpose, to make up the share of a child born after the execution of the will, or of a child or of the issue of a child omitted in the will, as hereinbefore provided, and if the assets are insufficient to pay or satisfy all of the aforesaid and to pay or satisfy all legacies and devises, the legacies and devises shall, subject to the provisions of the 2 preceding sections, be paid or satisfied in the following order of priority, viz.:

- (1) Real estate specifically devised,
- (2) Personal property specifically bequeathed,
- (3) Personal property passing by general or demonstrative bequests,
- (4) Real estate devised by the residuary clause, and
- (5) Personal property bequeathed by the residuary clause: Provided, however, That when more than 1 person is interested in the property embraced in 1 of the above mentioned classifications, the property within any such classification which may be

appropriated to pay charges against the estate, or the other items aforesaid, shall be appropriated for that purpose proportionately.

HISTORY: CL 1948, 702.33. See Sec. 25 of Ch. LII of Act 314 of 1915, being CL 1915, 13797;—CL 1929, 15556.

702.34 Devised estate; liability to debts and share of widow and child; contributions; liability of fiduciary.

Sec. 34. All the devisees and legatees, who shall, with the consent of the fiduciary or otherwise, have possession of the estate given to them by will before all of the charges against the estate and all of the several items mentioned in the preceding section are paid or satisfied, shall hold the same subject thereto, and shall be held to contribute according to their respective liabilities to the fiduciary or to any devisee or legatee from whom any part of the estate devised or bequeathed may have been taken for the payment or satisfaction of such charges or items or any of them; and the persons who may, as heirs or distributees, have received the estate not disposed of by the will, shall be liable to contribute, in like manner as the devisees or legatees. The fiduciary shall be held liable in the event that any such person fails to make contribution as herein provided, unless it be shown that such possession by such person was without the consent of the fiduciary and that he was unable by diligent effort to prevent the same.

HISTORY: CL 1948, 702.34. This section supersedes with additions Sec. 27 of Ch. LII of Act 314 of 1915, being CL 1915, 13799;—CL 1929, 15558.

CONTRIBUTION: See also Compilers' § 702.54.

702.35 Devised estate; liability for contribution, death or insolvency of one of devisees.

Sec. 35. If any of the persons liable to contribute according to the provisions of the preceding section, shall be insolvent and unable to pay his share, the others shall be severally liable for the loss occasioned by such insolvency, in proportion to, and to the extent of, the estate they may have received; and if any of the persons so liable to contribute, shall die before having paid his share, the claim shall be valid against his estate, in the same manner as if it had been his proper debt.

HISTORY: CL 1948, 702.35. This section re-enacts Sec. 28 of Ch. LII of Act 314 of 1915, being CL 1915, 13800;—CL 1929, 15559.

702.36 Devised estate; liabilities determined by probate court, execution; remedy at law or in equity.

Sec. 36. The probate court may, by decree for that purpose, settle the amount of the several liabilities, as provided in the preceding sections, and decree how much, and in what manner, each person shall contribute, and may issue execution as circumstances may require; and the claimant may also have a remedy in any proper action or complaint at law or in equity.

HISTORY: CL 1948, 702.36. This section supersedes Sec. 29 of Ch. LII of Act 314 of 1915, being CL 1915, 13801;—CL 1929, 15560.

702.37 Wills; admission to probate, certificate; evidence.

Sec. 37. Every will, when proved as provided in this chapter, shall have a certificate of such proof endorsed thereon or annexed thereto, signed by the judge of probate, and attested by his seal, and every will so certified, and the record thereof, or a transcript of such record certified by the judge of probate and attested by his seal, may be read in evidence in all courts within this state, without further proof.

HISTORY: CL 1948, 702.37. This section re-enacts Sec. 30 of Ch. LII of Act 314 of 1915, being CL 1915, 13802;—CL 1929, 15561.

702.38 Wills devising interest in lands; order assigning residue; recording copies.

Sec. 38. An attested copy of every will devising lands, or any interest in lands, and of the probate thereof, and of the order assigning residue, shall be recorded in the office of the register of deeds of the county in which the lands thereby devised are situated; and it shall be the duty of the judge of probate to cause such registration to be

made, and the expense thereof shall be a charge against the estate, and shall be paid in the same manner as other expenses of administration are paid.

HISTORY: CL 1948, 702.38. This section supersedes with additions Sec. 31 of Ch. LII of Act 314 of 1915, being CL 1915, 13803;—CL 1929, 15562.

702.39 Executor; minor nominated; joint executor.

Sec. 39. When the person named executor in any will, is under full age at the time of proving the will, administration shall be granted, with the will annexed, during the minority of the executor, unless there shall be another executor who shall accept the trust, and give bond; and, in that case, the executor who shall give bond, shall have letters testamentary, and shall administer the estate, until the minor shall arrive at full age, when he may be admitted as joint executor, on giving bond according to law.

HISTORY: CL 1948, 702.39. This section re-enacts Sec. 40 of Ch. LII of Act 314 of 1915, being CL 1915, 13812;—CL 1929, 15571.

702.40 Executor; disqualification of person nominated; execution of will.

Sec. 40. When all the executors appointed in any will shall not be authorized, according to the provisions of this chapter, to act as such, such as are authorized shall have the same authority to perform every act, and discharge every trust required and allowed by the will, and their acts shall be as valid and effectual for every purpose, as if all were authorized, and should act together; and administrators with the will annexed, shall have the same authority to perform every act, and discharge every trust, as the executor named in the will would have had, and their acts shall be as valid and effectual for every purpose.

HISTORY: CL 1948, 702.40. This section re-enacts Sec. 44 of Ch. LII of Act 314 of 1915, being CL 1915, 13816;—CL 1929, 15575.

702.41 Executor; liabilities; right to retain possession of estate pending determination.

Sec. 41. When the estate given by any will shall be liable for the payment of charges against the estate, or is liable to be taken to make up the share of a child born after the execution of the will, or of a child, or of the issue of a child not provided for in the will, or to satisfy the widow in the event of her election to take against the will, the executor shall have a right to retain possession of the same, until such liability shall be settled by order of the probate court, and until the devises and legacies so liable shall be accordingly assigned by order of such court; and when the same can properly be done, any devisee, or legatee; may make his claim to such court, to have such liability settled, and his devise or legacy assigned to him.

HISTORY: CL 1948, 702.41. This section supersedes Sec. 26 of Ch. LII of Act 314 of 1915, being CL 1915, 13796;—CL 1929, 15557.

702.42 Devisee, legatee or creditor; petition for payment or delivery of property; citation or notice of hearing.

Sec. 42. Where a person is entitled by the terms of the will to the payment of money or the delivery of property by a fiduciary, he may present to the probate court a written petition, duly verified, setting forth the facts which entitle him to the payment or delivery, and praying for an order directing payment or delivery accordingly; and that the fiduciary may be cited to show cause why such order should not be made. If the petitioner is so entitled only upon the happening of a contingency or after the expiration of a certain time, he must show in his petition that his right to the money or other property has become absolute. Upon the presentation of such petition, the probate court must issue a citation or give notice of hearing.

HISTORY: CL 1948, 702.42. This section supersedes Sec. 20 of Ch. LXI of Act 314 of 1915, being CL 1915, 14071;—CL 1929, 15882.

702.43 Devisee, legatee or creditor; petition for payment or delivery of property; hearing, order; payment of property value.

Sec. 43. Upon the return of a citation or proof of the giving of notice, as prescribed in the last section, the probate court shall hear the allegations and proofs of the parties and make such order in the premises as justice requires. In a proper case, the decree

may require the fiduciary who is unable to deliver personal property to which the petitioner is entitled, to pay the value thereof.

HISTORY: CL 1948, 702.43. This section supersedes Sec. 21 of Ch. LXI of Act 314 of 1915, being CL 1915, 14072;—CL 1929, 15883.

702.44 Devisee, legatee or creditor; petition for payment or delivery of property; hearing, notice to interested parties; supplemental citation.

Sec. 44. Where it appears upon the presentation of a petition, as prescribed in the second preceding section, that an order made pursuant to the prayer thereof might affect the rights of other persons with respect to the estate or fund held by the fiduciary, the citation must also be directed or notice given to those persons. Where that fact appears upon return of the citation or upon the hearing, and it also appears presumptively that the petitioner is entitled to an order, each person whose rights may be so affected must be brought in by supplemental citation or notice for hearing and adjudication of his rights before an order is made.

HISTORY: CL 1948, 702.44. This section supersedes Sec. 22 of Ch. LXI of Act 314 of 1915, being CL 1915, 14073;—CL 1929, 15864.

702.44a Personal property; testamentary disposition when governed by Michigan law.

Sec. 44a. Whenever a decedent, being a citizen of the United States or a citizen or a subject of a foreign country, wherever domiciled, shall have declared in his will and testament that he elects that his testamentary dispositions of personal property shall be construed and regulated by the laws of this state, the validity and effect of such disposition shall be determined by such laws.

HISTORY: Add. 1952, p. 285, Act 195, Eff. Sep. 18;—Am. 1953, p. 241, Act 184, Eff. Oct. 2.

SETTLEMENT OF CONTESTS.

702.45 Will contests; agreements to settle and adjust.

Sec. 45. The compromise, settlement or adjustment of any good faith contest of the admission to probate of any instrument propounded as the last will and testament of any decedent, or of any good faith controversy (a) as to the construction, validity or effect of any such instrument or any provision thereof, whether such controversy shall arise before or after such instrument has been admitted to probate, or (b) as to the rights or interests in the estate of such decedent of any person as beneficiary under such will, or of any child or issue of a deceased child claimed to have been unintentionally omitted from such will, or of the widow claiming to exercise any right of election, or (c) otherwise arising in or growing out of the administration of the estate of any decedent under such will, or of any trust created thereby, including any accounting in such administration, or any distribution under such will or trust, when there is or may be any person interested who is a minor or otherwise without legal capacity to act in person, or whose present existence or whereabouts cannot be ascertained, or where there is any inalienable estate or future contingent estate or interest which will or may be affected by such compromise, settlement or adjustment, which compromise, settlement or adjustment is made in accordance with the provisions of this act, shall be lawful and valid and binding upon all the parties thereto, including such as are represented therein by trustees, guardians or guardians ad litem and upon all trusts created by such instrument, and upon all future interests arising thereunder in persons then in being or who may thereafter come into being and shall be recognized and so enforced by all courts and tribunals whatsoever: Provided, That no such compromise or settlement shall in any way impair the rights of persons having claims against such estate.

HISTORY: CL 1948, 702.45. This section re-enacts Sec. 1 of Act 249 of 1921, being CL 1929, 15581.

702.46 Settlement agreement; execution and delivery to court for approval; guardians ad litem, appointment; authority.

Sec. 46. The terms and conditions of such compromise, settlement or adjustment shall be set forth in an agreement in writing which shall be executed by all competent persons, except such as may be living but whose present existence or whereabouts is unknown and cannot after diligent search and inquiry be ascertained, having estates, interests or claims, legal or equitable, which will or may be limited or diminished in either extent or value by such compromise, settlement or adjustment if consummated. Such agreement shall be submitted to the probate court having jurisdiction of the probate of such will and the administration of such estate or trust, or to the circuit court in chancery of the proper county, for the approval thereof and the authorizing of the entering into and execution thereof by the executor or executors named in such will, or the administrator with the will annexed, and by the qualified trustee or trustees named in such will of every trust created by such will which will be affected by such compromise or settlement, and by the guardian of each and every person who shall be an infant or otherwise incompetent to act in person for whom a guardian has been appointed and qualified and who shall have an estate or interest of any kind or nature aforesaid which will or may be limited or diminished as aforesaid, and by the person or persons named in such will as trustees of every such trust of which no trustee has as yet qualified or by a guardian ad litem appointed by the court to represent such trust, as hereinafter provided. If there shall be any person who if living has an estate or interest of any kind or nature aforesaid whose whereabouts or present existence cannot after diligent search and inquiry be ascertained, or who is a minor or otherwise without legal capacity to act in person and has no guardian, or if there shall be any future contingent estate or interest which might be taken by any person not then in being, which may be limited or diminished as aforesaid, the court to which such agreement shall have been so submitted shall appoint a guardian ad litem to represent such person, contingent estate or interest, and if there be any trust which such instrument creates or purports to create which will be affected by the result of such compromise or settlement of which no trustee has qualified and no person named in such instrument as trustee of such trust has joined in the petition for such approval and authorization, or otherwise voluntarily appeared in the proceeding for such authorization or approval, such court, if no person is named in such instrument as trustee of such trust, or if the person or persons named in such instrument as trustees of such trust, shall after due notice fail to appear in such proceeding, shall appoint a guardian ad litem to represent such trust, and each such guardian ad litem may be authorized to enter into and sign such agreement on behalf of such person or contingent estate or interest or trust.

HISTORY: CL 1948, 702.46. This section re-enacts Sec. 2 of Act 249 of 1921, being CL 1929, 15582.

702.47 Order approving agreement and authorizing execution by fiduciaries; effect; interest of disappeared persons.

Sec. 47. The estate and interest of every such person competent to act for himself and the estate and interest represented by every such fiduciary and every person named in such instrument as fiduciary but who has not qualified as such, and in whose stead no other has been so appointed and qualified, having been by voluntary appearance or by summons, citation, order of hearing or order for appearance duly served or published, subjected to the jurisdiction of the court, and every such person whose present existence or whereabouts cannot be ascertained, every such person not qualified to act in person but having no general guardian, every such trust, no trustee of which, whether qualified or not, has executed said agreement, and every such contingent estate or interest having also been subjected to the jurisdiction of the court by the appointment of a guardian ad litem to represent such person, trust or interest, all in

accordance with the practice of the court to which such agreement shall have been submitted, such court shall, if such contest or controversy shall appear to be in good faith and if the effects of such agreement upon the estates and interests of the persons and interests so represented by any fiduciary or guardian ad litem and upon any inalienable estate or interest shall be found to be just and reasonable, make an order approving such agreement and authorizing the entering into and execution thereof by each such fiduciary and guardian ad litem and person having an inalienable estate or interest. Such order having been entered and such agreement having been made complete by the due execution thereof by all persons, and fiduciaries required by or authorized under the provisions of section 46 of this chapter to be parties thereto and by the guardians ad litem appointed by the court to represent all persons, interests and trusts for whom or which the court is required by said section 46 to appoint guardians ad litem, the same shall be filed with such court and shall become valid and binding as provided in section 45 of this chapter, and all further proceedings in and about the probate of such instrument or the administration of such estate or trust shall be had in accordance with the terms and provisions of such agreement with like force and effect as may be expressed in such agreement or declared in such order. Such authorization and order shall in itself confer authority to execute and deliver or to receive and accept any conveyance or other transfer, waiver or release, appropriate to the carrying out of any of the terms and provisions of such agreement or order; and it shall become the duty of fiduciaries and guardians ad litem to abide by and carry out the terms thereof and to execute and deliver and receive any instrument or conveyance necessary to give full effect thereto. The estate or interest of, or which might be claimed under or through, any person whose whereabouts or present existence shall be unknown as aforesaid, may be subjected to the jurisdiction of such court by satisfying the court by oath that diligent search and inquiry for such whereabouts and present existence have been made and that the same cannot be ascertained, and by incorporating in an order of hearing or order of appearance, whichever the practice may provide, the name of such person whose whereabouts and present existence are unknown, his or her heirs and assigns, and by publishing such order in accordance with the practice of such court and serving the same upon any known person who would succeed to such estate or interest if such person so named were dead or claiming to have succeeded by a transfer thereof.

HISTORY: CL 1948, 702.47. This section supersedes Sec. 3 of Act 249 of 1921, being CL 1929, 15583.

702.48 Provision to constitute cumulative remedy for settlement; saving clause.

Sec. 48. The provisions of sections 45 through 47 of this chapter is intended to provide a definite method for the exercise of the existing power and jurisdiction of courts of probate and of chancery in addition to and in nowise in exclusion of any other regular method or methods of exercising such power and jurisdiction; but nevertheless if necessary to the validity or operative effect of this act or any part thereof, the same shall be deemed to be a grant of power and jurisdiction. Said sections are intended to apply to all cases as well where the decedent shall have died heretofore as where the decedent shall hereafter die. Any compromise, settlement and adjustment heretofore made and approved by any court of this state by any method substantially similar to that herein provided is declared to be valid and binding with like force and effect as provided in section 45 of this chapter. If any provision, sentence, clause, phrase or word contained in this chapter shall be found to be invalid or inoperative, the remainder of the chapter shall nevertheless continue in full force and effect as to any and all cases or sets of conditions in which such remaining provisions can be given force and effect, either of themselves or by the exercise of any rule making authority of the court.

HISTORY: CL 1948, 702.48. This section supersedes Sec. 4 of Act 249 of 1921, being CL 1929, 15584.

702.49 Charitable bequests; settlement of contests.

Sec. 49. The settlement of contests affecting wills containing a gift, grant, bequest or devise to religious, educational, charitable or benevolent uses without naming any person or corporation as donee thereof shall be made in accordance with the provisions of Act No. 207 of the Public Acts of 1917, being sections 15578 to 15580, inclusive, of the Compiled Laws of 1929, or any amendment or amendments thereto.

HISTORY: CL 1948, 702.49.

NOTE: Act 207, 1917, above referred to, is Compilers' §§ 720.51-720.53.

INTESTATE ESTATES.**702.50 Intestate estates; letters of administration; jurisdiction.**

Sec. 50. When any person shall die intestate, being an inhabitant of this state, letters of administration of his estate shall be granted by the probate court of the county of which he was an inhabitant or resident at the time of his death; if such deceased person, at the time of his death, resided in any other state or country, leaving estate to be administered in this state, administration thereof shall be granted by the probate court of any county in which there shall be estate to be administered; and the administration first legally granted shall extend to all the estate of the deceased in this state, and shall exclude the jurisdiction of the probate court of every other county.

HISTORY: CL 1948, 702.50. This section re-enacts Sec. 1 of Ch. LIII of Act 314 of 1915, being CL 1915, 13619;—CL 1929, 15585.

CITED IN OTHER SECTIONS: The above section is cited in § 257.236.

702.51 Administration; petition; priority of petitioners; petition contents.

Sec. 51. Administration in such cases shall be granted upon the petition of 1 or more of the persons named herein in the following order: The widow, husband or next of kin, or a grantee of the interest of 1 or more of them; if the widow, husband, next of kin or grantee shall neglect for 30 days after the death of the intestate to apply for administration, or to request that administration be granted to some other person, 1 or more of the principal creditors may file such petition, or the same may be filed by any person in whose favor a right or cause of action exists which cannot be enforced without such administration or by the public administrator of the proper county. Such petition shall allege in writing, under oath, the full name of the person deceased, his domicile at the time of death, the date of his death, that the deceased died intestate, the interest and residence of the petitioner, the location in Michigan of the property of the deceased and whether the same is real or personal property, with the estimated value thereof, and the name, age, residence and relationship to the deceased, if known, of each of the heirs at law.

HISTORY: CL 1948, 702.51. See Sec. 2 of Ch. LIII of Act 314 of 1915, being CL 1915, 13820;—CL 1929, 15586; also see Act 240 of 1935.

702.52 Administration; appointment, priority; creditors incompetent.

Sec. 52. Administration of the estate of a person dying intestate shall be granted to some 1 or more of the persons hereinafter mentioned, and they shall be respectively entitled to the same in the following order:

1. The widow, husband or next of kin, or a grantee of the interest of 1 or more of them or such of them as the judge of probate may think proper, or such person or persons as the widow, husband, next of kin or grantee may request to have appointed, if suitable and competent to discharge the trust;

2. If the widow, husband, next of kin or grantee, or the person selected by them shall be unsuitable or incompetent, or if the widow, husband, next of kin or grantee shall neglect for 30 days after the death of the intestate to apply for administration, or to request that administration be granted to some other person, the same may be

granted to such other person or persons or to the public administrator of the proper county as the judge of probate may think proper: Provided, however, That in no case shall any person be appointed administrator who is a creditor or has an interest conflicting with the interests of the estate: Provided further, however, That the payment of funeral expenses or expenses of last illness by a member of the immediate family shall not bar such person from acting as fiduciary.

HISTORY: Am. 1941, p. 263, Act 176, Eff. Jan. 10, 1942.—CL 1948, 702.52.

This section as originally enacted supersedes Sec. 2 of Ch. LIII of Act 314 of 1915, being CL 1915, 13820;—CL 1929, 15586; also see Act 240 of 1935.

702.53 Charges against estate; use of personal property; sale of real estate; fiduciary's license.

Sec. 53. When a person dies intestate as to any or all of his property, the personal estate shall be first appropriated to the payment of all charges against the decedent's estate and if the personal property shall not be sufficient therefor, the whole of the real estate of the decedent or so much thereof as may be necessary, may be sold for that purpose by the fiduciary after obtaining license therefor in the manner provided by law.

HISTORY: CL 1948, 702.53. This section supersedes Sec. 5 of Ch. LIV of Act 314 of 1915, being CL 1915, 13489;—CL 1929, 15658.

702.54 Liability of heirs and next of kin in possession to contribute; fiduciary's liability.

Sec. 54. All of the heirs and next of kin, who shall with the consent of the fiduciary or otherwise have possession of any part of the estate before all of the charges against the estate are paid or satisfied, shall hold the same subject thereto and shall be held to contribute according to their respective liabilities to the fiduciary or to any heir or next of kin from whom any part of the estate may have been taken for the payment or satisfaction of such charges. The fiduciary shall be held liable in the event that any such person fails to make contribution as herein provided unless it be shown that such possession by such person was without the consent of the fiduciary and that he was unable by diligent effort to prevent the same. The provisions of sections 35 and 36 of this chapter shall apply herein.

HISTORY: CL 1948, 702.54. This section supersedes with addition part of Sec. 27 of Ch. LII of Act 314 of 1915, being CL 1915, 13799;—CL 1929, 15558.

CONTRIBUTION: See also Compilers' § 702.34.

PROVISIONS RELATIVE TO TESTATE AND INTESTATE ESTATES.

(A) GENERAL PROVISIONS.

702.55 Embezzlement prior to issuance of letters of administration; liability for double value.

Sec. 55. If any person, before the granting of letters testamentary or of administration, shall embezzle or alienate any of the moneys, goods, chattels, or effects of any deceased person, such person shall stand chargeable and be liable to the action of the executor or administrator of such estate, for double the value of the property so embezzled or alienated, to be recovered for the benefit of such estate.

HISTORY: CL 1948, 702.55. This section re-enacts Sec. 9 of Ch. LIII of Act 314 of 1915, being CL 1915, 13827;—CL 1929, 15593.

702.56 Executor or administrator; petition for appointment, notice of hearing.

Sec. 56. When petition shall be made to the judge of probate for the appointment of an executor, or an administrator of an intestate estate, or for letters of administration with the will annexed, or administration de bonis non, he shall cause notice of the

same, and of the time and place of hearing thereof, to be given as provided by sections 32 to 35 of chapter 1 of this act.

HISTORY: CL 1948, 702.56. This section supersedes Sec. 18 of Ch. LIII of Act 314 of 1915, being CL 1915, 13836;—CL 1929, 15608.

702.57 Letters of administration; revocation upon allowance of will.

Sec. 57. If, after the granting of letters of administration by any probate court, on the estate of any deceased person, as if he had died intestate, a will of such deceased person shall be duly proved and allowed by such court, the first administration shall, by decree of said court, be revoked, and the powers of the administrator shall cease, and he shall thereupon surrender his letters of administration into the probate court, and render an account of his administration, within such time as the court shall direct.

HISTORY: CL 1948, 702.57. This section re-enacts Sec. 14 of Ch. LIII of Act 314 of 1915, being CL 1915, 13832;—CL 1929, 15598.

702.58 Fiduciary; right to collect goods and prosecute suits.

Sec. 58. The fiduciary, in such case, shall be entitled to demand, sue for and collect all the goods, chattels, rights and credits of the deceased, remaining unadministered, and may be admitted to prosecute to final judgment any suit commenced by the administrator, before the revocation of his letters of administration.

HISTORY: CL 1948, 702.58. This section supersedes Sec. 15 of Ch. LIII of Act 314 of 1915, being CL 1915, 13833;—CL 1929, 15599.

702.59 Growing crops considered personal property; exception.

Sec. 59. The personal estate of the decedent shall include all growing crops of grain, grass and fruit unless by a will, if there be one, said property or any part thereof is plainly directed to pass with the real estate.

HISTORY: CL 1948, 702.59. See Sec. 5 of Ch. LIV of Act 314 of 1915, being CL 1915, 13849;—CL 1929, 15656.

(B) SPECIAL ADMINISTRATORS.

702.60 Special administrator; appointment; effect on executor nominated in will.

Sec. 60. When by reason of delay in granting letters testamentary or of administration, or when from any other cause the judge of probate deems it expedient so to do, he may, after such notice as he may direct, or without notice in his discretion, appoint a special administrator to act in collecting and taking charge of the estate of the deceased and protecting and conserving the same until an executor or administrator shall be appointed. An executor nominated in the will of the decedent shall be considered as an interested party for the purpose of petitioning the court for appointment of a special administrator in the cause.

HISTORY: CL 1948, 702.60;—Am. 1959, p. 131, Act 126, Eff. Mar. 19, 1960.

This section supersedes Sec. 4 of Ch. LIII of Act 314 of 1915, being CL 1915, 13822;—CL 1929, 15586.

702.61 Special administrator; powers and duties; commencement of actions.

Sec. 61. Such special administrator appointed according to the provisions of the preceding section shall collect all the goods, chattels and debts of the deceased, and preserve the same for the executor or administrator who may afterwards be appointed, and for that purpose, upon order of the probate court, may commence and maintain actions as an administrator, and may sell such perishable and other personal estate as the probate court may order to be sold. All personal actions, the cause of which does by law survive and which may be pending either for or against the deceased, may be proceeded with and be prosecuted by or against such special administrator, and the same proceedings taken as are or may hereafter be provided by law relating to such actions in cases where an executor or general administrator has been appointed.

HISTORY: CL 1948, 702.61. This section supersedes Sec. 5 of Ch. LIII of Act 314 of 1915, being CL 1915, 13823;—CL 1929, 15589.

702.62 Special administrator; payment of preferred claims, special application.

Sec. 62. Such special administrator shall not be liable to an action by any creditor, or to be called upon in any other way to pay the debts of the deceased, except, on special application of any creditor, the judge of probate may for special reasons, on the usual notice in such cases, allow any 1 or all claims against such estate, to be proved before him; and, if so proved, said judge of probate may order and direct the payment by said special administrator of all or any such claims so allowed by him; and said judge may for special reasons on the usual notice also order and direct the payment, after the time for appeal shall have expired, by said special administrator of all or any claims otherwise properly allowed against said deceased and said estate: Provided, That in no case shall the judge of probate direct the payment by the special administrator of any but preferred claims provided for by statute.

HISTORY: CL 1948, 702.62. This section supersedes Sec. 6 of Ch. LIII of Act 314 of 1915, being CL 1915, 13824;—CL 1929, 15590.

702.63 Special administrator; bonding.

Sec. 63. Every such special administrator shall, before entering upon the duties of his trust, give to the judge of probate the bond required in section 3 of chapter 4 of this act, with the further condition that he will truly account for all the goods, chattels, debts and effects of the deceased which shall be received by him whenever required by the probate court, and will deliver the same to the person who shall afterwards be appointed executor or administrator of the deceased, or to such other person as shall be legally authorized to receive the same.

HISTORY: CL 1948, 702.63. This section supersedes Sec. 7 of Ch. LIII of Act 314 of 1915, being CL 1915, 13825;—CL 1929, 15591.

NOTE: Sec. 3, Ch. 4, above referred to, is Compilers' § 704.3.

702.64 Special administrator; termination of powers upon issuance of letters of administration; prosecution of suits.

Sec. 64. Upon granting letters testamentary or of administration, the power of such special administrator shall cease; and he shall forthwith deliver to the executor or administrator, all the goods, chattels, money and effects of the deceased in his hands; and the executor or administrator may be admitted to prosecute to final judgment any suit commenced by such special administrator.

HISTORY: CL 1948, 702.64. This section supersedes Sec. 8 of Ch. LIII of Act 314 of 1915, being CL 1915, 13826;—CL 1929, 15592.

(C) FOREIGN HEIRS.

702.65 Foreign heirs; notice to consul of foreign nation, manner of service.

Sec. 65. Whenever it shall appear upon petition to any probate court for letters of administration, or to prove the will of any deceased person, that the heirs at law of said deceased, or any of them, are residents of a foreign country, it shall be the duty of the judge of such probate court to notify the consul of such foreign nation in the city of New York, or of the district having jurisdiction, or the consul, vice-consul, or consular agent, resident in this state, if there be 1 of such foreign nation, of the pending of, and the day appointed for hearing such application. And such notice may be given by letter addressed to such consul, vice-consul, or consular agent, and deposited in the post office, with the postage prepaid thereon, at the city or village where such application was made, at least 60 days before such day of hearing, unless such heir or heirs shall file in such probate court a waiver of such notice, in writing and under oath.

HISTORY: CL 1948, 702.65. This section supersedes Sec. 19 of Ch. LIII of Act 314 of 1915, being CL 1915, 13837;—CL 1929, 15603.

(D) ABSENCE OF KNOWN HEIRS.

702.66 Notice to attorney general; if there are no known heirs; notice of hearing of claims.

Sec. 66. Whenever a petition for administration is filed in any probate court of this state, praying for the appointment of an administrator of the estate of any deceased person, and from which petition it appears that the decedent died intestate leaving no known heirs, or whenever it shall appear during the course of administration of any intestate estate that the decedent left no known heirs, or whenever a petition is filed praying for the administration of the estate of a testate decedent and from which it appears that the beneficiaries of the purported will referred to would not be entitled to share in such estate but for the terms of such purported will, and that such decedent died leaving no known natural heirs, it shall be the duty of the judge of said court to forthwith serve notice upon the attorney general of this state of the pendency of such proceedings and of the fact that in such estate there are no known natural heirs. Such notice shall be served by registered mail. Upon entering his appearance in such estate, the attorney general shall be entitled to like written notice of the hearing of claims, whether before the court or before referees.

HISTORY: CL 1948, 702.66. This section re-enacts except changes last word "commissions" to "referees" Sec. 20 of Ch. LIII of Act 314 of 1915, being CL 1915, 13838;—CL 1929, 15604.

ATTORNEY GENERAL: Duty to investigate as to property of intestates without heirs, see Compilers' § 567.12.

PUBLIC ADMINISTRATOR: See Act 15 of 1923, being Compilers' § 720.201 et seq.

702.67 Attorney general; right to appear in proceedings.

Sec. 67. In any such case, the attorney general, representing the state, shall have all the rights of any heir, representative or creditor to be heard and to contest the validity of any claim, order, appointment or any instrument purporting to be a contract or will of the decedent, and shall have all the rights granted or accruing to heirs, representatives or creditors under the laws of the state relating to the settlement of estates of either testates or intestates, either in such probate court or by way of appeal.

HISTORY: CL 1948, 702.67. This section re-enacts Sec. 21 of Ch. LIII of Act 314 of 1915, being CL 1915, 13839;—CL 1929, 15605.

ALLOWANCES TO WIDOW AND CHILDREN.

702.68 Widow and children; allowance; maintenance during settlement; portion chargeable as advances; residence in dwelling house; payment for support of minor children from estate of deceased woman.

Sec. 68. (1) The widow and minor children constituting the family of a deceased man shall have such reasonable allowances out of the real and personal estate of such deceased as the probate court shall judge necessary for their maintenance during the progress of the settlement of the estate according to their circumstances but never for a longer period than until their shares in the estate shall be assigned to them nor for more than 1 year after the death of the decedent in an insolvent estate. On showing of necessity, such allowances may be continued from time to time in any solvent estate beyond such year, but such allowances beyond such year shall be charged as advancements from the estate against the interest of the widow or against the interests of the minor children, as the case may be.

(2) Except where sufficient provisions shall have been made by will for their maintenance, or where their shares of the estate are in the judgment of the probate court sufficient therefor, the children under 16 years of age of a deceased man shall, after payment of all prior charges against such estate and before any partition or division of any estate among the heirs, devisees or legatees, have such reasonable allowances out of the real and personal estate of such deceased as the probate court shall judge necessary for their maintenance, according to their circumstances, until they attain that age, taking into consideration the provisions made by will for their maintenance, or their shares of the estate, and the probate court may order the executor or administrator to retain in his hands sufficient estate for that purpose.

(3) The widow may remain in the dwelling house of her husband 1 year after his death without being chargeable with rent therefor.

(4) In any case where a deceased woman was at the time of her death the sole surviving parent of any minor children or where such minor children were principally supported by such deceased woman, the probate court may order the payment of allowances for the support of such children in the same manner as provided in this chapter for the support of children of a deceased man.

HISTORY: CL 1948, 702.68;—Am. 1949, p. 86, Act 78, Imd. Eff. May 10.

This section supersedes and merges Sec. 23 of Ch. 66 of the R.S. 1846, being CL 1857, 2794;—CL 1871, 4291;—How. 5755;—CL 1897, 8940;—CL 1915, 11672;—CL 1929, 13080; Sec. 2 of Ch. LVII of Act 314 of 1915, being CL 1915, 13914;—CL 1929, 15727;—and part of Sec. 22 of Ch. LII of Act 314 of 1915, being CL 1915, 13794;—Am. 1923, p. 466, Act 293, Eff. Aug. 30;—CL 1929, 15553.

WIDOW'S ELECTION.

702.69 Widow's election in testate estate; service of notice by fiduciary; time limitation.

Sec. 69. If the decedent dies testate leaving a widow surviving him, the fiduciary appointed to represent the estate shall, prior to the entry of the order allowing or disallowing claims, and closing the estate to claims, which is entered following the general hearing on claims, serve notice on the widow of her right to an election as provided by this section, and such order shall not be entered until proof of service of such notice has been filed, and she shall have the right to file with the probate court her election in writing that she elects 1 of the 3 as follows:

First: That she will abide by the terms of the will.

Second: That she will have her homestead right and be endowed of the lands of her husband.

Third: That she will take the same share or part of the real estate left by her husband as provided by law in case he had died intestate, and also that she will take the sum or share of personal property that would have passed to her had the testator died intestate, until the sum of such personal property shall amount to \$5,000.00, and of the residue of the personal property in said estate 1/2 the sum or share that would have passed to her had the testator died intestate: Provided, however, That where the effect of such election on the part of the widow under this subdivision shall be to enable such widow to take all of the real estate of the husband, then her election shall be limited so as to enable her to take a 1/2 interest therein absolutely. The other 1/2 interest in said real estate shall go to her subject to any devise or legacy which may be provided by the husband in his last will and testament. She shall be entitled to only 1 such choice unless the contrary plainly appears by the will to have been intended by the testator: Provided further, That such election shall be made within 60 days after the entry of the said order closing the estate to claims, or prior to 60 days after the filing of the inventory, and proof of service upon the widow of notice of such filing, whichever date is later.

HISTORY: CL 1948, 702.69;—Am. 1951, p. 43, Act 42, Eff. Sec. 28.

This section supersedes and merges with additions Sec. 18 of Ch. 66 of the R.S. 1846, being CL 1857, 2789;—CL 1871, 4286;—How. 5750;—CL 1897, 8935;—CL 1915, 11667;—Am. 1921, p. 500, Act 269, Eff. Aug. 18;—Am. 1923, p. 469, Act 295, Eff. Aug. 30;—Am. 1925, p. 85, Act 64, Eff. Aug. 27;—CL 1929, 13085;—Am. 1931, p. 422, Act 242, Eff. Sept. 18; Sec. 33 of Ch. LII of Act 314 of 1915, being CL 1915, 13806;—CL 1929, 15564; and part of Sec. 34 of Ch. LII of Act 314 of 1915, being CL 1915, 13806;—Am. 1919, p. 630, Act 356, Eff. Aug. 14;—CL 1929, 15565.

702.70 Widow's election in intestate estate; distribution of remainder.

Sec. 70. In the event that there is no will, she shall make an election with respect to real estate as to whether she will take according to the provisions of this chapter relating to the descent of real estate or whether she will have her homestead right and be endowed of the lands of her husband and such election shall be made within the same period and on like notice and in like manner as is provided in the preceding section, and if she elects her dower and homestead right, the residue of such real estate shall

then descend according to the provisions of this chapter relating to the descent of that portion of intestate real estate not taken by the widow.

HISTORY: CL 1948, 702.70.

702.71 Election in case of jointure or pecuniary provision for wife.

Sec. 71. If any jointure or pecuniary provision be made before marriage and without the assent of the intended wife, or if it be made after marriage, she shall make her election after the death of her husband, whether she will take such jointure or pecuniary provision, or have her homestead rights and be endowed of the lands of her husband; but she shall not be entitled to both. Such election shall be made within the same period and on like notice and in like manner as is provided for the election to take against the will.

HISTORY: CL 1948, 702.71. This section supersedes with additions Sec. 17 of Ch. 66 of the R.S. 1846, being CL 1857, 2788;—CL 1871, 4285;—How. 5749;—CL 1897, 8934;—CL 1915, 11666;—CL 1929, 13064.

702.72 Presumption in case of failure to elect; administration de bonis non; time limitation; notice to widow of petition to sell real estate.

Sec. 72. When the widow shall be entitled to an election as hereinbefore provided and shall fail to make an election within the time limited, it shall be conclusively presumed that she elects to abide by the terms of the will or that she elects to take such jointure or if it be an intestate estate that she elects to take according to the provisions of this chapter relating to the descent of real estate, as the case may be, except (a) that in cases where no election has been made, and the principal administration shall have been closed, and it appears to the court thereafter that assets belonging to the estate have been discovered and administration de bonis non has been granted, such election may be made out of such newly discovered assets only upon good cause shown at any time before such administration de bonis non is closed; and (b) that the judge of probate may, at any time before the estate is closed, upon petition of the widow, after notice to all persons interested, permit the widow to make any of the foregoing elections to which she was entitled as though she had done so within said 60 day period, when on account of litigation connected with the estate or the establishment of further claims against the deceased or any other cause, he deems it proper to do so, and said judge shall, in such order, limit the time within which the widow shall make such election: Provided, That in case the fiduciary shall, after the expiration of said 60 day period and before such order of the court permitting the widow to make such delayed election have sold and conveyed real estate of the deceased, the widow's dower and homestead, if such be her election, shall be set off to her out of the lands not so conveyed, but to the amount and value she was entitled to at the death of her husband, if so much remains unsold.

When proceedings shall be taken in the probate court to obtain a license for the sale of real estate of the deceased, the widow may appear voluntarily and waive dower and homestead in such real estate and in the event such rights shall not be waived, there shall be served personally upon the widow at least 10 days prior to the hearing on the petition for license to sell, a notice to appear and elect whether she will take her dower and homestead in the real estate sought to be sold, and in the event that said widow shall not then give notice of her intention to take dower and homestead, the same shall be deemed waived by her and the said widow shall thereafter be barred from claiming any dower or homestead in any real estate sold pursuant to such notice and license; and in the event that it shall be deemed necessary by the judge of probate for said widow to have additional time in which to determine as to such election, the judge of probate may grant such additional time as shall seem proper.

HISTORY: CL 1948, 702.72. This section supersedes and merges with additions Sec. 19 of Ch. 66 of the R.S. 1846, being CL 1857, 2790;—CL 1871, 4287;—How. 5751;—CL 1897, 8936;—CL 1915, 11668;—CL 1929, 13066; and part of Sec. 34 of Ch. LII of Act 314 of 1915, being CL 1915, 13906;—Am. 1919, p. 630, Act 356, Eff. Aug. 14;—CL 1929, 15565;—also see Sec. 33 of Ch. LII of Act 314 of 1915, being CL 1915, 13905;—CL 1929, 15564.

702.73 Assignment of dower; hearing, notice, report of two disinterested persons; recording of order; expense.

Sec. 73. When a widow's election is that she will take dower and homestead right, and such election has been filed with the probate judge, he shall forthwith fix a date for a hearing on the assignment of her dower and give due notice thereof to all interested parties in the manner provided in sections 32 to 35 of chapter 1 of this act, and shall appoint 2 disinterested persons who shall investigate the property and recommend to the court in writing 1/3 part thereof, quality and quantity being considered, to be set aside for her use during her lifetime. After hearing the report of such disinterested persons and the testimony offered by any other interested party, the court shall enter an order in its discretion. When such order is not appealed from or is affirmed on appeal, a certified copy thereof shall be recorded in the office of the register of deeds in the county in which such real estate is situate. One-half the cost of the proceedings shall be paid by the widow and the other half shall be paid from the remainder of the estate.

HISTORY: CL 1948, 702.73. See Secs. 30-32 of Ch. 57 of Act 314 of 1915, being CL 1915, 13942-13944;—CL 1929, 15755-15757.

NOTE: Secs. 32-35, Ch. 1, above referred to, is Compilers' §§ 701.32-701.35.

702.74 Assignment of dower; real estate unable to be divided; assignment of rents, issues and profits.

Sec. 74. When the estate of which dower is to be assigned consists of real estate which cannot be divided without damage to the whole, and in all cases where the estate cannot be divided by metes and bounds, the dower may be assigned of the rents, issues and profits thereof, to be had and received by the widow as a tenant in common with the other owners of the estate.

HISTORY: CL 1948, 702.74. This section supersedes Sec. 33 of Ch. LVII of Act 314 of 1915, being CL 1915, 13945;—CL 1929, 15758.

702.74a Surviving spouse; waiver of rights; support and property settlement agreements, support of minor children.

Sec. 74a. (1) The right of election of a surviving spouse to inherit in an intestate estate, or to elect to take against a will, the right to dower and the rights of the surviving spouse to homestead allowance, exempt property and family allowance, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement or waiver signed by the party waiving after fair disclosure and in the absence of fraud or duress. Unless an agreement provides to the contrary, a written waiver of all rights in the property or estate of a present or prospective spouse is a waiver of all rights to an elective share, dower, homestead allowance, exempt property and family allowance by each spouse in the property of the other and an irrevocable renunciation by each of all benefits which would otherwise pass to him from the other by intestate succession or by virtue of the provisions of any will executed before the agreement or waiver.

(2) A binding contract as to support or property settlement or both may be entered into by a husband and wife after marriage but in anticipation of divorce, if the parties have theretofore separated, there has been fair disclosure and the agreement was not executed under fraud or duress. The agreement shall not release either party of a legal duty to support their minor children. Unless the agreement provides to the contrary, it shall have the same effect as an agreement of waiver provided for in subsection (1).

HISTORY: Add. 1969, p. 286, Act 139, Eff. Mar. 20, 1970.

DETERMINATION OF HEIRS.

702.75 Determination of heirs of decedent by probate court.

Sec. 75. When any person shall have deceased, having title to any lands in this state, or whenever a conveyance or grant of any lands in this state shall be or shall have been made to the heirs of any deceased person without indicating or showing who are or

were such heirs, it shall be lawful for any person or persons claiming an interest in said lands, whether as heirs at law or through or under such heir or heirs, or as the nominated executor designated in the will of the deceased person, to apply to the probate court of the county in which said lands or any part thereof are located, which said court shall adjudicate and determine who are or were the legal heirs of said deceased person, and entitled to the lands of which the deceased died seized, or the lands embraced in the conveyance or grant made to the heirs at law of such deceased person.

HISTORY: CL 1948, 702.75;—Am. 1959, p. 131, Act 126, Eff. Mar. 19, 1960.

This section supersedes Sec. 25 of Ch. LVII of Act 314 of 1915, being CL 1915, 13937;—CL 1929, 15750.

702.76 Petition to probate court; contents, order for hearing, notice.

Sec. 76. The application shall be made by filing a petition in said court, subscribed by the petitioner or his attorney, duly verified, setting forth the name of the deceased, that he died seized of lands in this state, or that a conveyance or grant was made to the heirs of the deceased, as the case may be, of certain lands, a portion of which, and describing such portion, the petition shall show to be located in the county where said petition is to be filed; the names and residences of the heirs of said deceased person, so far as the same are known to the petitioner, and shall conclude with a prayer for the determination and adjudication aforesaid, and thereupon said court shall make an order setting forth the time and place of hearing such petition, and shall give notice thereof by publication as provided for in sections 32 to 35 of chapter 1 of this act.

HISTORY: CL 1948, 702.76. This section supersedes Sec. 26 of Ch. LVII of Act 314 of 1915, being CL 1915, 13938;—CL 1929, 15751.

NOTE: Secs. 32-35, Ch. 1, above referred to, is Compilers' §§ 701.32-701.35.

702.77 Petition to probate court; hearing; recording of findings and adjudication; conclusive evidence of fact.

Sec. 77. At the time assigned for the hearing of said petition, or at the time to which said hearing may be adjourned, the court may hear proofs taken by commission or by witnesses produced in open court, of the facts set forth in said petition, and shall thereupon, if the evidence be sufficient, find and adjudge who are or were the heirs of the deceased and entitled by the laws of this state to inherit the real estate of the deceased, or to take title to lands conveyed or granted to the heirs of said deceased, which finding and adjudication, showing the date of decedent's death, shall be entered on the journal of said court, and a certified copy of such finding and adjudication shall be recorded in the office of the register of deeds of the county, and shall, unless appealed from, be conclusive evidence of the fact as to who were the heirs of the deceased person as of the time of his death or as of such other date as may be specified in such finding: Provided, That such determination is made in the course of the administration of the estate or 15 years have elapsed since the death of the decedent. In all other cases it shall be prima facie evidence only.

HISTORY: CL 1948, 702.77. This section supersedes with additions Sec. 27 of Ch. LVII of Act 314 of 1915, being CL 1915, 13939;—CL 1929, 15752.

702.78 Nominated executor as interested party.

Sec. 78. Whenever it shall be necessary for any other purpose to determine who the heirs at law of any deceased persons are, or were, on the petition of any interested party, and on like proceedings as provided in the last 3 preceding sections, the court may make a determination thereof. The nominated executor of the deceased person shall be considered as being among the interested parties.

HISTORY: CL 1948, 702.78;—Am. 1959, p. 132, Act 126, Eff. Mar. 19, 1960.

This section re-enacts Sec. 28 of Ch. LVII of Act 314 of 1915, being CL 1915, 13940;—CL 1929, 15753.

702.79 Order determining heirs; recording; admissibility in evidence; conclusiveness.

Sec. 79. Whenever any probate court of this state shall make an order determining who are or were the heirs at law of any deceased person, and such order has become

final, a certified copy of such order containing such finding may be recorded in the office of the register of deeds of any county in the state wherein may be located any real estate owned by such deceased person at the time of his death, or in which such deceased person may have any interest whatsoever, and such original order of the probate court, or a certified copy thereof, and the original record of the certified copy recorded in the office of the register of deeds, or a certified copy thereof, shall be conclusive evidence of the facts as therein found as to who were the heirs of the said deceased person at the time of his death or such other date as may be specified in such finding: Provided, That such determination is made in the course of the administration of the estate or 15 years have elapsed since the death of the decedent. In all other cases it shall be prima facie evidence only. The original record of the probate court or a certified copy thereof, or record of said certified copy recorded in the office of the register of deeds, or a certified copy thereof, shall be admitted in evidence in all the courts of this state upon any trial or proceedings had before such court in all cases where the question of such heirship may be involved or wherein it becomes material.

HISTORY: CL 1948, 702.79. This section supersedes with additions Sec. 29 of Ch. LVII of Act 314 of 1915, being CL 1915, 13941;—CL 1929, 15754.

DESCENT, DISTRIBUTION AND PARTITION OF ESTATES.

DESCENT OF REAL PROPERTY.

702.80 Descent of real estate.

Sec. 80. When any person shall die seized of any lands, tenements or hereditaments, or of any right thereto, or entitled to any interest therein in fee simple, or for the life of another, not having lawfully devised the same, they shall descend, subject to the payment of all prior charges as provided in this act, in the following manner:

First, 1/3 to his widow, and the remaining 2/3 to his issue; and, if he leaves no widow, then the whole thereof to his issue, and, if the intestate shall be a married woman, 1/3 thereof to her husband and the remaining 2/3 to her issue; and, if she leaves no husband, then the whole thereof to her issue; and, if all the said issue are in the same degree of kindred to the intestate, they shall share the estate equally, otherwise they shall take according to the right of representation;

Second, If the intestate shall leave a husband or widow and no issue, 1/2 of the estate of such intestate shall descend to such husband or widow and the remainder to the father and mother of the intestate in equal shares, and if there be but 1 of the parents living, then to the survivor alone; and if the intestate shall leave no issue, husband or widow, his or her estate shall descend to the father and mother in equal shares, and if there be but 1 of the parents living, then to the survivor alone; and if the intestate shall leave no issue, father or mother, his or her estate shall descend, subject to the provisions herein made for the widow or husband, if a widow or husband survive the deceased, to his or her brothers and sisters and the children of deceased brothers and sisters, and if such persons are in the same degree of kindred to the intestate, they shall take equally, otherwise they shall take by right of representation: Provided, however, That if such intestate shall die under the age of 21 years and not having been married, all the estate that came to such intestate by inheritance from a parent, which has not been lawfully disposed of, shall descend to the other children and the issue of deceased children of the same parent, if there be such children or issue, and if such persons are in the same degree of kindred to said intestate they shall take equally, otherwise they shall take by right of representation;

Third, If the intestate shall leave no issue, husband, widow, father, mother, brother, sister, nor child of brother or sister, his estate shall descend to his next of kin in equal degree, excepting that when there are 2 or more collateral kindred in equal degree but

claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote;

Fourth, If the intestate shall leave a husband or wife, and no issue, nor father, mother, brother nor sister, and there be no child of brother or sister, the estate of such intestate shall descend to the husband or wife of such intestate, as the case may be;

Fifth, If the intestate shall have no wife, nor husband, nor kindred, his or her estate, as the case may be, shall escheat to the people of this state for the use of the primary school fund.

HISTORY: CL 1948, 702.80. This section supersedes part of Sec. 1 of Ch. 67 of the R.S. 1846, being CL 1857, 2812;—CL 1871, 4309;—Am. 1881, p. 29, Act 35, Eff. Sept. 10;—How. 5772a;—Am. 1883, p. 180, Act 169, Eff. Sept. 8;—Am. 1889, p. 193, Act 168, Eff. Oct. 2;—Am. 1893, p. 323, Act 200, Eff. Aug. 28;—CL 1897, 9064;—Am. 1909, p. 663, Act 286, Eff. Sept. 1;—CL 1915, 11795;—Am. 1917, p. 847, Act 341, Eff. Aug. 10;—CL 1929, 13440;—Am. 1931, p. 126, Act 79, Eff. Sept. 18.

PERSONAL PROPERTY: See Compilers' § 702.93 et seq.

ISSUE: Defined, see Compilers' § 8.3.

702.81 Illegitimate child; heir of mother; right of representation.

Sec. 81. Every illegitimate child shall be considered as an heir of his mother, and shall inherit her estate, in like manner as if born in lawful wedlock; and shall be allowed to claim as representing his mother, any part of the estate of any of her kindred, either lineal or collateral.

HISTORY: CL 1948, 702.81. This section supersedes Sec. 2 of Ch. 67 of the R.S. 1846, being CL 1857, 2813;—CL 1871, 4310;—How. 5773a;—CL 1897, 9065;—CL 1915, 11796;—CL 1929, 13441.

702.82 Illegitimate child; descent of estate after child's death.

Sec. 82. Subject to the provisions of the preceding section, if any illegitimate child shall die intestate, without lawful issue, such part of his estate as does not descend to the husband or wife, if any, of the illegitimate child shall descend to his mother; if she be dead, it shall descend to the relatives of the intestate on the part of the mother, as if the intestate had been legitimate.

HISTORY: CL 1948, 702.82. This section supersedes with additions Sec. 3 of Ch. 67 of the R.S. 1846, being CL 1857, 2814;—CL 1871, 4311;—How. 5774a;—CL 1897, 9066;—CL 1915, 11797;—CL 1929, 13442.

702.83 Illegitimate child; acknowledgment of parentage, mode, effect, failure of mother to join in acknowledgment, execution, recording.

Sec. 83. Upon the intermarriage of the parents of a child born out of wedlock, or, in the absence of such intermarriage, upon the parents of such child, by writing under their hands, acknowledging it as their child, in either instance such child shall be legitimate with the identical status, rights and duties of a child born in lawful wedlock, effective from its birth. It shall not be necessary for the mother of such child to join in such acknowledgment in case she is disqualified to act by reason of insanity, mental incapacity, death, or if for any other reason satisfactory to the probate judge of such county, it is not practical for her to join therein. The failure of the mother of such child to join in any acknowledgment otherwise filed in accordance with the provisions of this section shall not invalidate or otherwise affect the same in any manner. Such acknowledgment shall be executed and acknowledged in the same manner by law provided for the execution and acknowledgment of deeds of real estate, and be recorded at any time in the office of the judge of probate of the county in which such father or mother of such child resided at the time of the execution and acknowledgment.

HISTORY: Am. 1941, p. 601, Act 347, Eff. Jan. 10, 1942;—CL 1948, 702.83;—Am. 1949, p. 38, Act 46, Eff. Sep. 23;—Am. 1951, p. 7, Act 7, Imd. Eff. Mar. 15;—Am. 1965, p. 257, Act 162, Imd. Eff. Jul. 15.

This section re-enacts Sec. 4 of Ch. 67 of the R.S. 1846, being CL 1857, 2815;—CL 1871, 4312;—Am. 1881, p. 48, Act 55, Eff. Sept. 10;—How. 5775a;—CL 1897, 9067;—CL 1915, 11798;—CL 1929, 13443.

702.84 Degrees of kinship; inheritance by kindred of half blood.

Sec. 84. The degrees of kindred shall be computed according to the rules of the civil law; and kindred of the half blood shall inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent, devise, or

gift of some one of his ancestors, in which case, all those who are not of the blood of such ancestor shall be excluded from such inheritance.

HISTORY: CL 1948, 702.84. This section re-enacts Sec. 5 of Ch. 67 of the R.S. 1846, being CL 1857, 2816;—CL 1871, 4313;—How. 5776a;—CL 1897, 9068;—CL 1915, 11799;—CL 1929, 13444.

702.85 Inheritance by rights of representation; posthumous children.

Sec. 85. Inheritance or succession, by "right of representation," takes place when the descendants of any deceased heir take the same share or right in the estate of another person, that their parent would have taken, if living. Posthumous children are considered as living at the death of their parent.

HISTORY: CL 1948, 702.85. This section re-enacts except changes "parents" to "parent" Sec. 13 of Ch. 67 of the R.S. 1846, being CL 1857, 2824;—CL 1871, 4321;—How. 5784;—CL 1897, 9076;—CL 1915, 11807;—CL 1929, 13452.

702.86 Adopted child; descent of real estate.

Sec. 86. Whenever any person heretofore or hereafter adopted by any person or persons, with intent to make such person an heir at law of the person or persons adopting the same, shall die intestate, leaving no issue, any real estate of which such person dies seized and which does not descend to the husband or wife, if any, of such adopted child, except such real estate as may have come to such deceased person by inheritance from his or her natural parents, shall descend to the same persons and in the same manner as though such adopted child had been the natural child of its adopting parents.

HISTORY: CL 1948, 702.86;—Am. 1954, p. 12, Act 9, Eff. Aug. 13.

This section supersedes Sec. 14 of Ch. 67 of the R.S. 1846, Add. 1891, p. 86, Act 81, Imd. Eff. May 15;—CL 1897, 9077;—CL 1915, 11808;—Am. 1923, p. 66, Act 45, Eff. Aug. 30;—CL 1929, 13453.

ADVANCEMENTS.

702.87 Advancement considered part of estate upon distribution.

Sec. 87. Any estate, real or personal, that may have been given by the intestate in his lifetime, as an advancement to any child or other lineal descendant, shall be considered as a part of the estate of the intestate, so far as it regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant towards his share of the estate of the intestate.

HISTORY: CL 1948, 702.87. This section re-enacts Sec. 6 of Ch. 67 of the R.S. 1846, being CL 1857, 2817;—CL 1871, 4314;—How. 5777a;—CL 1897, 9069;—CL 1915, 11800;—CL 1929, 13445.

702.88 Advancement; amount; determination of share of estate; refund.

Sec. 88. If the amount of such advancement shall exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement, and if the amount so received shall be less than his share, he shall be entitled to as much more as will give him his full share of the estate of the deceased.

HISTORY: CL 1948, 702.88. This section re-enacts Sec. 7 of Ch. 67 of the R.S. 1846, being CL 1857, 2818;—CL 1871, 4315;—How. 5776a;—CL 1897, 9070;—CL 1915, 11801;—CL 1929, 13446.

702.89 Advancement in real estate or personal property.

Sec. 89. If such advancement be made in real estate the value thereof shall, for the purposes mentioned in the preceding section, be considered a part of the real estate to be divided; and if it be in personal estate, it shall be considered as part of the personal estate; and if, in either case, it shall exceed the share of real or of personal estate, respectively, that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate, as will make his whole share equal to those of the other heirs who are in the same degree with him.

HISTORY: CL 1948, 702.89. This section re-enacts Sec. 8 of Ch. 67 of the R.S. 1846, being CL 1857, 2819;—CL 1871, 4316;—How. 5779;—CL 1897, 9071;—CL 1915, 11802;—CL 1929, 13447.

702.90 Advancement; gifts or grants.

Sec. 90. All gifts and grants shall be deemed to have been made in advancement, if they are expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant.

HISTORY: CL 1948, 702.90. This section re-enacts Sec. 9 of Ch. 67 of the R.S. 1846, being CL 1857, 2820;—CL 1871, 4317;—How. 5780;—CL 1897, 9072;—CL 1915, 11803;—CL 1929, 13448.

702.91 Advancement; determination of value.

Sec. 91. If the value of the estate, so advanced, shall be expressed in the conveyance, or in the charge thereof made by the intestate, or in the acknowledgment of the party receiving it, it shall be considered as of that value, in the division and distribution of the estate; otherwise it shall be estimated according to its value when given as nearly as the same can be ascertained.

HISTORY: CL 1948, 702.91. This section re-enacts Sec. 10 of Ch. 67 of the R.S. 1846, being CL 1857, 2821;—CL 1871, 4318;—How. 5781;—CL 1897, 9073;—CL 1915, 11804;—CL 1929, 13449.

702.92 Advancement; death of heir before the intestate; deduction from share of representative.

Sec. 92. If any child or other lineal descendant so advanced shall die before the intestate, leaving issue, the advancement shall be taken into consideration, in the division and distribution of the estate, and the amount thereof shall be allowed accordingly by the representatives of the heir so advanced in like manner as if the advancement had been made directly to them.

HISTORY: CL 1948, 702.92. This section re-enacts Sec. 11 of Ch. 67 of the R.S. 1846, being CL 1857, 2822;—CL 1871, 4319;—How. 5782;—CL 1897, 9074;—CL 1915, 11805;—CL 1929, 13450.

DISTRIBUTION OF PERSONAL PROPERTY.**702.93 Personal property; distribution.**

Sec. 93. When any person shall die possessed of any personal estate, or of any right or interest therein not lawfully disposed of by his last will, the same shall be applied and distributed as follows:

Widow; apparel, ornaments, household furniture and \$200 allowance.

1. The widow, if any, shall be allowed all her articles of apparel and ornaments and all wearing apparel and ornaments of the deceased, and the household furniture of the deceased, and other personal property, to be selected by her, not exceeding in value \$200.00, and the allowance shall be made as well when the widow elects not to abide by the terms of the will of her husband as when he dies intestate;

Small estate; assignment to widow and minor children.

2. If, on the return of the inventory of any intestate estate, it shall appear that the value of the balance of the estate does not exceed the sum of \$150.00 over and above expenses of administration and the allowances for widow and minor children as provided in this chapter, the probate court may by an order for that purpose apply that portion of such balance of the estate which is in excess of the expenses of administration and the allowances for widow and minor children to the payment of funeral charges, and assign the residue for the use and support of the widow and minor children of such intestate;

Payment of claims and allowances.

3. If the balance of the estate shall amount to more than \$150.00 over and above the expenses of administration and the allowances mentioned in the preceding subdivision

of this section, the same shall be applied to the payment of claims allowed against the estate, and the allowances, if any, for children under the age of 16 years of a deceased man, or of a deceased woman, who was at the time of her death the sole living parent of such minor children or where such minor children were principally supported by such deceased woman;

Residue of estate; deceased man.

4. The residue, if any, of the personal estate shall be distributed as follows: One-third thereof to the widow of the deceased, and the remaining $\frac{2}{3}$ to his children, or the issue of any deceased child or children, if any there be, by right of representation, except that if there be but 1 child, or the issue of such child living, then to the widow $\frac{1}{2}$ of such residue and to such child, or the issue thereof, the other half, and if there be no widow or child of the intestate living at his death, his estate shall be distributed to all his lineal descendants and if all such descendants are in same degree of kindred to the intestate, they shall share the estate equally, otherwise they shall take by right of representation. In case the deceased shall leave a widow and no children, or the issue of any deceased child surviving him, then such residue, if it shall not exceed the sum of \$3,000.00, shall go to such widow, and if it exceed the sum of \$3,000.00, such excess shall be distributed, $\frac{1}{2}$ to such widow and the other half to the father and mother of the deceased, if living, in equal shares; if either parent be deceased, such share shall go to the survivor, and if both parents be deceased, such share shall be distributed equally to the brothers and sisters and the children of any deceased brother or sister by right of representation. And if there shall be neither father nor mother, nor brother nor sister, nor children of any deceased brother or sister surviving, then such residue shall go to the widow. In any other case the residue, if any, of the personal estate shall be distributed in the same proportion and to the same persons, and for the same purposes, as prescribed for the descent and disposition of the real estate;

Same; deceased married woman.

5. In case any married woman shall die possessed of any personal estate, her sole property, or any right or interest therein not lawfully disposed of by her last will and testament, the same shall, after the debts of the deceased, funeral charges and expenses of administration are paid, be distributed as follows: One-third to the husband, and the remaining $\frac{2}{3}$ to her children, or the issue of any deceased child or children, if any there be, by right of representation, except that if there be but 1 child, or the issue of a deceased child surviving her, then such residue shall be divided between such husband and such child, or the issue of such deceased child, as aforesaid, in equal proportions, and if there be no husband or child of the intestate living at her death, her estate shall be distributed to all her lineal descendants, and if all said descendants are in the same degree of kindred to the intestate, they shall share the estate equally, otherwise they shall take by right of representation. If there shall be no child, or issue of any deceased child surviving her, $\frac{1}{2}$ of said residue shall go to the husband of the deceased and the other half to her father and mother, if living, in equal shares. If either parent be deceased, such shares shall go to the survivor, and if both parents be deceased, such shares shall be distributed equally to the brothers and sisters and the children of any deceased brother or sister, by right of representation; and if there shall be neither father nor mother, nor brother nor sister, nor children of any deceased brother or sister surviving, then such residue shall go to the surviving husband; in any other case the residue, if any, of the personal estate shall be distributed in the same proportion and to the same persons, and for the same purposes as prescribed for the descent and disposition of the real estate.

HISTORY: CL 1948, 702.93;—Am. 1949, p. 86, Act 78, Imd. Eff. May 10;—Am. 1951, p. 185, Act 152, Eff. Sep. 28;—Am. 1955, p. 150, Act 101, Imd. Eff. Jun. 2.

This section supersedes part of Sec. 1 of Ch. LVII of Act 314 of 1915, being CL 1915, 13913;—Am. 1923, p. 364, Act 225, Eff. Aug. 30;—CL 1929, 15726.

702.94 Personal property; adopted child.

Sec. 94. All personal property of an adopted child, dying intestate, shall be distributed to the same persons and in the same manner as though such adopted child had been the natural child of its adopting parents.

HISTORY: CL 1948, 702.94. This section re-enacts part of Sec. 1 of Ch. LVII of Act 314 of 1915, being CL 1915, 13913;—CL 1929, 15728.

PRIORITY OF CHARGES AND ASSIGNMENT OF RESIDUE.**702.95 Charges against estate; priority; assignment of personal property; reserve for taxes; life estate, trustee, bond, accounting.**

Sec. 95. The charges against an estate shall be paid in the following order of priority, viz., expenses of administration, widow's priority share in the personal estate under section 93, subsection 1, of this chapter, allowances made for the widow and minor children, claims allowed against the estate, and the allowances, if any, for children under the age of 16 years of a deceased man, or of a deceased woman, who was at the time of her decease the sole living parent of such children or where such minor children were principally supported by such deceased woman. After the payment of the foregoing charges, or when sufficient assets shall be reserved in the hands of the executor or administrator for each of the above purposes, the probate court shall, by order for that purpose, assign the residue of the estate, if any, to such persons as are by law entitled to the same subject to the right of the executor or administrator to withhold and pay from such residue all inheritance and estate taxes payable therefrom: Provided, however, That when 1 or more persons has a life estate in, or the right to the use or income, for life, of personal property without unlimited power to take or exhaust such personal property, the probate court shall either appoint a trustee to whom such residue of personal property shall be assigned in trust for the life tenant for the duration of his estate, or require a bond with sufficient surety from the life tenant conditioned on his accounting for said personal property, and the trustee thus appointed or the life tenant furnishing bonds shall render annual accounts to the probate court in the same manner as that for which provision is made in the case of testamentary trustees.

HISTORY: CL 1948, 702.95;—Am. 1949, p. 87, Act 78, Imd. Eff. May 10;—Am. 1955, p. 152, Act 101, Imd. Eff. Jun. 2.

See Sec. 3 of Ch. LVII of Act 314 of 1915, being CL 1915, 13915;—CL 1929, 15728.

702.96 Assignment of residue; contents; assignees' right to possession of property, time, withheld share of taxes.

Sec. 96. In such order the court shall state the date of death of the decedent and shall name the persons and the proportions or parts to which each shall be entitled; and such persons shall have the right to demand and recover their respective shares from the executor or administrator, or any other person having the same or any part thereof, after the expiration of 60 days from the date of such order, unless an appeal shall have been taken therefrom, in which case they shall have the same right immediately upon the final termination of such appeal, subject to the right of the executor or administrator to withhold and pay from the share of each such person the just proportion of any inheritance and estate taxes payable from the residue of the estate.

HISTORY: CL 1948, 702.96;—Am. 1955, p. 152, Act 101, Imd. Eff. Jun. 2.

This section supersedes Sec. 4 of Ch. LVII of Act 314 of 1915, being CL 1915, 13916;—CL 1929, 15729.

702.97 Assignment of residue; application for order; bond of heir to secure payment of share of debts and expenses; liability of widow's share for federal taxes.

Sec. 97. Such order may be made on the application of the executor or administrator, or of any person interested in the estate, but no heir, devisee or legatee shall be entitled to an order for his share, until payment of the debts, allowances, expenses and inheritance and estate taxes mentioned in sections 95 and 96 of this chapter shall have

been made or provided for, unless he shall give a bond to the judge of probate, with such surety or sureties as the court may direct, to secure the payment of his just proportion of such debts, allowances, expenses, and inheritance and estate taxes or such part thereof as shall remain unprovided for, and to indemnify the executor or administrator against the same.

In determining the just proportion of any federal estate taxes payable out of any such share, unless otherwise required by the will of the decedent, the share of the widow or husband of the decedent as valued for federal estate tax purposes, computed without deduction of any federal estate taxes, shall be free from such taxes to the extent that the sum of (1) the amount of such share so valued and computed and (2) the value for federal estate tax purposes, computed without deduction of any federal estate taxes, of interests in property which pass or have passed to said widow or husband other than by the will or intestacy of the decedent and with respect to which a deduction is allowed in determining the marital deduction for federal estate tax purposes, does not exceed an amount equal to 50% of the value of the adjusted gross estate of the decedent computed as required in determining the aggregate amount of the marital deductions for federal estate tax purposes; it being the purpose and intent of this provision that, unless otherwise directed by the will of the decedent, the widow or husband of the decedent shall be afforded the maximum advantage of the marital deduction allowable for federal estate tax purposes under those provisions of the revenue laws of the United States which are applicable to the estate of the decedent.

HISTORY: CL 1948, 702.97;—Am. 1955, p. 152, Act 10, Imd. Eff. Jun. 2.

This section as originally enacted re-enacted except changes word "decree" to "order" in two places, Sec. 5 of Ch. LVII of Act 314 of 1915, being CL 1915, 13917;—CL 1929, 15730.

PARTITION AND DISTRIBUTION.

702.98 Partition; real and personal estate assigned to two or more heirs; effect of partition prior to assignment.

Sec. 98. When the estate, real or personal, assigned to 2 or more heirs, devisees or legatees shall be in common and undivided, and the respective shares shall not be separated and distinguished, and the widow's dower shall have been assigned and set off to her, if she be entitled to a dower, the probate court may on the petition of any of the persons interested fix a date for hearing on the partition and distribution and give due notice thereof to all interested parties, and shall appoint 2 disinterested persons who shall investigate the property and make their recommendations to the court in writing. After hearing the report of such disinterested persons and the testimony offered by any other interested party, the court shall enter an order in his discretion: Provided, That where a partition and distribution has been made by a judge of probate before an assignment to the heirs, legatees and devisees has been had, and such partition and distribution has been accepted or acquiesced in by such of them as said estate has afterwards been assigned to and has been in effect for 15 years and upwards, such partition and distribution shall be taken and deemed as against the heirs, legatees and devisees, to whom such estate shall have been later assigned, and all persons claiming under or through them, after the lapse of 15 years from the date of such assignment, as valid and effectual to convey the legal title of the premises therein described as if such partition and distribution had been had after the real and personal estate had been assigned to such heirs, devisees or legatees.

HISTORY: CL 1948, 702.98. This section supersedes Sec. 6 of Ch. LVII of Act 314 of 1915, being CL 1915, 13918;—Am. 1927, p. 901, Act 378, Eff. Sept. 5;—CL 1929, 15731.

702.99 Partition; real estate situated in different counties.

Sec. 99. If the real estate shall lie in different counties, the probate court may, if it shall be judged proper, appoint different disinterested persons for each county, and in such case, the estate in each county shall be divided separately, as if there was no

other estate to be divided; but the disinterested persons first appointed shall, unless otherwise directed by the probate court, report on the division of such real estate, wherever situated within this state.

HISTORY: CL 1948, 702.99. This section supersedes Sec. 7 of Ch. LVII of Act 314 of 1915, being CL 1915, 13919;—CL 1929, 15732.

702.100 Partition; notice of hearing.

Sec. 100. Before any partition shall be ordered, as directed in this chapter, notice shall be given to all persons interested, as provided in sections 32 to 35 of chapter 1 of this act.

HISTORY: CL 1948, 702.100. This section supersedes Sec. 8 of Ch. LVII of Act 314 of 1915, being CL 1915, 13920;—CL 1929, 15733.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

702.101 Partition; prior conveyance by heirs.

Sec. 101. Partition of the estate may be made, as provided in this chapter, although some of the original heirs, devisees or legatees may have conveyed their shares to other persons; and such shares shall be set out to the persons holding the same, in the same manner as they otherwise should have been to such heirs, devisees or legatees.

HISTORY: CL 1948, 702.101. This section supersedes Sec. 9 of Ch. LVII of Act 314 of 1915, being CL 1915, 13921;—CL 1929, 15734.

702.102 Partition; real and personal property; manner of division.

Sec. 102. The several shares in the real and personal estate shall be set out to each individual in proportion to his right, by such metes and bounds or description, that the same may be easily distinguished, unless any 2 or more of the parties interested shall consent to have their share, or any portion thereof, set out so as to be held in common and undivided, in which case the same shall be set out according to such consent; and where the estate shall consist in whole or in part of money, due or to become due on contract made by the deceased for the sale of real estate, the land described in such contract shall be set off in fee, with the contract, to the individual entitled to such contract, but subject to the terms thereof.

HISTORY: CL 1948, 702.102. This section re-enacts Sec. 10 of Ch. LVII of Act 314 of 1915, being CL 1915, 13922;—CL 1929, 15735.

702.103 Real estate; assignment of entire parcel to one party; securing shares of other parties.

Sec. 103. When any such real estate cannot be divided without prejudice or inconvenience to the owners, the probate court may assign the whole to 1 or more of the parties entitled to shares therein, who will accept it: Provided, That the party so accepting the whole shall pay to the other parties interested their just proportion of the true value thereof, or shall secure the same to their satisfaction; and the true value of the estate shall be ascertained by 2 disinterested persons appointed by the probate court, and sworn for that purpose.

HISTORY: CL 1948, 702.103. This section supersedes Sec. 11 of Ch. LVII of Act 314 of 1915, being CL 1915, 13923;—CL 1929, 15736.

702.104 Real estate; assignment of entire parcel to one party; payment award to other owners prior to final order.

Sec. 104. When any parcel of real estate or any item of personal property shall be of greater value than either party's share in the estate to be divided, and cannot be divided without injury to the same, it may be set off by the court to either of the parties who will accept it: Provided, That the party so accepting it shall pay or secure to 1 or more of the others such sums as the court shall award to make the partition equal, and the court shall make its award, accordingly; but such partition shall not be established by the court, until the sum so awarded shall be paid to the parties entitled to the same, or secured to their satisfaction.

HISTORY: CL 1948, 702.104. This section supersedes Sec. 12 of Ch. LVII of Act 314 of 1915, being CL 1915, 13924;—CL 1929, 15737.

702.105 Partition; estate of tenant in common.

Sec. 105. When partition of real estate among heirs or devisees shall be required, or dower is to be assigned to a widow in the same, and such real estate shall be in common and undivided with the real estate of any other person, such other person shall be made a party to all proceedings, and the court shall first divide and sever the estate of the deceased from the estate with which it lies in common, and such division so made and established by an order of the probate court, shall be binding on all the persons interested.

HISTORY: CL 1948, 702.105. This section re-enacts except changes word "commissioners" to "court" Sec. 13 of Ch. LVII of Act 314 of 1915, being CL 1915, 13925;—CL 1929, 15738.

702.106 Minors and insane owners; appointment of guardian; trustee for nonresidents.

Sec. 106. Before any partition shall be made, or any estate divided, as provided in this chapter, guardians shall be appointed for all minors and insane persons interested in the estate to be divided; and some discreet person shall be appointed to act as trustee for such parties as shall reside out of the state, if they do not appear; and notice of the appointment of such trustees shall be given to said disinterested persons in their warrant; and notice shall be given to all the parties interested in the partition, their guardians or trustees, by said disinterested persons, of the time when they shall proceed to make their recommendation for partition.

HISTORY: CL 1948, 702.106. This section supersedes Sec. 14 of Ch. LVII of Act 314 of 1915, being CL 1915, 13926;—CL 1929, 15739.

702.107 Partition of residue of estate unnecessary unless requested.

Sec. 107. When the probate court shall make an order assigning the residue of any estate to 1 or more persons entitled to the same, it shall not be necessary to make partition or distribution of such estate, unless the parties to whom the assignment shall be ordered or any of them shall request that such partition be made.

HISTORY: CL 1948, 702.107. This section supersedes Sec. 16 of Ch. LVII of Act 314 of 1915, being CL 1915, 13928;—CL 1929, 15741.

702.108 Partition; order binding upon heirs and lesser claimants; recording of order.

Sec. 108. The partition, when finally confirmed and established, shall be conclusive on all the heirs and devisees, and all persons claiming under them, and upon all persons interested; and the judge of probate shall cause a duly certified copy of the order to be recorded in the office of the register of deeds for the county, and the expense thereof shall be a charge against the estate, to be paid out of the funds thereof in the same manner as other costs of administration; and such record shall be notice of all matters therein contained, and shall be evidence thereof.

HISTORY: CL 1948, 702.108. This section re-enacts except changes "report" to "order" Sec. 19 of Ch. LVII of Act 314 of 1915, being CL 1915, 13931;—CL 1929, 15744.

702.109 Partition; expenses paid by executor or administrator.

Sec. 109. If, at the time of the partition or distribution of any estate as provided in this chapter, the executor or administrator shall have retained sufficient effects in his hands, which may lawfully be applied for that purpose, the expenses of such partition or distribution may be paid by such executor or administrator, when it shall appear to the court just and equitable, and not inconsistent with the intention of the testator.

HISTORY: CL 1948, 702.109. This section re-enacts Sec. 20 of Ch. LVII of Act 314 of 1915, being CL 1915, 13932;—CL 1929, 15745.

702.110 Partition; expenses paid by interested parties; execution.

Sec. 110. But if there are no effects in the hands of the executor or administrator which may be lawfully applied to that purpose, the expenses and charges of the partition, being ascertained by the probate court, shall be paid by all the parties interested in the partition, in proportion to their respective shares or interests in the premises; and the proportions shall be settled and allowed by the probate court; and if any one

shall neglect to pay the sum assessed on him by the court, an execution may be issued therefor against him by such court, in favor of the persons entitled to the same.

HISTORY: CL 1948, 702.110. This section re-enacts Sec. 21 of Ch. LVII of Act 314 of 1915, being CL 1915, 13933;—CL 1929, 15746.

702.111 Partition; expiration of term of widow.

Sec. 111. When the term of a widow entitled to dower or other life estate in the lands of a deceased person shall expire, the reversion may be assigned to the persons entitled to the same, and partition thereof be made, in the manner prescribed in this chapter in relation to other estates of deceased persons.

HISTORY: CL 1948, 702.111. This section re-enacts Sec. 22 of Ch. LVII of Act 314 of 1915, being CL 1915, 13934;—CL 1929, 15747.

702.112 Non-resident assignee; appointment of trustee upon assignment of estate.

Sec. 112. When any estate shall be assigned by order of the court, as provided in this chapter, to any person residing out of this state, and having no agent therein, and it shall be necessary that some person should be authorized to take possession and charge of the same, for the benefit of such absent person, the court may appoint a trustee for that purpose, and authorize him to take charge of such estate, as well as to act for such absent person in the partition and distribution.

HISTORY: CL 1948, 702.112. This section supersedes Sec. 23 of Ch. LVII of Act 314 of 1915, being CL 1915, 13935;—CL 1929, 15748.

702.113 Non-resident assignee; trustee, bond, approval, compensation.

Sec. 113. Such trustee shall give a bond to the judge of probate, to be approved by him, faithfully to manage and account for such estate, before he shall be authorized to receive the same, and the court appointing such trustee may allow a reasonable sum out of such estate for his services and expenses.

HISTORY: CL 1948, 702.113. This section supersedes Sec. 24 of Ch. LVII of Act 314 of 1915, being CL 1915, 13936;—CL 1929, 15749.

702.113a Money payable to minor; limitations; effect.

Sec. 113a. Moneys not exceeding \$1,500.00, payable to a minor who has no guardian of his estate, may be paid to said minor if married or, if unmarried, to his parents, or a surviving or sole parent, with whom he resides in the following situations:

- (a) The minor is a legatee under a will.
- (b) The minor is an heir at law of an estate.
- (c) The minor is entitled to damages or any other moneys under a settlement of a liability and release which has been approved by a judge of probate.
- (d) The minor is a beneficiary of a trust, either testamentary or living, and the annual benefits due him do not exceed \$1,500.00.
- (e) The minor is entitled to moneys from any other source, excepting compensation earned in fulfillment of a contract for the services of the minor in the entertainment field, including but not limited to acting, dancing, vocal or instrumental music and professional sports. Application of this section shall not be limited by the total number of minor children in any one family to whom payment of moneys not exceeding \$1,500.00 per child might be due.

Payment of moneys to a married minor, parents, or a surviving or sole parent, shall be a discharge for such moneys due the minor and settlement and release of a liability under this section shall be binding upon the minor and as valid as if made by a duly qualified guardian of a minor's estate.

In any estate of a minor in which the only assets are cash and other personal property of the total value of \$1,500.00 or less with the estate having no reasonable expectation of receiving any further assets, the probate court may order such assets turned over to the minor if he is married or, if unmarried, to his parents, or a surviving or sole parent, with whom he resides.

HISTORY: Add. 1967, p. 231, Act 167, Imd. Eff. Jun. 30;—Am. 1970, p. 553, Act 190, Imd. Eff. Aug. 6.

SETTLEMENT OF DEATH AND SURVIVAL ACTIONS—
DISTRIBUTION OF PROCEEDS.

702.114 Settlement of cause of action; approval by court.

Sec. 114. When, for the purpose of settling any claim or any final judgment rendered for damages for wrongful death or existing under the laws of this state relating to the survival of actions, the probate court is petitioned in writing by an executor or administrator asking leave to settle such claim, the court may, with or without notice, conduct a hearing and approve or reject such settlement.

HISTORY: CL 1948, 702.114.

702.115 Proceeds of settlement for wrongful death; distribution; procedure for determination.

Sec. 115. The proceeds of any settlement of a cause of action for wrongful death, or the proceeds of a judgment recovered in an action for damages for wrongful death, shall be distributed in such manner, to such persons, and in such amounts as herein-after set forth:

(1) The executor or administrator shall file with the probate court his petition for authority to distribute such proceeds; and upon the filing of such petition the court shall set a date for hearing thereon, which hearing may be held at the time of the hearing on the executor's or administrator's final account.

(2) Notice of such hearing shall be given to all persons entitled to the personal property of the decedent and to all persons specifically designated in subsection (2) of section 2922 of Act No. 236 of the Public Acts of 1961, being section 600.2922 of the Compiled Laws of 1948, as entitled to recover such proceeds, either by personal service or service by registered or certified mail as provided in sections 32 to 35 of chapter 1 of this act, as the court may by its order direct. Any legally competent person may waive notice of such service in the manner provided in section 34 of chapter 1 of this act.

(3) If any of the persons interested as aforesaid shall be a minor or an incompetent for whom no guardian is acting, a guardian or guardian ad litem shall be first appointed and notice as provided in subsection 2 above shall be given to the guardian or guardian ad litem of such minor or incompetent.

(4) After hearing on the petition of the executor or administrator, the probate court shall enter an order distributing such proceeds only to those persons specifically designated in subsection (2) of section 2922 of Act No. 236 of the Public Acts of 1961, as entitled to recover them and in such amounts as to said court shall seem fair and equitable considering the relative damages sustained by each of such persons by reason of the decedent's wrongful death. If the proceeds which are to be distributed are proceeds of a judgment recovered in a court which has issued a certificate, as may be provided by law, relative to the damages sustained by each of such persons, distribution of such proceeds shall, in the absence of written objections thereto filed by any interested party following service of notice as required by this section, be ordered in accordance with such certificate.

The provisions of this section shall not apply to cases arising under the laws of this state relating to the survival of actions.

(5) In case none of the persons entitled to such proceeds as aforesaid is either a minor or an incompetent and all of such persons shall execute a stipulation or agreement in writing and acknowledged, as provided in section 34, chapter 1 of this act, in which is specified the portion of such proceeds to be distributed to each of such persons, the order of the probate court shall be entered in accordance with such stipulation or agreement.

(6) The probate court, in its order shall provide that before distribution of such proceeds be made, the reasonable medical, hospital, funeral and burial expenses of the decedent for which the estate is liable be paid therefrom, but such proceeds shall not be liable for the payment of any other charges against the estate of the decedent.

HISTORY: New section;—CL 1948, 702.115;—Am. 1965, p. 282, Act 181, Imd. Eff. Jul. 15.

CERTIFICATE OF SURVIVORSHIP.

702.116 Certificate upon death of life tenant, joint tenant or tenant by entirety of real estate; recording, effect.

Sec. 116. Whenever a person has died or shall hereafter die who was, during his or her lifetime, entitled to an estate for life in any real estate in this state, or upon whose death an estate is limited, or whenever 1 joint tenant or tenant by the entirety in any real estate has died or may hereafter die leaving surviving his cotenant, the probate judge of the county in which any such real estate is situated shall, upon application by duly verified petition of any person interested in such real estate and due proof of the facts, issue under the seal of such court a certificate setting forth the fact of the death of such life tenant or joint tenant or tenant by the entirety, and other facts essential to a determination of the rights of the parties interested, which certificate or a certified copy thereof may be recorded in the office of the register of deeds of any county in which any such real estate is situated, and shall be prima facie evidence of the facts therein recited.

HISTORY: CL 1948, 702.116. This section re-enacts with addition of words "or upon whose death an estate is limited" Sec. 1 of Act 227 of 1925, being CL 1929, 13504.

702.117 Certificate upon death of joint tenant of personal property; filing; effect.

Sec. 117. Whenever 1 joint tenant in any personal property has died or may hereafter die leaving surviving his cotenant, the probate judge of the county of which the said deceased was a resident shall, upon application by duly verified petition of any person interested in such personal property and due proof of the facts, issue under the seal of such court, a certificate setting forth the fact of the death of such joint tenant, and other facts essential to a determination of the rights of the parties interested, which certificate or a certified copy thereof may be filed in the office of the register of deeds of the county, where such personal property is located and also where the said deceased resided, and shall be prima facie evidence of the facts therein recited.

HISTORY: CL 1948, 702.117. This section supersedes Sec. 2 of Act 227 of 1925, Add. 1927, p. 201, Act 141, Eff. Sept. 5, being CL 1929, 13505.

CHAPTER III. GUARDIANS AND WARDS.

703.1	Guardians of wards and estates; appointment by probate court.	703.18	Accounts, claims and suits of ward; authority of guardian.
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703.17	Guardian of estate; management of debts and expenses of ward; payment from estate; death of ward before payment of claims; estate closed before claim allowed.	703.34	Minor heir above age of fourteen; petition for appointment of fiduciary.

703.1 Guardians of wards and estates; appointment by probate court.

Sec. 1. The judge of probate in each county may, in all proper cases, appoint guardians of inhabitants or residents in his county, and also to such as reside without the state, and have any estate within his county, as follows:

(1) Of the estate of all minors having any estate within Michigan;

(2) Of the person of all such minors who are inhabitants or residents in his county, and have no father or mother living, competent and suitable to have the custody and care of the education of such minor, and of any minor who has 1 parent who is competent and suitable and another who though able to support and care for the education of said child, or assist therein, has nevertheless failed and neglected so to do, for a period of 1 year before the application for such guardianship. The probate court shall have jurisdiction concerning the appointment of such guardian superior to and regardless of jurisdiction of the circuit court in chancery arising out of any action for divorce or separate maintenance. The court may appoint the competent and suitable parent and no bond shall be required of a guardian of the person of a minor;

(3) Of any person, who by excessive drinking, or by gaming, idleness or debauchery of any kind, shall so spend, waste or lessen his estate as to expose himself or his family to danger or want, or suffering, or the county to charge or expense for the support of himself or his family;

(4) Of all persons who are insane, imbecile, idiotic, or who by reason of old age or disease are mentally incompetent to have the care, custody and management of their estate;

(5) Of the estate, but not of the person, as against the rights of the spouse, of any married person who shall be insane, or otherwise mentally incompetent to have the charge of her property;

(6) Of the person of any one being a resident of his county, who shall be an habitual drunkard, or so addicted to the excessive use of intoxicating liquors or narcotic drugs, as to need medical or sanatory treatment and care; and

(7) Of the estate of a person who is mentally competent, but who by reason of age or physical infirmity is incapable of the care, custody and management of his estate, and who shall voluntarily petition the judge of probate for the appointment of a guardian, such guardian, before he enter upon the execution of his trust, and before letters of his authority shall be granted to him, shall give a bond in such reasonable form and amount as the judge of probate may direct.

HISTORY: Am. 1945, p. 572, Act 324, Eff. Sep. 6;—Am. 1947, p. 682, Act 358, Eff. Oct. 11;—CL 1948, 703.1;—Am. 1965, p. 111, Act 79, Imd. Eff. Jun. 24.

This section as originally enacted re-enacted Sec. 1 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13950;—CL 1929, 15763.

703.2 Guardians of wards and estates; petition, eligibility to file; notice of hearing; husband or wife may testify against one another.

Sec. 2. Petitions for the appointment of guardians may be made by any minor over 14 years of age, in his own behalf, by the father, mother, spouse or next of kin of any person, by the county department of social welfare, or any official thereof, the supervisor of any township or ward, or in the cases of mentally incompetent veterans, by any resident official of the Grand Army of the Republic, United Spanish War Veterans, Veterans of Foreign Wars, Military Order of Foreign Wars, Military Order of World Wars, Disabled War Veterans, or American Legion, or any officer of any veteran organization which is incorporated under an act of congress, or by any other person whom the judge of probate, upon examination into the facts and circumstances of any particular case, shall determine to be a proper person to make such petition: Provided, That the husband or wife shall be permitted to testify against one another in the matter of petitioning for the appointment of a guardian. In the cases mentioned in the third, fourth and sixth subdivisions of the preceding section, the judge of probate shall fix a time for the hearing of such petition and shall cause personal service of the notice of such hearing to be made on the respondent and next of kin, and such other persons as the judge of probate shall direct, at least 14 days before the time of such hearing, except that in the cases mentioned in subdivision 6 of section 1 of this chapter, said notice shall be given at least 2 days before the time of such hearing: Provided, however, That where the next of kin and such other persons as the judge of probate shall direct are not living in the same county where the petition is filed, service may be made by sending a copy of said notice by registered mail. In all other cases notice of the time and place of the hearing of such petition shall be given as is now or may hereafter be provided by law or rule of court.

HISTORY: CL 1948, 703.2;—Am. 1954, p. 101, Act 82, Eff. Aug. 13.

This section supersedes Sec. 2 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13951;—Am. 1925, p. 24, Act 16, Eff. Aug. 27;—CL 1929, 15764.

703.3 Guardian of minor; nomination and approval.

Sec. 3. If the minor is under the age of 14 years, the judge of probate may nominate and appoint his guardian, and if he is above the age of 14 years, he may nominate his own guardian, who, if approved by the judge, shall be appointed accordingly.

HISTORY: CL 1948, 703.3. This section re-enacts Sec. 3 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13952;—CL 1929, 15765.

703.4 Guardian of minor; appointment by court when minor is over fourteen.

Sec. 4. If the guardian nominated by such minor shall not be approved by the judge, or if the minor shall reside out of this state, or if after being cited by the judge, he shall neglect for 10 days to nominate a suitable person, the judge may nominate and appoint the guardian in the same manner as if the minor were under the age of 14 years.

HISTORY: CL 1948, 703.4. This section re-enacts part of Sec. 4 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13953;—Am. 1921, p. 303, Act 142, Eff. Aug. 18;—CL 1929, 15766.

703.5 Guardian of minor; certification of nomination.

Sec. 5. When such minor, being above the age of 14 years, shall reside more than 10 miles from the place of holding the probate court, his nomination of a guardian, made in writing, and signed by himself, may be certified to the judge of probate by a justice of the peace, or by the township clerk of the township in which such minor resides, or by a notary public, which shall have the same effect as if made in the presence of the judge: Provided, That if such minor shall be temporarily away from the state, in any other state or territory of the United States, such nomination may be certified with like effect, by any civil or military officer of the United States, in such state or territory, holding a commission from the president of the United States, or by a judge of a court of record in such state or territory.

HISTORY: CL 1948, 703.5. This section supersedes Sec. 5 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13954;—Am. 1917, p. 104, Act 60, Eff. Aug. 10;—CL 1929, 15767.

703.6 Minor; parent's right of custody and care of education; parent's consent to action by minor.

Sec. 6. The father or mother of the minor, and if 1 of them be deceased, then the survivor thereof, being respectively competent to transact their own business, and otherwise suitable, shall be entitled to the custody of the person of the minor and to the care of his education, and whenever by law the consent of the parents of a minor is necessary to any action by the minor, and the parents are separated or divorced, the parent or parents having custody of the minor by court order, shall be entitled to give or withhold the consent: Provided, That if the judge of probate of the proper county shall in any case, after an examination into the facts, make an order declaring either or both of the parents incompetent or unsuitable to have the custody of the person or the care of the education of the minor, in such cases the guardian appointed by the probate judge shall have the custody of the person of the minor and the care of his or her education.

HISTORY: CL 1948, 703.6;—Am. 1951, p. 24, Act 20, Eff. Sep. 28.

This section re-enacts Sec. 6 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13955;—Am. 1921, p. 628, Act 344, Eff. Aug. 18;—CL 1929, 15768.

703.7 Minor; guardian's custody and care of education.

Sec. 7. If the minor have no father or mother living competent and suitable to have the custody of the person and care of the education of such minor, the guardian so appointed shall have the custody of the person and care of the education of such minor.

HISTORY: CL 1948, 703.7. This section re-enacts Sec. 7 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13956;—CL 1929, 15769.

703.8 Minor; continuation of guardianship until age twenty-one.

Sec. 8. Every guardian appointed as aforesaid shall have the care and management of the estate of the minor, and when the probate judge shall have made an order giving such guardian the custody and care of the person of such minor, such guardian

shall continue to have the care and custody of the person and education of the minor, until such minor shall arrive at the age of 21 years, or until the guardian shall be discharged according to law.

HISTORY: CL 1948, 703.8. This section re-enacts Sec. 8 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13857;—CL 1929, 15770.

703.9 Minor; estate, use for maintenance and education when father living.

Sec. 9. If any minor, who has a father living, has property which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income or principal of his own property in whole or in part, as shall be judged reasonable, and shall be directed by the probate court, and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

HISTORY: CL 1948, 703.9. This section re-enacts Sec. 9 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13858;—CL 1929, 15771.

703.10 Minor; testamentary guardian; appointment by surviving parent, exception.

Sec. 10. In case of the death of either father or mother, the surviving parent may, by last will in writing, appoint a guardian or guardians for any of his or her children to continue during the minority of the child, or for any less time, and every such testamentary guardian shall have the same powers and shall perform the same duties with regard to the person and estate of the ward as a guardian appointed by the judge of probate: Provided, That when both father and mother are dead, and where it appears that the father or mother attempting to appoint such testamentary guardian was not a resident of this state, and had not the custody or control of such infant or infants prior to his or her death, but that such infants were under the lawful control of citizens of this state for 1 year or upwards prior to such death, or when a citizen of this state shall have lawful custody of an orphan child or children, and shall have been appointed guardian thereof by the probate court of the county where said child or children reside, it shall not be competent by will to transfer such control from such citizen or from the guardian so appointed to the testamentary guardian, and all wills heretofore made shall be subject to the provisions of this section.

HISTORY: CL 1948, 703.10. This section re-enacts Sec. 19 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13959;—Am. 1921, p. 626, Act 344, Eff. Aug. 18;—CL 1929, 15772.

703.11 Special guardian; appointment by court; powers; bond.

Sec. 11. The judge of probate of any county, upon a proper showing, upon such notice as he shall direct, pending any application for the appointment of a general guardian as aforesaid, or pending any appeal or litigation in relation to the appointment of such general guardian, may, if he shall deem it fit and proper, under the circumstances of the case, appoint a special guardian of such person. Such special guardian shall in proper cases, and when so ordered by the court, have the care and custody of the person of his ward and the management of all his estate, and shall give the bond specified in section 2 of chapter 4 of this act. He shall hold his office until the question of appointment of a general guardian be decided, or until he shall be discharged by the judge of probate.

HISTORY: CL 1948, 703.11. This section supersedes Sec. 12 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13961;—CL 1929, 15774.

NOTE: Sec. 2, Ch. 4, above referred to, is Compilers' § 704.2.

CITED IN OTHER SECTIONS: The above section is cited in § 330.20.

703.12 Guardian ad litem; appointment; powers; employment of counsel.

Sec. 12. Except as otherwise provided by law, the probate court having jurisdiction shall have authority, in such cases as shall be necessary to protect the interests of a minor or incompetent person, or a person who is not born, or whose present existence

cannot after diligent search and inquiry be ascertained, to appoint a guardian ad litem for such person, who shall, subject to the approval of the judge of probate, be authorized to engage counsel and do whatever shall be necessary to defend and protect the interests of such person.

HISTORY: CL 1948, 703.12.

703.13 Spendthrift; definition.

Sec. 13. The word "spendthrift" in all the provisions relating to guardians and wards, contained in this or any other statute, is intended to include every person who is liable to be put under guardianship on account of excessive drinking, gaming, idleness or debauchery.

HISTORY: CL 1948, 703.13. This section re-enacts Sec. 15 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13964;—CL 1929, 15777.

703.14 Spendthrift; guardian, application for appointment; effect of notice.

Sec. 14. After the order for notice of hearing upon petition for the appointment of a guardian for a spendthrift has been issued, the petitioner may cause a copy of the petition, with the order for such notice, to be recorded in the office of the register of deeds for the county, and if a guardian shall be appointed upon such application, all contracts, except for necessities at reasonable prices, and all gifts, sales and transfers of real or personal estate made by such spendthrift after the recording of a copy of such petition and order as aforesaid, and before the termination of the guardianship, shall be utterly void.

HISTORY: CL 1948, 703.14;—Am. 1958, p. 79, Act 69, Eff. Sep. 13.

This section re-enacts with addition of words "of hearing upon petition" Sec. 16 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13965;—CL 1929, 15778.

703.15 Spendthrift or insane person; guardian, expenses in contesting appointment.

Sec. 15. When a guardian shall be appointed for an insane person or a spendthrift, the judge shall make an allowance to be paid by the guardian, for all reasonable expenses incurred by the ward in defending himself against the petition.

HISTORY: CL 1948, 703.15. This section re-enacts Sec. 17 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13966;—CL 1929, 15779.

703.16 Spendthrift; guardian's care and custody of person and estate.

Sec. 16. Every guardian appointed for a spendthrift shall have the care and custody of the person of the ward, and the management of all his estate, until the guardian shall be legally discharged.

HISTORY: CL 1948, 703.16. This section re-enacts Sec. 18 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13967;—CL 1929, 15780.

703.17 Guardian of estate; management of debts and expenses of ward; payment from estate; death of ward before payment of claims; estate closed before claim allowed.

Sec. 17. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, shall frugally and without waste, manage the estate of his ward, shall pay all just debts due from the ward and all expenses incurred in the care, support or comfortable and suitable maintenance of such ward, and his family if there be any, as may be approved by the judge of probate, either upon a petition filed therefor, or at the time of the allowance of said guardian's account, out of the ward's personal estate, and the income of his real estate, if sufficient, and if not, then out of his real estate, upon obtaining license for the sale thereof, and disposing of the same in the manner provided by law. In the event of the decease of the ward before the allowance and/or payment of such claims or charges, the order allowing the guardian's account shall designate the amount due and the person to whom it shall be payable and such order or decree shall be certified to the decedent's estate and the amount paid and allowed as a claim against the decedent's estate, in its respective classification under section 10 of chapter 8 of the probate code: Provided, however, That if any estate be

closed before such claim has been allowed and/or paid, said claim may be presented for allowance, reimbursement, and/or payment, as the case may be in decedent's estate. The provisions of this section shall be considered as procedural and shall apply to all estates that have not been closed at the date hereof.

HISTORY: CL 1948, 703.17;—Am. 1949, p. 136, Act 125, Eff. Sep. 23.

This section re-enacts except changes "his" to "the wards" Sec. 19 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13968;—CL 1929, 15781.

703.18 Accounts, claims and suits of ward; authority of guardian.

Sec. 18. Every such guardian shall also settle all accounts of the ward, and demand, sue for and recover all debts due to him, or may, with the approval of the judge of probate, compound for the same, and give a discharge to the debtor, on receiving a fair and just dividend of his estate and effects; and he shall appear for and represent his ward, in all legal suits and proceedings, unless another person is appointed for that purpose as guardian or next friend.

HISTORY: CL 1948, 703.18. This section supersedes Sec. 20 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13969;—CL 1929, 15782.

703.19 Guardian ad litem and next friend; authority of courts to appoint.

Sec. 19. Nothing contained in this chapter shall impair or affect the power of any court of common law, probate court, court of chancery, or court of a justice of the peace, to appoint guardians to defend the interests of minors impleaded in such court, or interested in any matter there pending, nor their power to appoint or allow any person as next friend for a minor, to commence, prosecute or defend any suit in his behalf.

HISTORY: CL 1948, 703.19. This section re-enacts Sec. 21 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13970;—CL 1929, 15783.

GUARDIAN AD LITEM: And next friend, see Compilers' §§ 600.2415 and GCR 201.

703.20 Repealed. 1949, p. 136, Act 125, Eff. Sep. 23.

Section provided for management of estate of ward and use of income, for support of ward of family and for sale of real estate.

703.21 Real estate of ward; partition and assignment of dower.

Sec. 21. The guardian may join in and assent to a partition of the real estate of the ward in the cases and in the manner provided by law, and he may also assign and set out dower in the said estate to any widow entitled thereto.

HISTORY: CL 1948, 703.21. This section re-enacts Sec. 23 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13972;—CL 1929, 15785.

703.22 Estate of ward; management and investment; court to order.

Sec. 22. The judges of probate in their respective counties, on the application of a guardian, or of any person interested in the estate of any ward, after such notice to all persons interested therein as the judge of probate shall direct, may authorize or require the guardian to sell and transfer any stock in public funds, or in any bank or other corporation, or any other personal estate or effects held by him as guardian, and to invest the proceeds of such sale, and also any other moneys in his hands, in real estate, or in any other manner that shall be most for the interest of all concerned therein; and the said probate court may make such further orders, and give such directions, as the case may require, for managing, investing and disposing of the estate and effects in the hands of the guardian.

HISTORY: CL 1948, 703.22. This section re-enacts Sec. 24 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13973;—CL 1929, 15786.

INVESTMENTS: See Compilers' §§ 555.201-555.203.

703.23 Marriage of female minor ward; effect; discharge of guardians; guardians for married women.

Sec. 23. The marriage of any female who is under guardianship, as a minor, shall terminate such guardianship as to the guardian's care and custody of the person of his ward; but such guardian shall continue the management of all the estate of his ward until she shall arrive at the age of 21 years, unless he shall be sooner discharged by the judge of probate; and the guardian of any minor, spendthrift, insane or other person,

may be discharged by the judge of probate, when it shall appear to him on application of the ward, or otherwise, that such guardianship is no longer necessary. The probate court shall have power to appoint guardians of infant married women on proper application therefor.

HISTORY: CL 1948, 703.23. This section re-enacts except word "and" at beginning of last sentence Sec. 26 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13975;—CL 1929, 15788.

703.24 Estate of ward; embezzlement; examination of person suspected.

Sec. 24. Upon complaint made to the judge of probate by any guardian, or by the ward, or by any creditor or other person interested in the estate, or by any person having any prospective interest therein, as heir or otherwise, against any one suspected of having concealed, embezzled or conveyed away any of the money, goods or effects, or any instrument in writing belonging to the ward, the judge may cite and examine such suspected person, and proceed with him as to such charge, in the same manner as is provided with respect to persons suspected of concealing or embezzling the effects of a deceased testator or intestate.

HISTORY: CL 1948, 703.24. This section re-enacts Sec. 27 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13976;—CL 1929, 15789.

703.25 Non-resident ward; bond of guardian, conditions.

Sec. 25. Every guardian of a person residing without this state and having an estate within this state shall give bond to the judge of probate, in like manner, and with the like condition, as is hereinbefore provided with respect to other guardians, excepting that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian shall be confined to such estate and effects as shall come to his hands in this state.

HISTORY: CL 1948, 703.25. This section re-enacts Sec. 28 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13977;—CL 1929, 15790.

703.26 Person residing without state; probate court first assuming jurisdiction excludes others.

Sec. 26. The guardianship which shall be first lawfully granted of any person residing without the state, shall extend to all the estate of the ward within this state, and shall exclude the jurisdiction of the probate court in every other county.

HISTORY: CL 1948, 703.26. This section re-enacts except changes "the same" to "this state" Sec. 29 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13978;—CL 1929, 15791.

703.27 Joint guardians; account; allowance on oath of one.

Sec. 27. When an account is rendered by 2 or more joint guardians, the judge of probate may, in his discretion, allow the same upon the oath of any 1 of them.

HISTORY: CL 1948, 703.27. This section re-enacts Sec. 31 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13980;—CL 1929, 15793.

703.28 Insane and drunkards; hospitalization.

Sec. 28. Every guardian appointed under the provisions of subdivisions 4 and 6 of section 1 of this chapter shall have the care and custody of the person of his ward, and upon the order of the judge of probate, may cause him or her to be taken to and restrained in any suitable state institution, asylum, hospital for medical or sanatory treatment or care, or hospital for the insane.

HISTORY: CL 1948, 703.28. This section supersedes Sec. 32 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13961;—CL 1929, 15794.
STATE HOSPITALS: See Act 151 of 1923, being Compilers' § 330.11 et seq.

703.29 Insane and drunkards; annual report of guardian.

Sec. 29. Every such guardian shall at least once in each year, and as often as required by the judge of probate, render a report to the judge of probate, verified by his oath, showing the condition of his ward, what medical or sanatory treatment or care he has been subjected to, and what reason, if any, there is for the continuance of such guardianship.

HISTORY: CL 1948, 703.29. This section re-enacts except words "or she" Sec. 33 of Ch. LVIII of Act 314 of 1915. CL 1915, 13982;—CL 1929, 15795.

703.30 Insane; rate of charge and admission as patient.

Sec. 30. The rate of charge for insane patients, and the rules for admission of insane patients, so far as not inconsistent, shall apply to such patients as are committed under the provisions of section 28 of this chapter.

HISTORY: CL 1948, 703.30. This section re-enacts except changes figures "32" to "28" Sec. 34 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13983;—CL 1929, 15796.

703.31 Non-resident guardian for non-resident ward; appointment; delivery of property, conditions; authority.

Sec. 31. In all cases where any guardian and his ward may both be residents of any other state or territory of the United States, and such ward may be entitled to property of any description in this state, such guardian on producing to the probate court or other court of competent jurisdiction of the county in which such property or the principal part thereof is situated, a full and complete transcript from the records of a court of competent jurisdiction in the state or territory in which he and his ward reside, duly exemplified or authenticated, showing that he has been appointed guardian of such ward, and that he has given a bond and security in the state or territory in which he and his ward reside, in double the value of the property of such ward, and also showing to such court that he still remains such guardian, and that a removal of the property of such ward will not conflict with the terms and limitations attending the right by which the ward owns the same, or be or become prejudicial to his interest therein, then such transcript may be entered of record in such court, and such guardian shall be entitled to receive letters or a certificate of guardianship of the estate of such ward from such court, which shall authorize him to demand, sue for, and recover any such property and remove the same to the place of residence of himself and his ward; and such court may order any resident guardian, executor, or administrator having any of the estate of such ward to deliver the same to such non-resident guardian: Provided, That all debts in favor of residents or citizens of this state known to exist against such ward, whether due or to become due, have been first paid or payment tendered: And provided also, That the benefit of this section shall not extend to any resident of any state or territory in which a law similar to this section is not in effect when application is made to a probate court of this state hereunder.

HISTORY: CL 1948, 703.31. This section supersedes Sec. 35 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13984;—CL 1929, 15797.

703.32 Non-resident guardian for non-resident ward; appointment of testamentary guardian; effect on removal of property.

Sec. 32. The preceding section shall not apply to any case where the parent of the ward, being a resident of this state at the time of his death, shall have appointed by last will and testament a guardian or guardians for said ward, and which guardian or guardians are still living and residing in this state; unless the assent of such testamentary guardian or guardians to the removal of said property shall be satisfactorily shown to the court to which application shall be made as hereinbefore provided.

HISTORY: CL 1948, 703.32. This section re-enacts Sec. 36 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13985;—CL 1929, 15798.

703.33 Ward; change of residence; appointment of new guardian and delivery of property.

Sec. 33. When minors, incompetent or other persons shall have had a guardian duly appointed by the probate court of any county in this state, and such ward shall have become a resident of and have obtained a legal domicile in another county, a guardian may be appointed over said ward by the probate court of the county of such domicile: Provided, That such guardian shall not be appointed without the consent of the probate court which appointed the previous guardian. Upon the appointment of such guardian, the guardian first appointed shall account to the guardian appointed in the new domicile of the ward, and shall turn over to such guardian all the property and es-

tate in his hands, belonging to said ward; and upon such accounting and turning over of all such property and estate, he shall be discharged as such guardian.

HISTORY: CL 1948, 703.33. This section re-enacts Sec. 37 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13986;—CL 1929, 15799.

703.34 Minor heir above age of fourteen; petition for appointment of fiduciary.

Sec. 34. Any minor above the age of 14 years, having no guardian of his estate, who is an heir at law of a decedent dying intestate, may petition for the appointment of a fiduciary of the estate of the intestate decedent. In such cases the judge of probate shall appoint a guardian ad litem to represent the minor upon the hearing of the petition and shall cause to be given to the presumptive heirs at law of the minor such notice of the hearing as he deems sufficient.

HISTORY: Add. 1965, p. 234, Act 149, Imd. Eff. Jul. 12.

CHAPTER IV.

GENERAL PROVISIONS CONCERNING FIDUCIARIES

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704.1 Fiduciary; testamentary trustee; definitions.

Sec. 1. The term "fiduciary" as used in this act, unless the context shall require a different meaning, shall include all executors, administrators, general or special, administrators with the will annexed, administrators de bonis non, guardians, general or special, and trustees, appointed by or under the jurisdiction of the probate court, whether testamentary or otherwise: Provided, That the term "fiduciary" shall not include guardians ad litem.

The term "testamentary trustee" as used in this act includes every person, except an executor, an administrator with the will annexed, or a guardian, who is designated by a will or by any competent authority to execute a trust created by a will; and it includes such an executor or administrator where he is acting in the execution of a trust created by the will which is separable from his functions as executor or administrator.

HISTORY: CL 1948, 704.1. This section supersedes with additions Sec. 40 of Ch. LXI of Act 314 of 1915, being CL 1915, 14091.—CL 1929, 15902.

BANK: As fiduciary, see Compilers' § 487.481.

TRUST COMPANY: As fiduciary, see Compilers' § 487.486.

704.2 Fiduciary; confidential relationship; information privileged.

Sec. 2. Every fiduciary shall stand in a position of confidence and trust with respect to his cestuis que trustent, heirs, devisees, legatees, beneficiaries or wards, as the case may be, and except in response to any legal process or in cases expressly required by law or in the necessary or proper administration of the estate, no facts or knowledge pertaining to their property in his hands or to their affairs shall be disclosed by the fiduciary in any manner except with the consent of the cestui, heir, devisee, legatee, beneficiary or ward: Provided, however, That such consent may be given by the fiduciary of a minor or incompetent, in behalf of such minor or incompetent: And provided further, however, That such restriction shall not apply in any suit or proceeding in which the fiduciary and the cestui, heir, devisee, legatee, beneficiary or ward, as the case may be, are parties adverse to each other.

HISTORY: CL 1948, 704.2.

BONDS OF FIDUCIARIES.

704.3 Fiduciary; bond; renewal, conditions.

Sec. 3. Every fiduciary before he enters upon the execution of his trust, and before letters of his authority shall be granted to him, and annually thereafter, shall give a bond, as provided in section 8 of this chapter, to the judge of probate in such reasonable amount as he may direct with such surety or sureties as he shall direct and approve: Provided, That in the case of bonds given by a surety company authorized to do business in this state the judge of probate may approve the bond for a period of not to exceed 5 years: Provided, however, That the probate judge at the end of the period for which such bond whether having a corporate or personal surety, was approved, may after re-examination of the then condition of the estate and the solvency of the

surety or sureties, authorize the continuance of such bond for not to exceed another like period. The conditions of such bonds shall be as follows:

1. To collect, care for, manage and preserve all the property of the estate and to make and return to the probate court, within 30 days, a true and perfect inventory of all the goods, chattels, rights, credits and property of said estate or trust, which shall come to his possession or knowledge, or to the possession of any other person for him;
2. To administer the same according to law, and out of the same to pay and discharge all debts and charges, chargeable on the same, or such dividends thereon, as shall be ordered and decreed by the probate court;
3. To render a true and just account of his administration to the probate court within 1 year, and at any other time when required by law or by such court;
4. To perform all orders and decrees of the probate court, by the fiduciary to be performed in the premises, and to pay over the residue of said estate or trust to the proper parties as ordered and decreed by the probate court.

In the event said bond is not approved, the fiduciary shall have 10 days' additional time from the date of the rejection of the bond in which to file a bond with surety or sureties satisfactory to the court, and if he fails so to do, the court shall appoint some other person as fiduciary in his place and stead, who shall furnish the bond required.

HISTORY: CL 1948, 704.3. This section supersedes and merges Sec. 36 of Ch. LII of Act 314 of 1915, being CL 1915, 13808;—CL 1929, 15567; Sec. 44 of Ch. LII of Act 314 of 1915, being CL 1915, 13816;—CL 1929, 15575; Sec. 13 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13962;—CL 1929, 15775; Sec. 3 of Ch. LXI of Act 314 of 1915, being CL 1915, 14064;—CL 1929, 15865; and Sec. 49 of Ch. LXI of Act 314 of 1915, being CL 1915, 14100;—CL 1929, 15911; also see Sec. 41 of Ch. LII of Act 314 of 1915, being CL 1915, 13813;—CL 1929, 15572; Sec. 3 of Ch. LIII of Act 314 of 1915, being CL 1915, 13821;—CL 1929, 15587; Sec. 7 of Ch. LIII of Act 314 of 1915, being CL 1915, 13825;—CL 1929, 15591; and Sec. 12 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13961;—CL 1929, 15774.

704.4 Residuary legatee; bond, conditions.

Sec. 4. If, however, the executor named in any last will and testament, or the administrator with the will annexed of any estate duly appointed shall be residuary legatee, instead of the bond prescribed in the preceding section, he may give a bond in such sum and with such sureties as the court shall direct, with a condition only to pay all the debts and legacies of the testator.

HISTORY: CL 1948, 704.4. This section re-enacts Sec. 37 of Ch. LII of Act 314 of 1915, being CL 1915, 13809;—CL 1929, 15568.

704.5 Sureties; oath.

Sec. 5. Each personal surety shall make oath that he owns property, exclusive of homestead property, subject to execution, of a value over and above encumbrances equal to the amount of the bond.

HISTORY: CL 1948, 704.5.

704.6 Sureties; jurisdiction and enforcement of liability by probate court.

Sec. 6. By the execution of a bond of a fiduciary, a surety submits himself or itself to the jurisdiction of the probate court and liability of the surety on the bond may be enforced in the probate court as hereinafter provided without the necessity of an independent action.

HISTORY: CL 1948, 704.6.

704.7 Co-fiduciaries; bond, joint or separate.

Sec. 7. When 2 or more persons shall be appointed fiduciaries of any estate, the judge of probate may take joint or separate bonds.

HISTORY: CL 1948, 704.7. This section supersedes and merges Sec. 46 of Ch. LII of Act 314 of 1915, being CL 1915, 13818;—CL 1929, 15577; and Sec. 17 of Ch. LIII of Act 314 of 1915, being CL 1915, 13835;—CL 1929, 15801.

704.8 Bonds; filing; collateral; trust companies exempt.

Sec. 8. Every fiduciary shall file his bond within 15 days after the order appointing him as such fiduciary, and, subject to the approval of the probate court, such fiduciary may, in lieu of sureties, as above provided, turn over to and file with the court collateral in an amount and nature satisfactory to the court to cover the amount of said

bond, which shall be forthwith deposited by the court with the county treasurer, who shall be liable for the safekeeping thereof and shall pay the same out only on the order of the court. Other sufficient collateral may be substituted at any time pursuant to the order of the court. If such fiduciary is a trust company existing under the Michigan financial institutions act, being Act No. 341 of the Public Acts of 1937, the deposit made by such trust company with the state treasurer as provided in section 201 of said act may, if satisfactory to the court, be accepted in lieu of requiring a bond or the deposit of collateral with the court, in which event a written acceptance of trust shall be filed by such trust company in lieu of bond or deposit of collateral with the court.

HISTORY: CL 1948, 704.8.

NOTE: Sec. 201, Act 341, 1937, above referred to, is Compilers' § 487.201.

704.9 Bonds; amount and sureties; security for all persons interested.

Sec. 9. All bonds required by law to be taken in or by order of the probate court shall be in such amount and with such sureties as hereinbefore provided, except when the law otherwise prescribes; and such bonds shall be for the security and benefit of all persons interested, and shall run to the judge of probate, except where they are required by law to run to the adverse party.

HISTORY: CL 1948, 704.9. This section supersedes Sec. 1 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14119;—CL 1929, 15932.

704.10 Bonds; approval by probate judge.

Sec. 10. No bond required by law to be given to the judge of probate, and filed in his office, shall be deemed sufficient, unless it shall have been examined and approved by the judge, and his approval thereof endorsed thereon in writing, and signed by him.

HISTORY: CL 1948, 704.10. This section re-enacts Sec. 2 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14120;—CL 1929, 15933.

704.10a Bonds; disqualification of surety.

Sec. 10a. No bond, the surety upon which is represented by the judge of probate, probate register or other employe in the probate office in any capacity, shall be approved by such judge of probate for filing in any estate.

HISTORY: Add. 1941, p. 7, Act 5, Eff. Jan. 10, 1942;—CL 1948, 704.10a.

704.11 Bonds; record of approval kept by probate court.

Sec. 11. It shall be the duty of the probate court to keep a book wherein shall be entered the dates upon which the bond of each fiduciary was approved by the court.

HISTORY: CL 1948, 704.11. This section supersedes part of Sec. 16 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14134;—CL 1929, 15947.

704.12 Bonds; liability of sureties for breaches prior to new bond.

Sec. 12. When a new bond is required, the sureties in the prior bond shall be liable for all breaches of the condition committed before the new bond is approved by the judge.

HISTORY: CL 1948, 704.12. This section supersedes Sec. 19 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14137;—CL 1929, 15950.

704.13 Executor or administrator; refusal or failure to qualify; appointment of another executor.

Sec. 13. If a person named executor in any will shall refuse to accept the trust, or shall, for the space of 15 days after the probate of the same, neglect to give bond as required by law, the probate court may grant letters testamentary to the other executors, if there be any who are capable and willing to accept the trust, and if there be no such other executor who will give bond, the court may commit administration of the estate with the will annexed to any of the beneficiaries named in said will if capable, or to such person as would have been entitled to the same if the testator had died intestate.

HISTORY: CL 1948, 704.13. This section re-enacts Sec. 39 of Ch. LII of Act 314 of 1915, being CL 1915, 13811;—CL 1929, 15570.

704.14 Surety; discharge; accounting by principal.

Sec. 14. Any surety on a bond required by the probate court may at any time, upon the written petition of such surety or his principal to the probate court, be discharged from all further responsibility, after the principal named in said bond has filed an account of all his actions and administration from the date of his last account up to the date of hearing, if the court, after due notice to all persons interested, deems it reasonable and proper, and the principal shall thereupon be required to give a new bond: Provided, however, That the principal named in said bond shall be required by the court to file an account or a supplemental account of all his actions and administration up to the date of hearing of such surety's petition as well as an account of all the residue of said estate remaining in said principal's hands.

HISTORY: CL 1948, 704.14. This section supersedes with additions Sec. 17 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14135;—CL 1929, 15948; also see Compilers' § 550.107.

704.15 Accounting by principal; petition by interested party; reduction in bond.

Sec. 15. The principal named in any such bond on the petition of any person interested in said estate may be required by the probate judge to file an account, at any time during the administration of his estate or trust. If such accounting shall show that the bond on file is excessive, the court may order a new bond in such reasonable amount as he may direct.

HISTORY: CL 1948, 704.15.

704.16 New or additional bond; sureties upon former bond relieved.

Sec. 16. The judge of probate of any county may require a new or additional bond to be given by any fiduciary, whenever he shall deem it necessary and proper. On the filing of such new bond, the existing bond and the sureties thereon shall be discharged from responsibility for any act of the principal therein occurring subsequent to the date of such discharge.

HISTORY: CL 1948, 704.16. This section supersedes Sec. 13 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14131;—CL 1929, 15944.

704.17 New or additional bond; notice to fiduciary; removal for failure to furnish.

Sec. 17. Whenever a new or additional bond shall be required under the provisions of this act, the judge of probate shall require written notice thereof to be given to the fiduciary. If after the giving of the notice aforesaid, such fiduciary shall refuse or neglect for a period of 10 days thereafter to give the bond as required, the judge of probate may forthwith and of his own motion, remove such fiduciary.

HISTORY: CL 1948, 704.17. This section supersedes Sec. 14 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14132;—CL 1929, 15945.

704.18 New or additional bond; expense, payment by county; reimbursement.

Sec. 18. The necessary costs incurred in carrying out the provisions of the 2 last preceding sections and serving the notices herein required shall be borne by the county in which the proceeding is had, and shall be paid by the county treasurer from the general fund, upon the warrant of the judge of probate approved by the board of supervisors or board of auditors of such county: Provided, That whenever it shall appear that there are sufficient funds in the estate, the judge of probate shall by order direct the fiduciary to refund to the county the costs of such proceeding.

HISTORY: CL 1948, 704.18. This section supersedes Sec. 15 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14133;—CL 1929, 15946.

704.19 Action on bond; authorization by court.

Sec. 19. When it shall appear, on the representation of any person interested in the estate, that the fiduciary has failed to perform his duty in any particular, the judge of probate may authorize any person aggrieved by such maladministration to bring an action on the bond.

HISTORY: CL 1948, 704.19. This section supersedes Sec. 5 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14123;—CL 1929, 15936.

704.20 Action on bond; court order when fiduciary fails to perform order.

Sec. 20. Whenever a fiduciary shall refuse or omit to perform any order or decree made by a judge of probate having jurisdiction, for rendering an account, or upon a final settlement, or for the payment of debts, legacies, or distributive shares, such judge of probate may cause the bond of such fiduciary to be prosecuted, and the moneys collected thereon shall be applied in satisfaction of such order or decree, in the same manner as such moneys ought to have been applied by such fiduciary.

HISTORY: CL 1948, 704.20. This section supersedes Sec. 6 with Ch. LXIII of Act 314 of 1915, being CL 1915, 14124;—CL 1929, 15937.

704.21 Action on bond; writ and proceedings in name of judge of probate; designation of person interested in execution; plaintiff.

Sec. 21. In all suits upon such bonds, the writ and proceedings shall be in the name of the judge of probate, and when the action is brought for the benefit of any particular person, the execution shall state that it is for the use of such person, and in such case the person for whose use the action is brought shall be deemed the plaintiff.

HISTORY: CL 1948, 704.21. This section supersedes Sec. 7 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14125;—CL 1929, 15938.

704.22 Action on bond; certificate of permission to prosecute, order denying appealable.

Sec. 22. If on the application of any person authorized by this chapter to commence a suit on such bond, the judge of probate grants permission to such person to prosecute the same, he shall thereupon furnish to the applicant, on his paying the legal fees, a certified copy of the bond, together with a certificate that permission has been granted to prosecute it, and the name and residence of the applicant.

The denial of such permission shall be a final order and appealable. The insertion of this express provision shall not be deemed in construing the provisions of this act, to limit or affect the right to appeal from any other order of the probate court as provided in sections 36 to 52 of chapter 1 of this act.

HISTORY: CL 1948, 704.22. This section supersedes with additions Sec. 8 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14126;—CL 1929, 15939.

NOTE: Secs. 36-52, Ch. 1, above referred to, are Compilers' §§ 701.36-701.52.

704.23 Action on bond; amount of judgment in suit; costs.

Sec. 23. If judgment shall be rendered for the plaintiff in any suit upon such bond, brought for the benefit of any particular person, it shall be for the amount due to such person, with costs of suit.

HISTORY: CL 1948, 704.23. This section re-enacts Sec. 9 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14127;—CL 1929, 15940.

704.24 Action on bond; amount of judgment in suit brought by judge; costs.

Sec. 24. If judgment shall be rendered for the plaintiff in any suit upon such bond, brought by the judge of probate for any breach thereof, in not performing any order or decree of the judge of probate, judgment shall be awarded for the full value of all the estate of the deceased that shall have come to the hands of such fiduciary for which he shall not have satisfactorily accounted, and for all such damages as shall have been occasioned by his neglect or maladministration, with costs of suit.

HISTORY: CL 1948, 704.24. This section supersedes Sec. 10 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14128;—CL 1929, 15941.

704.25 Action on bond; proceeds of action brought by judge.

Sec. 25. All moneys received on any execution issued on a judgment in favor of the judge of probate, as mentioned in the preceding section, shall be paid over to the cofi-

duciary, if there be any, or to such person, other than the defendant therein, as shall then be the rightful fiduciary, and such moneys shall be assets in his hands to be administered according to law.

HISTORY: CL 1948, 704.25. This section supersedes Sec. 11 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14129;—CL 1929, 15942.

704.26 Action on bond; fiduciary may prosecute; suit against fiduciaries.

Sec. 26. Claims for damages, on account of the breach of the conditions of any bond, may be prosecuted by any fiduciary, in behalf of those he may represent, in the same manner as by persons living and of full age, and such claims may be prosecuted against the representatives of deceased persons, in the same manner as other claims against such deceased persons.

HISTORY: CL 1948, 704.26. This section re-enacts except changes words "executor, administrator or guardian" to "fiduciary" Sec. 12 of Ch. LXIII of Act 314 of 1915, being CL 1915, 14130;—CL 1929, 15943.

704.26a Liability of sureties; determination by probate court; notice of hearing; service upon sureties; judgment.

Sec. 26a. Whenever on any hearing in the probate court an issue is presented which may involve the liability of a surety or sureties on the bond of a fiduciary, the court may adjourn the hearing for the purpose of giving the surety or sureties an opportunity to appear, defend and be heard. Notice of the adjourned hearing shall be given to the surety or sureties by the court or any interested party as the court may direct at least 15 days prior to the date of the adjourned hearing.

A copy of such notice shall be served personally by delivering such copy to any one on whom process may be served in making service of process on such surety or sureties. Whenever service is made on a corporate surety by serving the commissioner of insurance, secretary of state or other state officer, such notice shall be served in duplicate on such state officer and such state officer shall forthwith forward a copy of the same by registered mail to said corporate surety addressed to its secretary.

Whenever service is made upon a surety as herein provided, such surety shall be deemed to be a party to such proceeding and the probate court may enter judgment with respect to the liability of the surety or sureties on the bond of the fiduciary.

HISTORY: CL 1948, 704.26a.

NON-RESIDENTS.

704.27 Fiduciary must be resident and citizen; banks and trust companies.

Sec. 27. It is hereby declared to be the public policy of this state to require that all persons acting in a representative capacity under appointment of a probate court, as fiduciary, shall at all times be amenable to process issued out of the courts of this state, and to that end no person shall hereafter be deemed suitable and competent to act as a fiduciary, who is not a resident of this state and a citizen of the United States. Nothing herein shall be construed to limit the power of the court to appoint any bank or trust company authorized to do business in this state, or to appoint a nonresident of this state guardian of the person of a resident minor when the last will and testament of the surviving parent of the minor nominates the nonresident as guardian.

HISTORY: CL 1948, 704.27;—Am. 1965, p. 39, Act 25, Imd. Eff. Apr. 22.

This section as originally enacted superseded part of Sec. 1 of Act 240 of 1935.

LETTERS OF AUTHORITY.

704.28 Letters of authority; issuance, contents; evidence of authority.

Sec. 28. When the bond of any fiduciary has been approved by the probate court, there shall be issued out of said court letters of administration, or guardianship, letters testamentary to which a certified copy of the will shall be annexed or letters of trusteeship, as the case may be, which letters shall state in substance the duties of such fiduciary and also his authority granted by the court, and such letters shall be sufficient

to entitle him to secure and take possession of any and all of the property belonging to his estate or trust, and shall also be evidence of his authority so to do.

HISTORY: CL 1948, 704.28. See Sec. 15 of Ch. LII of Act 314 of 1915, being CL 1915, 13787;—CL 1929, 15546.

704.29 Revocation of letters.

Sec. 29. The letters mentioned in the next preceding section shall be revoked only upon discharge of the fiduciary after full and complete administration of said estate or trust, or upon the resignation of any such fiduciary duly accepted by the court, or upon the removal of any such fiduciary.

HISTORY: CL 1948, 704.29.

704.30 Certificate of issuance of letters to fiduciary; recording, evidence.

Sec. 30. Whenever any fiduciary appointed by any probate court of this state shall have executed any instrument in writing, purporting to be an assignment, release, or discharge of any mortgage, or otherwise evidence of a lien upon any personal or real property, situate in this state, the probate judge of said court, or the register or clerk thereof, shall, when so requested, make and attach to such instrument a certificate under his hand and the seal of said court certifying the date of issuance of letters testamentary, of administration or guardianship, or letters of trusteeship, as the case may be, to such fiduciary, and the time to which they have continued in force unsuspended and unrevoked; and such certificate shall be entitled to record in the office of the register of deeds, or other place of record, in any county in this state, with said instrument when the latter is entitled by law to be so recorded; and such record, or a duly certified copy thereof, shall be prima facie evidence of the facts therein certified in all courts and legal proceedings in this state.

HISTORY: CL 1948, 704.30. This section supersedes Sec. 1 of Act 176 of 1889, being How. 6812a;—CL 1897, 9040;—CL 1915, 11775;—CL 1929, 13367.

704.31 Certificate of issuance of letters to fiduciary; judge to issue upon request; recording, evidence.

Sec. 31. Upon request of any person interested, the probate judge, register, or clerk of any probate court of this state shall ascertain by search of the records of his office, and certify under his hand and the seal of said court the name of the fiduciary or fiduciaries of any estate which has been administered, or may be in process of administration in said court, the date of issuance of letters testamentary, of administration or guardianship, or letters of trusteeship, to him or them, and the time to which said letters have continued in force unsuspended and unrevoked; and such certificate shall be entitled to record in the office of the register of deeds of any county in this state where any instrument executed by such fiduciaries, affecting in any manner the title to any lands in such county, has been recorded. Such certificate and such record, or a duly certified copy thereof, shall be prima facie evidence of the facts therein certified in all courts and legal proceedings.

HISTORY: CL 1948, 704.31. This section supersedes Sec. 2 of Act 176 of 1889, being How. 6812b;—CL 1897, 9041;—CL 1915, 11776;—CL 1929, 13368.

704.32 Exemplified copy of letters; recording, evidence.

Sec. 32. A duly exemplified copy of any letters testamentary, of administration or guardianship, or letters of trusteeship, heretofore issued by any probate court of this state, in which the exemplification shall contain a statement of the date to which said letters continued in force unsuspended and unrevoked, shall be entitled to record in the office of any register of deeds of any county in this state, where an instrument in writing, executed by any person under authority of said letters has been recorded. Such record, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained in all courts and legal proceedings in this state.

HISTORY: CL 1948, 704.32. This section re-enacts with addition of words "or letters of trusteeship" Sec. 3 of Act 176 of 1889, being How. 6812c;—CL 1897, 9042;—CL 1915, 11777;—CL 1929, 13369.

COMPENSATION OF FIDUCIARIES.

704.33 Compensation of fiduciaries; determination; extraordinary services.

Sec. 33. Every guardian, testamentary trustee or special administrator shall be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he shall also have such compensation for his services as the court in which his accounts are settled shall deem to be just and reasonable: Provided, however, That when compensation shall be provided by will for a testamentary trustee, such provision shall be deemed full compensation for his services if he accepts the trust under the will, unless he shall, by written instrument filed in the probate court at the time of his acceptance renounce his claim to compensation provided by the will.

All other fiduciaries, except when compensation shall be provided by will, and the fiduciary shall not renounce his claim thereto at the time of his acceptance of the trust, shall be allowed all necessary expenses in the care and management and settlement of the estate, and commissions upon the amount of personal estate collected and accounted for by him, and of the proceeds of real estate sold under an order of the court for any purpose, or sold under a power of sale in the will, as follows: For the first \$1,000.00, at the rate of 5 per cent; for all above that sum and not exceeding \$5,000.00, at the rate of 2 ½ per cent; and for all above \$5,000.00, at the rate of 2 per cent: Provided, That the judge of probate may, upon petition of the fiduciary, also allow the foregoing commissions upon the amount of real property, or any portion thereof, inventoried and accounted for by said fiduciary. In the case of a successor fiduciary or fiduciaries, the judge of probate, in his discretion, shall be authorized to apportion the foregoing compensation among the first and successor fiduciaries. The foregoing provisions for commissions for fiduciaries other than guardians, testamentary trustees and special administrators shall not be construed as precluding the allowance by the judge of probate in addition thereto, as a part of necessary expenses of the care, management and settlement of estates, of reasonable commissions paid to agents employed in the sale of either personal or real estate.

In all guardianships and trusteeships, the fees may be taken at intervals as approved by the court.

In all cases, where the fiduciary, other than the guardian, testamentary trustee or special administrator, shall perform any extraordinary services not required of a fiduciary in the common course of his duties and in cases of unusual difficulty or responsibility such further allowance may be made as the judge of probate shall deem just and reasonable: Provided, however, That such allowance shall only be made upon the filing of a petition therefor, setting forth in detail such extraordinary services, or the reasons for considering the case one of unusual difficulty or responsibility, and the order making any such allowance shall recite in detail the extraordinary services for which such allowance is made, giving the amount allowed for each item thereof, or the reasons for considering the case one of unusual difficulty or responsibility.

HISTORY: Am. 1947, p. 55, Act 50, Eff. Oct. 11;—CL 1948, 704.33. This section as originally enacted superseded and merged Sec. 30 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13979;—CL 1929, 15792; Sec. 34 of Ch. LXI of Act 314 of 1915, being CL 1915, 14085;—CL 1929, 15996; Sec. 35 of Ch. LXI of Act 314 of 1915, being CL 1915, 14096;—CL 1929, 15997; Sec. 14 of Ch. LXII of Act 314 of 1915, being CL 1915, 14117;—Am. 1919, p. 423, Act 235, Eff. Aug. 14;—CL 1929, 15926;—Am. 1931, p. 361, Act 209, Eff. Sept. 18; and Sec. 15 of Ch. LXII of Act 314 of 1915, being CL 1915, 14118;—CL 1929, 15929; also see Sec. 37 of Ch. LXI of Act 314 of 1915, being CL 1915, 14085;—CL 1929, 15999; and Sec. 51 of Ch. LXI of Act 314 of 1915, being CL 1915, 14102;—CL 1929, 15913.

704.34 Counsel employed by fiduciary; compensation, approval by court.

Sec. 34. Any fiduciary may employ counsel in connection with the administration of the estate involved and such attorney or attorneys shall receive such reasonable com-

pensation for services rendered as shall be approved by the probate judge having jurisdiction over the said estate.

HISTORY: CL 1948, 704.34. See Sec. 5 of Ch. LII of Act 314 of 1915, being CL 1915, 13777;—Am. 1923, p. 450, Act 281, Eff. Aug. 30;—CL 1929, 15532.

LIABILITY OF FIDUCIARIES.

704.35 Liability of fiduciaries; period for closing estate; accounting; personal liability to creditors following order for payment.

Sec. 35. Every fiduciary shall be liable to any interested party for any loss to the estate he represents arising from his embezzlement; he shall further be liable for any loss through commingling of funds of any estate with funds of his own; for negligence in the handling of an estate; for wanton and willful mishandling thereof; for loss through self-dealing and through failure to account for or terminate the estate when it is ready for termination and no extension of time has been granted by the court, and for any misfeasance, malfeasance, nonfeasance or other breach of duty. An estate shall be closed as promptly as possible, unless for good cause shown the court extends the time therefor, but not exceeding 10 years, in a decedent's estate unless otherwise provided by will or due to the existence of a contingent claim as provided in this act, and fiduciaries as officers of the probate court shall be held in strict account for prompt and expeditious termination thereof. The probate court in its discretion may at any time order any fiduciary under its jurisdiction to file an accounting, and after due hearing thereon, the probate court shall enter such order as shall agree with the law and the facts of the case.

Whenever a decree shall have been made by the probate court for the distribution of the assets among the creditors, the fiduciary, after the time of payment shall arrive, shall be personally liable to the creditors for their debts, or the dividend thereon, as for his own debt.

HISTORY: CL 1948, 704.35. See Sec. 12 of Ch. LVI of Act 314 of 1915, being CL 1915, 13894;—CL 1929, 15705; and Sec. 7 of Ch. LXXX of Act 314 of 1915, being CL 1915, 14110;—CL 1929, 15921.

CONTINUATION OF BUSINESS.

704.36 Business of deceased or of ward; continuation by fiduciary; order.

Sec. 36. The court, after petition has been duly filed, may, to preserve the estate, authorize any fiduciary under its jurisdiction to continue in the course of business in which the decedent was engaged at the time of death, or in which the ward was engaged immediately prior to incompetency, until the further order of the court, and in such order may specify the manner of conducting such business together with general instructions concerning the handling and accounting thereof.

HISTORY: CL 1948, 704.36.

INVESTMENTS BY FIDUCIARIES.

704.37 Investments by fiduciaries; personal transactions with estate.

Sec. 37. Every fiduciary entitled by law to make investments of property of the estate of which he is representative, shall keep the funds of the estate reasonably invested. Except as the court may expressly authorize, he may make only such investments as conform with the provisions of Act No. 177 of the Public Acts of 1937, and any amendments thereto or any investments expressly authorized by the will or other instrument creating a trust. Except with the written approval of the probate court, a fiduciary in his personal capacity shall not engage in any transaction whatsoever with the estate which he represents, nor shall he invest estate funds in any company, corpo-

ration or association with which he is affiliated, other than as a bondholder or minority stockholder. A fiduciary in his personal capacity shall not personally derive any profit from the purchase, sale or transfer of any property of said estate. The deposit of moneys by a fiduciary in a bank or trust company in which such fiduciary may be interested as an officer, director or stockholder, shall not constitute a violation of the provisions of this section.

HISTORY: CL 1948, 704.37. See Sec. 24 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13973;—CL 1929, 15786.

NOTE: Act 177, 1937, above referred to, is Compilers' §§ 555.201-555.203.

ACCOUNTING.

704.38 Accounts of fiduciary; annual, final; requirement.

Sec. 38. Every fiduciary shall file at least once a year, or oftener if the court directs, a complete itemized accounting of all of his doings in the estate, showing in detail all of the receipts and disbursements and the property remaining in his hands, and in what form, and whenever any fiduciary finds that the estate is ready for closing, he shall thereupon file with the court his final account together with an itemized and complete list describing all of the properties remaining. The court upon his own motion may order such accounting filed, and the fiduciary shall thereupon proceed to the filing of his accounting and failing so to do may be adjudged in contempt of court.

HISTORY: CL 1948, 704.38. This section supersedes Sec. 8 of Ch. LXII of Act 314 of 1915, being CL 1915, 14111;—CL 1929, 15922.

704.39 Accounts of fiduciary; hearing, notice; allowance, finality; notice of final accounts affecting real estate, publication.

Sec. 39. Upon the filing of any accounting, the matter shall be set for hearing and notice thereof given in the manner provided by sections 32 to 35 of chapter 1 of this act, and thereupon the court shall proceed to settlement thereof: Provided, That in cases where the assets and income of such estate are insufficient in the opinion of the probate judge to warrant the necessity and expense of a hearing upon each annual account as shall be filed, he may withhold such hearing until the filing of the final account, or until such prior time as he shall determine such hearing should be held. The order of the probate court allowing any account of a fiduciary shall, subject to the right of appeal, and except in case of fraudulent concealment or fraudulent misrepresentation on the part of the fiduciary be final and conclusive against all persons in any way interested therein who are legally competent at the date of such order and against all other persons who are or may become interested therein although unborn, unascertained or legally incompetent to act in their own behalf if their general guardian or guardian ad litem has, after having been duly appointed, assented to such account or has been heard thereon, or given notice of hearing thereon, as provided in this act: Provided, That no final account, petition for determination of heirs or assignment of residue affecting the title to real estate shall be heard unless publication of notice be had as provided in section 32 of chapter 1 of this act, except where a will has been admitted to probate after publication pursuant to said section.

HISTORY: Am. 1947, p. 361, Act 239, Eff. Oct. 11;—CL 1948, 704.39.

See Sec. 9 of Ch. LXII of Act 314 of 1915, being CL 1915, 14112;—CL 1929, 15923; Sec. 13 of Ch. LXII of Act 314 of 1915, being CL 1915, 14116;—CL 1929, 15927; Sec. 18 of Ch. LXI of Act 314 of 1915, being CL 1915, 14069;—CL 1929, 15880; Sec. 23 of Ch. LXI of Act 314 of 1915, being CL 1915, 14074;—CL 1929, 15885; Sec. 38 of Ch. LXI of Act 314 of 1915, being CL 1915, 14069;—CL 1929, 15900; Sec. 39 of Ch. LXI of Act 314 of 1915, being CL 1915, 14090;—CL 1929, 15901; and Sec. 37 of Ch. LXI of Act 314 of 1915, being CL 1915, 14068;—CL 1929, 15999.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

704.40 Sale of personal estate; excess of sale price over inventory; liability for sale for less than appraised value.

Sec. 40. A fiduciary shall not make profit by the increase, nor suffer loss by the decrease or destruction, without his fault, of any part of the personal estate; and he shall account for the excess, when he shall sell any part of the personal estate for more than

the appraisal, and if he shall sell any for less than the appraisal, he shall not be responsible for the loss, if it shall appear to be beneficial to the estate to sell it.

HISTORY: CL 1948, 704.40. This section re-enacts except changes words "An executor or administrator" to "A fiduciary" Sec. 3 of Ch. LXII of Act 314 of 1915, being CL 1915, 14106;—CL 1929, 15917.

704.41 Debts; failure to collect, fiduciary not liable if without fault.

Sec. 41. No fiduciary shall be accountable for any debts due to the deceased or his ward, if it shall appear that they remain uncollected without his fault.

HISTORY: CL 1948, 704.41. This section supersedes Sec. 5 of Ch. LXII of Act 314 of 1915, being CL 1915, 14106;—CL 1929, 15919.

704.42 Income of estate; accountability of fiduciary.

Sec. 42. The fiduciary shall also be accountable for the income of the real estate while it shall remain in his possession; and if he shall use or occupy any part of it, he shall account for it as may be agreed upon between him and the parties interested, or adjudged by the probate court with their assent; and if the parties shall not agree upon the sum to be allowed, the same may be ascertained by 1 or more disinterested persons, to be appointed by the probate court, whose award, being accepted by such court, shall be final.

HISTORY: CL 1948, 704.42. This section re-enacts except changes words "Executor or administrator" to "fiduciary" Sec. 6 of Ch. LXII of Act 314 of 1915, being CL 1915, 14109;—CL 1929, 15920.

704.43 Negligence to raise or pay over funds; waste in handling estate; liability of fiduciary.

Sec. 43. When a fiduciary shall neglect or unreasonably delay to raise money, by collecting the debts or selling the real or personal estate of the deceased, or shall neglect to pay over the money he shall have in his hands, and the value of the estate shall thereby be lessened, or unnecessary cost or interest shall accrue, or the persons interested shall suffer loss, the same shall be deemed waste, and the damages sustained may be charged against the fiduciary in his account, or he shall be liable therefor on his fiduciary bond.

HISTORY: CL 1948, 704.43. This section supersedes Sec. 7 of Ch. LXII of Act 314 of 1915, being CL 1915, 14110;—CL 1929, 15921.

JUDICIAL SETTLEMENT OF ACCOUNT.

704.44 Final settlement of account of fiduciary; requirement.

Sec. 44. In either of the following cases the probate court may compel a final judicial settlement of the account of a fiduciary:

1. Where the fiduciary has been removed or for any other reason his powers have ceased;
2. Where the trust, or 1 or more distinct and separate trusts, created by the terms of the will or otherwise, have been executed or are ready to be executed, so that the persons beneficially interested are by the terms of the will, or by operation of law, entitled to receive any money or other property from the fiduciary.

HISTORY: CL 1948, 704.44. This section supersedes Sec. 25 of Ch. LXI of Act 314 of 1915, being CL 1915, 14076;—CL 1929, 15887.

704.45 Final settlement of account of fiduciary; petition for order to show cause.

Sec. 45. A petition praying for a final judicial settlement as prescribed in the last section, and that the fiduciary may be cited to show cause why he should not render and settle his account, may be presented by any person beneficially interested in the execution of the trust or in the estate; or by any person duly qualified in behalf of an infant so beneficially interested; or by a surety in the bond of the fiduciary, or by the legal representatives of such parties. Upon the presentation of the petition, the judge

of probate shall issue a citation accordingly, unless the account of the fiduciary has been judicially settled within a year before the petition is presented; in which case the judge of probate may, in his discretion, entertain or decline to entertain the petition.

HISTORY: CL 1948, 704.45. This section supersedes Sec. 26 of Ch. LXI of Act 314 of 1915, being CL 1915, 14077;—CL 1929, 15888.

704.46 Final settlement of account of fiduciary; compliance with court order, failure; citations to necessary persons.

Sec. 46. Upon the return of such citation, the fiduciary shall be required to account, within such time and in such manner as the probate court shall direct, and attend, from time to time, before the probate court for that purpose. If the fiduciary fails to comply with such order, the probate court may remove him from his trust, and take such other proceedings, and make such order or decree, as justice may require. The probate court shall also have power to issue supplemental citations, or to give such supplemental notice as to it may seem fit, directed to the persons to whom notice must be given upon the petition of a fiduciary for a judicial settlement of his account, and requiring them to attend the accounting.

HISTORY: CL 1948, 704.46. This section supersedes Sec. 27 of Ch. LXI of Act 314 of 1915, being CL 1915, 14078;—CL 1929, 15889.

704.47 Final settlement of account of fiduciary; sharing in estate, determination of controversy; preservation of property pending settlement.

Sec. 47. Upon a judicial settlement of the account of a fiduciary, a controversy which arises respecting the right of a person to share in the money or other personal property to be paid, distributed or delivered over, must be determined in the same manner as other issues are determined. If such a controversy remains undetermined after the determination of all other questions upon which the distribution of the fund or the delivery of the personal property depends, the decree shall direct that a sum sufficient to satisfy the claim in controversy, or the proportion to which it is entitled, together with the probable amount of the interest and costs, and, if the case so requires, that the personal property in controversy be retained in the hands of the accounting party; or that the money be deposited in a bank or trust company, subject to the order of the probate court, for the purpose of being applied to the payment of the claim, when it is due, recovered or settled; and that so much thereof as is not needed for that purpose be afterwards distributed according to law.

HISTORY: CL 1948, 704.47. This section supersedes Sec. 28 of Ch. LXI of Act 314 of 1915, being CL 1915, 14079;—CL 1929, 15890.

REMOVAL, RESIGNATION OR DEATH OF FIDUCIARY.

704.48 Removal of fiduciary; grounds, hearing, notice; resignation, accounting, discharge of sureties.

Sec. 48. If a fiduciary shall reside out of this state, or shall neglect, after due notice by the judge of probate, to render his account and settle the estate according to law, or to perform any decree of such court, or shall abscond or become insane, or otherwise unsuitable or incapable to discharge the trust, the probate court may by an order therefor following hearing, notice of which may be given in any manner provided by sections 32 to 35 of chapter 1 of this act, remove such fiduciary. Every fiduciary, whenever his personal interests conflict with the interest of the estate, or whenever any other reason exists which the judge of probate may deem proper, may be allowed to resign his trust: Provided, That such fiduciary shall, prior to the time of his resignation, have settled and adjusted his accounts with the estate of which he may be fiduciary: Provided further, That the sureties of such fiduciary shall not be released from liability until such fiduciary shall have fully settled and adjusted his accounts aforesaid.

HISTORY: CL 1948, 704.48. This section supersedes Sec. 11 of Ch. LIII of Act 314 of 1915, being CL 1915, 13829;—CL 1929, 15595; part of Sec. 25 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13974;—CL 1929, 15787; Sec. 42 of Ch. LII of Act 314 of 1915, being CL 1915, 13814;—CL 1929, 15573; Sec. 10 of Ch. LXII of Act 314 of 1915, being CL 1915, 14113;—CL 1929, 15924; and Sec. 2 of Act 240 of 1935; also see Sec. 30 of Ch. LXI of Act 314 of 1915, being CL 1915, 14081;—CL 1929, 15892.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

704.49 Resignation and discharge of fiduciary; petition, citation.

Sec. 49. A fiduciary may, at any time, present to the probate court a written petition, duly verified, praying that his account may be judicially settled; that a decree may thereupon be made allowing him to resign his trust and discharging him accordingly; and that all persons who are entitled, absolutely or contingently, by the terms of the will or other instrument creating the trust, or by operation of law, to share in the fund or estate, or the proceeds of any property held by the petitioner, as a part of his trust, may be cited to show cause why such a decree should not be made. The petition must set forth the facts upon which the application is founded; and it must in all other respects conform to a petition presented for a judicial settlement of the account of a fiduciary, as prescribed in this chapter. The judge of probate may, in his discretion, entertain or decline to entertain the petition. If he entertains it, the proceedings must be in all respects the same as upon a petition for a judicial settlement of the petitioner's account, except that upon the hearing the judge of probate must first determine whether sufficient reasons exist for granting the prayer of the petition; and if he determines that they exist, he shall make an order accordingly, allowing the petitioner to account for the purpose of being discharged. Upon the petitioner's fully accounting and paying all money belonging to the trust and delivering all books, papers and other property of the trust in his hands either into the probate court or as the judge of probate directs, a decree may be made accepting his resignation, and discharging him accordingly.

HISTORY: CL 1948, 704.49. This section supersedes Sec. 29 of Ch. LXI of Act 314 of 1915, being CL 1915, 14080;—CL 1929, 15891; and part of Sec. 25 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13974;—CL 1929, 15787.

704.50 Removal of fiduciary; delivery of assets.

Sec. 50. A fiduciary who has been removed shall forthwith deliver all of the property in his possession belonging to the trust or estate to his co-fiduciary, or to his successor, as the case may be, as soon as such successor has qualified; and shall, within 30 days after the making of the order of removal, or within such time as the probate court may direct, render his final account, and the same notice with like effect shall be given and the same proceedings shall be had thereon as herein provided upon the hearing of the final account of a fiduciary.

HISTORY: CL 1948, 704.50. This section supersedes Sec. 31 of Ch. LXI of Act 314 of 1915, being CL 1915, 14082;—CL 1929, 15893.

704.51 Successor fiduciary; appointment; incompletely administered estates; authority of surviving fiduciary.

Sec. 51. Where a fiduciary dies or is by the order of the probate court removed or allowed to resign, or a vacancy in the office of such fiduciary is in any manner created, or the estate is closed without being fully administered, and the trust or estate has not been fully executed, the court shall appoint his successor unless such an appointment would contravene the express terms of the will. Where 1 of 2 or more fiduciaries die or are by order of the probate court removed, or allowed to resign, a successor shall not be appointed except where such appointment is necessary in order to comply with the express terms of the will, or unless the court shall be of the opinion that the appointment of a successor would be for the benefit of the cestui que trust or estate. Unless and until a successor is appointed, the remaining fiduciary or fiduciaries may proceed and execute the trust or estate as fully as if such fiduciary or fiduciaries had not died, been removed or resigned. The successor shall be appointed in the manner prescribed by this act for the appointment of fiduciaries.

HISTORY: Am. 1947, p. 184, Act 135, Imd. Eff. May 28;—CL 1948, 704.51.

This section as originally enacted superseded Sec. 32 of Ch. LXI of Act 314 of 1915, being CL 1915, 14083;—CL 1929, 15894; also see Sec. 10 of Ch. LXII of Act 314 of 1915, being CL 1915, 14113;—CL 1929, 15924; Sec. 25 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13974;—CL 1929, 15787; Sec. 10 of Ch. LIII of Act 314 of 1915, being CL 1915, 13828;—CL 1929, 15594; Sec. 12 of Ch. LIII of Act 314 of 1915, being CL 1915, 13830;—CL 1929, 15596; and Sec. 43 of Ch. LII of Act 314 of 1915, being CL 1915, 13815;—CL 1929, 15574.

704.52 Death of fiduciary; final account by personal representative.

Sec. 52. Whenever the fiduciary of the estate shall die, leaving no surviving fiduciary, his fiduciary shall not, as such, have any authority to administer the estate of the first decedent but shall file a final account in the estate of the first decedent.

HISTORY: CL 1948, 704.52. This section supersedes Sec. 45 of Ch. LII of Act 314 of 1915, being CL 1915, 13817;—CL 1929, 15576.

704.53 Revocation of letters; validity of prior acts.

Sec. 53. All acts of a fiduciary, as such, before the revocation of his letters, shall be as valid to all intents and purposes as if such fiduciary had continued lawfully to execute the duties of his trust.

HISTORY: CL 1948, 704.53. This section supersedes Sec. 16 of Ch. LIII of Act 314 of 1915, being CL 1915, 13834;—CL 1929, 15600.

704.54 Successor fiduciary; authority.

Sec. 54. A fiduciary, appointed in the place of any former fiduciary, for the purpose of administering the estate not already administered, shall have the same powers, and shall proceed in settling the estate in the same manner, as the former fiduciary should have had or done; and may prosecute or defend any action commenced by or against the former fiduciary, and may have execution on any judgment recovered in the name of such former fiduciary.

HISTORY: CL 1948, 704.54. This section supersedes Sec. 13 of Ch. LIII of Act 314 of 1915, being CL 1915, 13831;—CL 1929, 15597.

704.54a Judge not to be fiduciary; existing estates; new judges; replacements.

Sec. 54a. (1) After the effective date of this amendatory act, a judge of any court shall not be appointed as a fiduciary in any estate except a member of his immediate family.

(2) Any judge who is acting as a fiduciary in any estate upon the effective date of this amendatory act shall file a petition with the probate court within 6 months after that date for his replacement as fiduciary and shall file an accounting not later than 3 months after the filing of the petition.

(3) Any person, acting as a fiduciary in any estate, who is elected or appointed to the office of judge shall file a petition with the probate court, within 30 days of the final certification of his election or appointment to office, for his replacement as fiduciary and shall file an accounting not later than 60 days after assuming the office of judge.

HISTORY: Add. 1989, p. 102, Act 54, Eff. Nov. 1.

PAYMENT TO THE COUNTY TREASURER.**704.55 Depositing of funds with county treasurer; sale of personal property; bond of county treasurer; disbursement of funds.**

Sec. 55. When any fiduciary shall have made approved final settlement with the probate court, it shall be the duty of the court to order said fiduciary, in exchange for suitable receipts, to deposit with the county treasurer such moneys or personal property as he may have belonging (a) to any heir, legatee or claimant whose whereabouts, after diligent inquiry, he cannot ascertain, (b) to any heir, legatee or claimant who has declined to accept the funds awarded to him, (c) or to any person when the right of such person shall have been made the subject of appeal from the orders of the probate court. In the event that personal property other than money shall be in the hands of any fiduciary after approved final settlement with the probate court, which belongs to any heir, legatee or claimant whose whereabouts after diligent inquiry he cannot ascertain, or who has declined to accept the property awarded to him, said fiduciary shall petition the probate court for authority to sell such personal property for the purpose of reducing the same to money to be deposited with the county treasurer, as in this section provided, and upon due hearing thereon the court may order the same sold upon such notice as the court may provide.

Upon the filing of said receipts in the probate court where such approved settlement has been made, such fiduciary shall be entitled to have an order made discharging him and his bond, the same as though he had paid or delivered the money or property to the heir, legatee or claimant and filed receipt therefor, and it shall be the duty of the county treasurer, upon being furnished with a certified copy of such order, to receive the money mentioned in said order and safely keep the same. The county treasurer shall keep all such moneys in a separate fund and keep a separate account with each individual mentioned in the aforesaid orders. He may deposit such sums in a county depository at the current rate of interest, and he shall pay out from said fund from time to time upon the order of the probate court and shall turn over any surplus left in his hands at the termination of his term of office to his successor. The county treasurer at the commencement of each term of office and before receiving any such moneys, shall also give a bond running to the judge of probate, and his successor in office, with 2 or more sufficient sureties to be approved by the judge of probate, and in such sum as he shall direct, conditioned that such person and his deputy shall pay out said moneys whether the same shall have been turned over to him by his predecessor in office, or deposited with him during the term which he is then commencing, or during a prior term of office, only on the orders of the judge of probate and shall render to the judge of probate, and to the board of supervisors, at the end of each year a true account of said moneys and that he will deliver over to his successor in office all moneys, and books, papers and other things appertaining or belonging thereto. The judge of probate may, at any time, require the county treasurer to give such new or additional bond conditioned as above stated as the amount of moneys deposited with the treasurer or other circumstances may in his opinion necessitate. The bond so deposited by the county treasurer and his sureties thereon shall be discharged from further liability thereunder upon the filing of a new bond by his successor in office, unless he has failed to account for any of such moneys as herein required, or to turn the same over to his successor in office. The county treasurer, for the care of said fund, shall be allowed to take 1 per cent out of the different sums paid out by him upon the order of the probate court, unless the amount so paid out to any 1 individual shall exceed the sum of \$1,000.00, in which case he shall take \$10.00 plus 1/2 of 1 per cent of the excess of said amount over \$1,000.00. When the money shall be deposited as aforesaid, any person or persons entitled to the same may at any time apply to the court making said order for an order directing the county treasurer to pay over said money, and upon satisfactory proof being made to the court, of the right of the claimant to said money, said court shall make an order directing the county treasurer to pay the same over to him or them. Upon receiving such application, the court shall make such order as to notice of the hearing as it may think proper.

Actions on the bond given by the county treasurer may be started in the name of the probate judge, for the use and benefit of any one interested, in the same manner and with the same effect as allowed by law upon bonds given by fiduciaries.

HISTORY: CL 1948, 704.55. This section supersedes and merges Sec. 34 of Ch. LVII of Act 314 of 1915, being CL 1915, 13946;—Am. 1919, p. 18, Act 12, Eff. Aug. 14;—Am. 1927, p. 836, Act 343, Eff. Sept. 5;—CL 1929, 15759; Sec. 35 of Ch. LVII of Act 314 of 1915, being CL 1915, 13947;—CL 1929, 15760; Sec. 36 of Ch. LVII of Act 314 of 1915, being CL 1915, 13948;—CL 1929, 15761; and Sec. 37 of Ch. LVII of Act 314 of 1915, being CL 1915, 13949;—CL 1929, 15762.

704.55a Payment of moneys for benefit of heir, legatee, distributee or beneficiary; sale of property; proceedings under section.

Sec. 55a. Where it appears that an heir, legatee, distributee or beneficiary of a trust would not have the benefit or use or control of the money or other property due him, or where it appears that the person entitled to the money or property is a resident and national of a foreign country, and the federal statutes or federal regulations preclude the payment or delivery, directly or indirectly, of moneys from the federal treasury to persons who are residents and nationals of such foreign country, the probate court

may direct that such money or the proceeds of such other property after deduction of administration expenses, inheritance taxes and other charges approved by the court, be paid and delivered to the county treasurer, or to a statutory trustee appointed by the court, for the benefit of such heir, legatee, distributee or such persons who may thereafter appear entitled thereto. The money so paid to the county treasurer or to the statutory trustee shall be paid out only by the special order of the probate court or pursuant to the judgment of a court of competent jurisdiction. The order shall also direct the sale of all such property other than cash. When any of the property is real estate or personal property or any interest therein, the court, upon petition of the fiduciary or any other interested party, may order, license and empower such sale and conveyance or transfer to be made. The proceedings under this section shall be the same as for the sale of similar property by fiduciaries excepting that the petition and order therefor shall set forth the entry of the order as the ground for the sale, conveyance or transfer.

HISTORY: Add. 1954, p. 14, Act 11, Imd. Eff. Mar. 12;—Am. 1966, p. 121, Act 96, Imd. Eff. Jun. 16.

DISCHARGE OF FIDUCIARY.

704.56 Discharge of fiduciary; reopening estates.

Sec. 56. After allowance of the final account and entry of order for distribution, the fiduciary shall make distribution, taking receipts for the same, and upon filing such receipts and the receipts showing payment of the inheritance tax or the issuance of an order determining that no tax is payable, he may be discharged and his bondsmen released.

The court may, upon petition having been filed after the closing of an estate, cause the same to be reopened for the purpose of administering after discovered assets or to complete the administration of the same in case said estate was closed without being fully administered by the fiduciary or court, or for the correction of typographical errors, omissions, or misdescription of property contained in any order or record in said estate, and for any of these purposes may appoint a successor fiduciary: Provided, however, That the failure of a claimant to file a claim against said estate during the original administration thereof shall not be a cause for reopening the same or for the appointment of a successor fiduciary.

HISTORY: Am. 1947, p. 184, Act 135, Imd. Eff. May 28;—CL 1948, 704.56.

704.60 Voting of corporate shares of stock by fiduciary; procedure.

Sec. 60. Unless the instrument or order appointing such fiduciary or fiduciaries otherwise directs: (a) a fiduciary may vote shares of stock of a corporation standing in his name or in the name of any person for whom he is authorized to act, either in person or by proxy, for all purposes, without the necessity of any authorization by a court and any officer, agent, or employee of a corporate fiduciary may vote such shares at such corporate meetings on behalf of such corporate fiduciary; (b) where there are more than 2 fiduciaries, the will of a majority of such fiduciaries shall control the manner of voting or the giving of a proxy; (c) where in any case the fiduciaries are equally divided upon the manner of voting such shares or the giving of a proxy, the probate court may, on petition filed by any 1 or more of such joint fiduciaries or by any party in interest, appoint, for the purpose of the particular meeting or meetings of shareholders set forth in such petition, another person to act with such fiduciaries in determining the manner in which such shares shall be voted upon the particular questions as to which such fiduciaries are equally divided, and may fix the compensation of such person; (d) where only 1 of such fiduciaries shall be present in person at any corporate meeting at which shares are to be voted, the vote of such fiduciary shall be regarded as representing the will of all of the joint fiduciaries in the absence of a proxy on file with the corporation signed by a majority of said fiduciaries; (e) where an even number of

joint fiduciaries, having failed to avail themselves of the remedy provided in clause (c) hereof, are equally divided, their opposite votes in person or by proxy shall result in no vote being cast on behalf of the shares held by them. This section shall apply to fiduciaries whether appointed prior or subsequent to the effective date hereof.

HISTORY: Add. 1947, p. 233, Act 166, Eff. Oct. 11;—CL 1948, 704.60.

NOTE: Section 60, added by the 1947 legislature, should have been section 57 for consecutive numbering.

CHAPTER V.
ESTATES OF DISAPPEARED PERSONS.

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705.17	Beneficiary; determination of existence; notice, hearing, expense.		
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705.1 Disappeared persons, estates subject to probate; requirements; certificate of death.

Sec. 1. The property, both real and personal, in the state of Michigan, of any person who has left for any reason whatsoever his last place of abode, as known by those persons most likely to know the same, shall be subject to the provisions of this act: Provided, That the absence has the following characteristics:

- (a) The absence shall be for the continuous period of 7 years.
- (b) The whereabouts of the person shall have been for the same period unknown by those persons most likely to know the same.
- (c) The person shall for the like period have not been heard from by means of any message, oral or written, or by means of any token, received by those persons most likely to hear from the person.

(d) Those persons most likely to know the last place of abode and the whereabouts of the absent person, and most likely to hear from the absent person, shall be the spouse left in the last place of abode and the parents of the absent person; and if there be neither such spouse nor parent, such persons as the court shall determine upon proofs in each particular case.

In the event a certificate of death shall have been issued in any manner provided by law, then such disappeared person shall be presumed to be dead and his estate may be administered in accordance with the regular procedure concerning estates of deceased persons.

HISTORY: CL 1948, 705.1;—Am. 1951, p. 140, Act 110, Imd. Eff. May 31.

705.2 Disappeared persons, estates subject to probate; administration of property, restrictions.

Sec. 2. Whenever any person leaving property in the state of Michigan shall have been absent from his last known place of abode for the continuous period of 7 years with his whereabouts also for such period unknown to those persons most likely to know thereof, and such person has for the like period not been heard from by those persons most likely to hear from such person, the property of such person in the state of Michigan may be administered as though such person were dead, subject to the conditions, restrictions and limitations hereinafter described.

HISTORY: CL 1948, 705.2. This section re-enacts Sec. 2 of Act 205 of 1925, being CL 1929, 15625.

705.3 Probate court having jurisdiction.

Sec. 3. The probate court of any county in the state where any real property of the absent person is located, and the probate court of any county where any personal property is located, in case there be no real property in the state, shall have jurisdiction in the premises.

HISTORY: CL 1948, 705.3. This section re-enacts Sec. 3 of Act 205 of 1925, being CL 1929, 15626.

705.4 Probate proceedings; title.

Sec. 4. The title of all proceedings commenced and prosecuted under the preceding sections of this chapter shall be "In the Matter of the Estate of, disappeared."

HISTORY: CL 1948, 705.4. This section re-enacts Sec. 4 of Act 205 of 1925, being CL 1929, 15627.

705.5 Probate proceedings; petition for administration, contents, verification.

Sec. 5. The petition for administration or probate of the last will, as the case may be, of the absent person shall be verified to the best of the knowledge and belief of the petitioner; and the petition, in addition to allegations regarding the existence of property to be administered and the names and addresses (so far as known) of the persons who are the heirs-at-law, next of kin, devisees and legatees of the absent person (if deceased), shall contain allegations as to the last known place of abode of the absent person; when he disappeared therefrom; the fact that he has been continuously absent therefrom and has not been heard from by the persons most likely to hear (naming them and their relationship to the absent person) and the fact that his whereabouts are unknown to such persons.

HISTORY: CL 1948, 705.5. This section supersedes Sec. 5 of Act 205 of 1925, being CL 1929, 15628.

705.6 Probate proceedings; publication and mailing of notices.

Sec. 6. Notice of hearing of the petition for administration or probate of the last will of the absent person shall be published in the form of similar notices of hearing in the administration of the estates of deceased persons, once each calendar month for 4 months prior to the month set for the hearing of the petition; and, in addition, within 30 days after the filing of the petition, copies of the notice shall be sent by registered

mail to each person named in the petition as heirs-at-law, next of kin, devisee and legatee; and due proof of such publication and such mailing shall be filed prior to the hearing.

HISTORY: CL 1948, 705.6. This section re-enacts Sec. 6 of Act 205 of 1925, being CL 1929, 15629.

705.7 Hearing; determination of issues; transcript of testimony.

Sec. 7. Upon the hearing of the petition, the truth of the allegations thereof regarding the last known place of abode of the absent person, his disappearance therefrom, knowledge of his whereabouts, and the fact of his having been heard from, shall be issues of fact to be determined by the court; and the testimony upon those questions shall be transcribed and filed in the case.

HISTORY: CL 1948, 705.7. This section supersedes Sec. 7 of Act 205 of 1925, being CL 1929, 15630.

705.8 Hearing; written or oral statement of missing witness.

Sec. 8. Upon the hearing of the petition, in case the testimony of any person must likely to know the last place of abode of the absent person, or to know his whereabouts, or to know whether he has been heard from, cannot be procured because of death, mental or physical incompetency, or removal to some jurisdiction where a deposition cannot be compelled by process of law, the signed statement in writing of the needed witness made to anyone, or the oral declaration of the needed witness, made to some person in no manner interested in said proceeding as creditor or beneficiary, may be received in evidence and given such weight as the court or jury shall deem proper.

HISTORY: CL 1948, 705.8. This section supersedes Sec. 8 of Act 205 of 1925, being CL 1929, 15631.

705.9 Sale of property prior to one year from appointment of fiduciary.

Sec. 9. Except for the purposes of paying taxes, special assessments, liens, insurance premiums, allowed claims for debts contracted by the absent person before his disappearance, or to prevent great depreciation on account of neglect, or to specifically fulfill contracts made by the absent person before his disappearance, no sale, mortgage, or other disposition of the property of the absent person shall be had until the lapse of 1 year after the appointment and qualification of the fiduciary of his estate.

HISTORY: CL 1948, 705.9. This section supersedes Sec. 9 of Act 205 of 1925, being CL 1929, 15632.

705.10 Distribution of property; prohibited within one year period; permitted after three years when bonded.

Sec. 10. No distribution nor assignment to beneficiaries of the property or the proceeds thereof of the absent person shall be made in any event until after the lapse of 1 year after the appointment and qualification of the representative of his estate; nor shall such distribution or assignment be made until after the lapse of 3 years after the appointment and qualification of the fiduciary of his estate, unless the distributee or assignee execute and deliver to the fiduciary a surety company bond in a penal sum not less than the value of the property distributed or assigned and for such additional amount as the court may prescribe, to be approved by the probate judge conditioned to return the property or the value thereof to the fiduciary in case the absent person be adjudicated in the manner hereinafter set forth to have been still living since the commencement of said period of 7 years, and also conditioned to save the fiduciary harmless from the damages and expenses of all suits or proceedings brought by the absent person or anyone succeeding to his rights by reason of such distribution or assignment having been made during said period of 3 years.

HISTORY: CL 1948, 705.10. This section supersedes Sec. 10 of Act 205 of 1925, being CL 1929, 15633.

705.11 Appearance of disappeared person within three year period; petition, notice, framing of issue; security for costs.

Sec. 11. In case any person shall, within the period of 3 years after the appointment and qualification of the fiduciary, file his petition in the proceedings signed and verified by himself or by his guardian (if an infant or mentally incompetent) claiming in such petition to be the absent person, and shall also cause a copy thereof to be served either personally or by registered mail upon the fiduciary of the estate and upon each beneficiary and upon the surety in any bond given to protect the fiduciary in case of a distribution or assignment prior to the expiration of said period of 3 years, an issue shall thereupon be framed by the court to determine the identity of the claimant, which issue shall be tried by the court: Provided, however, That the court may upon the application of any interested party require the claimant to give security to be approved by the court for all costs and expenses involved in the trial of the issue and the ultimate determination thereof, in case the issue be decided against the claimant.

HISTORY: CL 1948, 705.11. This section supersedes Sec. 11 of Act 205 of 1925, being CL 1929, 15634.

705.12 Appearance of disappeared person within three year period; order vacating proceedings, exception.

Sec. 12. In case the issue last aforesaid be determined in favor of the claimant, an order shall be entered vacating all the proceedings for administration and in the course of administration, except those providing for the payment of taxes, special assessments, liens, insurance premiums, allowed claims, the specific fulfillment of contracts, the prevention of great depreciation on account of neglect, and also except any sale, mortgage, or other disposition of the property of the absent person to innocent persons for value made to effect the results first above excepted.

HISTORY: CL 1948, 705.12. This section re-enacts Sec. 12 of Act 205 of 1925, being CL 1929, 15635.

705.13 Claim of heir to estate of disappeared person; petition filed within three year period, framing of issue; security for costs.

Sec. 13. In case any person shall within the period of 3 years after the appointment and qualification of the fiduciary, file his petition in the proceedings signed and verified by himself or by his guardian (if an infant or mentally incompetent), claiming in such petition that the absent person died subsequently to the 7 year period aforesaid and that the petitioner is entitled to the property being administered or any portion thereof as successor to the rights of the absent person because of his death; and if the claimant shall also cause a copy of the petition to be served either personally or by registered mail upon the fiduciary of the estate and upon each beneficiary and upon the surety in any bond given to protect the fiduciary in case of a distribution or assignment prior to the expiration of said period of 3 years; an issue shall thereupon be framed by the court to try the truth of the petition, which issue shall be tried by the court: Provided, however, That the court may upon the application of any interested party require the claimant to give security to be approved by the court for all costs and expenses involved in the trial of the issue and the ultimate determination thereof, in case the issue be decided against the claimant.

HISTORY: CL 1948, 705.13. This section supersedes Sec. 13 of Act 205 of 1925, being CL 1929, 15636.

705.14 Claim of heir to estate of disappeared person; order vacating proceedings, exceptions.

Sec. 14. In case the issue last aforesaid be determined in favor of the claimant, an order shall be entered vacating all of the proceedings for administration and in the course of administration, except those providing for the payment of taxes, special assessments, liens, insurance premiums, allowed claims, the specific fulfillment of contracts, the prevention of great depreciation on account of neglect, and also except any

sale, mortgage, or other disposition of the property of the absent person to innocent persons for value made to effect the results first above excepted.

HISTORY: CL 1948, 705.14. This section re-enacts Sec. 14 of Act 205 of 1925, being CL 1929, 15637.

705.15 Completion of administration; date of death; estate of persons absent for fifteen years closed after one year.

Sec. 15. In case no person makes claim during said period of 3 years after the appointment and qualification of the fiduciary either to be the absent person, or to have succeeded to the rights of the absent person since the commencement of said period of 7 years by reason of the death of the absent person, then a conclusive presumption shall arise that the absent person died prior to the filing of the petition for administration or the probate of his will, and such date of death shall be presumed to be 7 years from the date of his disappearance, unless a different date is shown under section 13 of this chapter; and the estate shall be distributed accordingly, so far as the same has not already been accomplished; and by order of court, the estate shall be closed and the liability of the fiduciary to claimants ended, and the liability of distributees ended, and all bonds given by them cancelled: Provided, That, if in case such period of absence as set forth in section 1 of this chapter shall have exceeded 15 years at the time of the filing of the petition for the appointment of an administrator, then said estate may be distributed and closed at the end of 1 year, without a bond being given, with like effect as hereinbefore provided for at the end of 3 years.

HISTORY: CL 1948, 705.15. This section supersedes with additions Sec. 15 of Act 205 of 1925, being CL 1929, 15638.

705.16 Absence of beneficiary for seven years; no distribution of his share of estate for three years.

Sec. 16. Whenever any person shall die testate or intestate, leaving property in the state of Michigan to be administered and 1 or some of the apparent beneficiaries of his estate is a person who has been absent from his last known place of abode for the continuous period of 7 years with his whereabouts unknown to those persons most likely to know thereof, and who has not been heard from by such persons during said period, no distribution or assignment of that portion of the estate which would be distributed and assigned to the absent person, if alive, shall be made until the lapse of 3 years after the death of the decedent.

HISTORY: CL 1948, 705.16. This section supersedes Sec. 16 of Act 205 of 1925, being CL 1929, 15639.

705.17 Beneficiary; determination of existence; notice, hearing, expense.

Sec. 17. The question whether or not there is an apparent beneficiary, as described in the next preceding section, shall be a question of fact to be determined by the court on its own motion or upon the verified petition of any interested party showing probable cause, at any time before a final order of assignment and distribution is made and after due notice by citation to all interested parties; and, if the possible existence of such beneficiary be disputed by any interested person, an issue shall be framed by the court to try the question, and the court shall appoint a guardian ad litem to represent the possible absent beneficiary at the expense of the ultimate assignee or distributee of the portion of the estate involved.

HISTORY: CL 1948, 705.17. This section re-enacts Sec. 17 of Act 205 of 1925, being CL 1929, 15640.

705.18 Absent beneficiary; distribution of share of estate; notice of hearing.

Sec. 18. Prior to the distribution and assignment described in the second preceding section, the fiduciary of the estate shall by order of court cause to be published at the expense of the person or persons ultimately receiving said portion a notice signed by him and addressed to the absent person by name and also to his unknown presumptive heirs, next of kin, legatees, and devisees, stating that, unless cause to the contrary be shown, on a day certain after the lapse of said period of 3 years an order of assignment

and distribution will be made by the court of the portion of the estate aforesaid as though he were deceased.

HISTORY: CL 1948, 705.18. This section supersedes Sec. 18 of Act 205 of 1925, being CL 1929, 15641.

705.19 Absent beneficiary; distribution of share of estate; notice of hearing, publication and mailing, filing of proof.

Sec. 19. The notice described in the next preceding section shall be published in some newspaper in general circulation in the county once each calendar month for 4 months prior to the month containing the day certain when the order is to be made; and, in addition, within 30 days after such order, copies of the notice shall be sent by registered mail to each person named in said notice as entitled to receive the portion, in the absence of cause to the contrary; and due proof of the publication and such mailing shall be filed prior to the entry of any order of assignment and distribution.

HISTORY: CL 1948, 705.19. This section re-enacts Sec. 19 of Act 205 of 1925, being CL 1929, 15642.

705.20 Absent beneficiary; appearance of person claiming to be; framing of issue; security of costs.

Sec. 20. In case any person claiming to be the absent person on the day certain shall appear in person or by a guardian, if an infant or mentally incompetent, or by an attorney authorized by him so to appear by a paper-writing signed by such person and thereupon filed, an issue shall thereupon be framed by the court to determine the identity of the claimant, which issue shall be tried by the court: Provided, however, That the court may upon the application of any interested party require the claimant to give security to be approved by the court for all costs and expenses involved in the trial of the issue and the ultimate determination thereof, in case the issue be decided against the claimant.

HISTORY: CL 1948, 705.20. This section re-enacts Sec. 20 of Act 205 of 1925, being CL 1929, 15643.

705.21 Absent beneficiary; appearance of person claiming to be; determination of issue in favor of claimant; order.

Sec. 21. In case the issue last aforesaid be determined in favor of the claimant, an order shall be entered assigning to the claimant the portion of the estate aforesaid less the expenses.

HISTORY: CL 1948, 705.21. This section re-enacts Sec. 21 of Act 205 of 1925, being CL 1929, 15644.

705.22 Absent beneficiary; appearance of person claiming to be successor; framing of issue; security for costs.

Sec. 22. In case any person on the day certain shall appear in person, or by any attorney authorized by him so to appear by a paper-writing signed by such person and thereupon filed, and claim in a verified petition filed by him to be entitled to all or a share of the portion of the estate to be distributed, or a different proportion thereof from that described in the notice, by reason of having succeeded to the rights of the absent person because of the latter's death since his disappearance from his last known place of abode, an issue shall thereupon be framed by the court to try the truth of the petition, which issue shall be tried by the court: Provided, however, That the court may, upon the application of any interested party, require the claimant to give security to be approved by the court for all costs and expenses involved in case the issue be decided against the claimant.

HISTORY: CL 1948, 705.22. This section supersedes Sec. 22 of Act 205 of 1925, being CL 1929, 15645.

705.23 Absent beneficiary; appearance of person claiming to be successor; determination of issue in favor of claimant; order.

Sec. 23. In case the issue last aforesaid be determined in whole or in part in favor of the claimant, an order shall be entered assigning to the claimant the proper portion of the estate less expenses.

HISTORY: CL 1948, 705.23. This section re-enacts Sec. 23 of Act 205 of 1925, being CL 1929, 15646.

705.24 Absent beneficiary; assignment of share pursuant to order in case of failure of claimant to appear.

Sec. 24. In case no person makes claim upon the day certain to any part of that portion of the estate which would be distributed to the absent person, if alive, or, in case the issue or issues framed are decided against the claimants, the portion of the estate in question less expenses shall be assigned and distributed by an order of court to that person or those persons described in the order to show cause as therein stated; and the absent person, and his unknown heirs, next of kin, legatees and devisees shall be forever barred from all claim or right thereto.

HISTORY: CL 1948, 705.24. This section re-enacts Sec. 24 of Act 205 of 1925, being CL 1929, 15647.

705.25 Petition for probation by heir of disappeared heir.

Sec. 25. Whensoever any person shall die testate or intestate, leaving property in the state of Michigan to be administered, and the only person apparently qualified to petition for administration or probate of the last will is a person who has been absent from his last known place of abode for the continuous period of 7 years with his whereabouts unknown to those persons most likely to know thereof, and who has not been heard from by such persons during said period, a petition for administration or probate of the will may be made by any one who would be qualified so to do, if the absent person had predeceased the decedent, and the fact that the absent person may have left surviving issue unknown to those persons most likely to know thereof shall not affect the validity of such petition.

HISTORY: CL 1948, 705.25. This section supersedes Sec. 25 of Act 205 of 1925, being CL 1929, 15648.

705.26 Appeals to Circuit Court; estates of absent persons.

Sec. 26. Appeals may be had to the circuit court as in the case of such appeals in matters relating to the estates of deceased persons in the following cases:

(a) By any person interested, as apparent beneficiary, in the estate of any absent person, as defined in this act, from an order appointing an administrator of such estate or denying such appointment; or from an order admitting a will of such absent person to probate or denying such admission.

(b) By any person adversely affected, from an order of sale, mortgage, or other disposition prior to an order of assignment and distribution of property of an absent person, as defined in this act.

(c) By any person adversely affected, from the allowance or disallowance in whole or in part of any claim against the estate of an absent person, as defined in this act.

(d) By any person adversely affected, from an order affirming or denying any claimant to be the absent person, whose estate is being administered.

(e) By any person adversely affected, from an order affirming the right of any claimant as successor of the absent person, whose estate is being administered.

(f) By any person adversely affected, from an order allowing or refusing to allow in whole or in part the account of any administrator or executor.

(g) By any person adversely affected, from an order of assignment and distribution.

(h) By any person adversely affected, from any order where a like appeal or review would lie, in case the absent person were actually dead.

(i) By any person interested as beneficiary, from an order finding or refusing to find the existence of an apparent beneficiary, who has been absent as defined in this act.

(j) By any person adversely affected, from an order affirming or denying any claimant to be the absent person or as having succeeded to the rights of an absent person interested in the estate of a deceased person being administered.

HISTORY: CL 1948, 705.26;—Am. 1970, p. 473, Act 143, Imd. Eff. Jan. 1, 1971.

This section re-enacts Sec. 17 of Ch. LII of Act 314 of 1915, being CL 1915, 13789;—CL 1929, 15548.

705.27 Provisions of chapter; retroactive effect.

Sec. 27. The provisions of this chapter shall apply to all cases of absence in the required manner from the last known place of abode for the continuous period of 7 years, whether such absence commenced heretofore and has been completed, or is still running, or shall hereafter commence to run.

HISTORY: CL 1948, 705.27. This section re-enacts except changes "act" to "chapter" Sec. 27 of Act 205 of 1925, being CL 1929, 15650.

705.28 Provisions relating to absent beneficiaries; pending proceeding.

Sec. 28. The provisions of this chapter relating to the administration of the estate of decedents, where 1 or more beneficiaries or the only beneficiary are persons who have been absent in the required manner from their last known place of abode for the continuous period of 7 years, shall apply to pending proceedings: Provided, however, That no orders of assignment or distribution have yet been made.

HISTORY: CL 1948, 705.28. This section re-enacts Sec. 28 of Act 205 of 1925, being CL 1929, 15651.

705.29 Special administrator; appointment following absence for three months to preserve estate.

Sec. 29. If any person shall be missing or absent from his usual place of residence in this state, and his whereabouts unknown, for the space of 3 months or more, and shall leave property which is going to waste or is in danger of being destroyed or lost for the want of a proper custodian, the judge of probate of the county in which he was last known to reside, shall have power, upon the petition of the wife or next of kin, or of 1 or more of his principal creditors, which petition shall state the facts of the case as known, and be verified by the oath of the petitioner, to appoint a special administrator to collect and take charge of the estate of the person so missing or absent, until the fact of his death or survival can be satisfactorily established, and in case of his death, until the question of the allowance of his will, if any, shall be determined, and an executor or administrator, or special administrator, shall be appointed and qualify.

HISTORY: CL 1948, 705.29. This section supersedes Sec. 22 of Ch. LIII of Act 314 of 1915, being CL 1915, 13840;—CL 1929, 15606.

705.30 Special administrator; hearing on appointment; bond, powers, duties; appeal.

Sec. 30. Such special administrator shall, before entering upon his trust, give a bond as prescribed by law for other administrators, and shall, during his term of office, have such general powers, and perform similar duties as, special administrators as provided for by law. From the appointment of such special administrator there shall be no appeal, except that parties claiming an interest in the property of the absent person either as creditor, heir, devisee, legatee, owner or custodian shall have the right to appeal: Provided, That no special administrator shall be appointed until after a hearing duly held before such judge of probate, and previous notice of such hearing shall be published once each week for 3 weeks consecutively in some newspaper in the county where such hearing is to be had.

HISTORY: CL 1948, 705.30. This section supersedes Sec. 23 of Ch. LIII of Act 314 of 1915, being CL 1915, 13841;—CL 1929, 15607.

705.31 Rules governing procedure of court; supreme court may adopt.

Sec. 31. Appropriate rules of court may be promulgated by the supreme court to regulate the practice in matters covered by this chapter, in case that court deems it necessary.

HISTORY: CL 1948, 705.31. This section re-enacts except changes "act" to "chapter" Sec. 29 of Act 205 of 1925, being CL 1929, 15652.

705.32 Estates of absentees listed missing, interned, captive, in military service; conservator, petition, appointment.

Sec. 32. Whenever a person, hereinafter referred to as an absentee, who while serving in or with the armed forces of the United States, or while serving as a merchant seaman, has been reported or listed as missing, or missing in action, or interned in a neutral country, or beleaguered, besieged, or captured by an enemy, has an interest in any form of property in this state and has not provided an adequate power of attorney authorizing another to act in his behalf in regard to such property or interest, then, the probate court of the county of such absentee's legal domicile, or in case of a non-resident of Michigan the probate court of the county where such property is situated, upon petition alleging the foregoing facts and showing the necessity for providing care of the property of such absentee made by any person who would have an interest in the property of the absentee were such absentee deceased, or on the court's own motion, after notice to, or on receipt of proper waivers from, the heirs and next of kin of the absentee as provided by law for the administration of an estate, and upon good cause being shown, may, after finding the facts to be as aforesaid, appoint a conservator to take charge of the absentee's estate, under the supervision and subject to the further orders of the court.

HISTORY: Add. 1947, p. 51, Act 45, Eff. Oct. 11;—CL 1948, 705.32.

705.33 Estates of absentees listed missing, interned, captive, in military service; conservators, appointment, bond, reports, powers, duties.

Sec. 33. The court shall have full discretionary authority to appoint any suitable person as such conservator and may require such conservator to post an adequate bond and to make such reports as the court may deem necessary. The conservator shall have the same powers, authority and duties as the guardian of the property of an infant or incompetent as set forth in chapter 3 of this act, and shall be considered as an officer or arm of the court.

HISTORY: Add. 1947, p. 52, Act 45, Eff. Oct. 11;—CL 1948, 705.33.

705.34 Estates of absentees listed missing, interned, captive, in military service; conservatorship, accounting, termination; transfer of property; death of absentee.

Sec. 34. At any time upon petition signed by such absentee or his guardian, if a guardian has been appointed, or on petition of an attorney-in-fact acting under an adequate power of attorney granted by such absentee, the court may require an accounting to be made and shall direct the termination of the conservatorship and the transfer of all property held thereunder to the absentee or to the designated attorney-in-fact, or to such guardian. Likewise, if at any time subsequent to the appointment of a conservator, it shall appear that the absentee has died and an executor or administrator has been appointed for his estate, the court shall direct the termination of the conservatorship and the transfer of all property of the deceased absentee held thereunder to such executor or administrator.

HISTORY: Add. 1947, p. 52, Act 45, Eff. Oct. 11;—CL 1948, 705.34.

CHAPTER VI.
TESTAMENTARY TRUSTEE OR GUARDIAN.

706.1	Trustee or guardian; appointment by court when not nominated by will.	706.4	Transfer of property to trustee; appointment by court of domicile.
706.2	Trustee; irregular appointment; accountable for transactions; ratification of acts.	706.5	Transfer of property to trustee; procedure.
706.3	Protection of interest of persons unascertained upon petition to sell part of estate; guardian; notice.	706.6	Transfer of property to trustee; discretion of court; discharge of trustee, filing receipt.

706.1 Trustee or guardian; appointment by court when not nominated by will.

Sec. 1. If a testator has omitted in his will to nominate a trustee or guardian in this state, and if such an appointment is necessary to carry into effect the provisions in the will, the probate court in any county in which the will is admitted to probate shall at once give notice to all interested parties in the manner provided in sections 32 to 35 of chapter 1 of this act, and after hearing thereon, shall make such appointment on his own motion or on that of any interested party, and shall fix his bond as provided by law; and upon the filing and approval thereof, the court shall order delivery to said trustee or guardian in accordance with the terms of the will.

Whenever it shall become necessary or convenient, in the settlement or distribution of the estate of a deceased person, to appoint a trustee to take charge of or invest and distribute any portion of such estate, the judge of probate shall have power, and it shall be his duty, on the application of any person interested in the estate, to appoint such trustee.

HISTORY: CL 1948, 706.1. This section supersedes part of Sec. 1 of Ch. LXI of Act 314 of 1915, being CL 1915, 14052;—CL 1929, 15463; and Sec. 48 of Ch. LXI of Act 314 of 1915, being CL 1915, 14099;—CL 1929, 15910; and re-enacts Sec. 47 of Ch. LXI of Act 314 of 1915, being CL 1915, 14098;—CL 1929, 15909.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

706.2 Trustee; irregular appointment; accountable for transactions; ratification of acts.

Sec. 2. When an appointment of a trustee is invalid by reason of an irregularity, or for want of jurisdiction or authority in the court making such appointment, the person so appointed shall be held to account for all moneys, property or assets which have come to his hands as such trustee, or by reason of such appointment, in the same manner as if the appointment had been regular and valid; and any bond given in pursuance of such appointment shall be held to be valid and binding both on the principals and the sureties thereon, and payments to or by a person so appointed, if in other respects properly made, may, with the approval of the probate court, be ratified and confirmed by the trustee who may afterwards be legally appointed.

HISTORY: CL 1948, 706.2. This section re-enacts Sec. 10 of Ch. LXI of Act 314 of 1915, being CL 1915, 14061;—CL 1929, 15872.

706.3 Protection of interest of persons unascertained upon petition to sell part of estate; guardian; notice.

Sec. 3. If it appears to the court during proceedings under chapter 9 of this act to sell, lease or mortgage any property or interest therein, that the estate which is the subject of the petition may be held in trust for, or that a remainder or contingent interest therein may be limited over to, persons not ascertained or not in being, notice shall be given in such manner as the court may order, to all persons who are or may become interested in such estate, and to all persons whose issue, not then in being, may become so interested; and the court shall in every such case appoint a suitable person to act therein as the guardian ad litem of all persons not ascertained or not in being, who are or may become interested in such estate, the cost of whose appearance.

including the compensation of his counsel, shall be determined by the court, and paid, as it may order, either out of the trust estate or by the petitioner, in which latter case execution may issue therefor in the name of the guardian ad litem; and a conveyance, transfer or mortgage, made after such notice and proceedings, shall be conclusive upon all persons, whether in being or not in being, who are or may become interested in the trust, or to whom a remainder or contingent interest in the trust estate may be limited over.

HISTORY: CL 1948, 706.3. This section supersedes Sec. 17 of Ch. LXI of Act 314 of 1915, being CL 1915, 14068;—CL 1929, 15879.

NOTE: Chapter 9, above referred to, is Compilers' § 709.1 et seq.

706.4 Transfer of property to trustee; appointment by court of domicile.

Sec. 4. Whenever any personal estate shall be holden by any trustee or trustees under the last will and testament of any person whose will has been admitted to probate or allowed and filed by any probate court of any county in this state, or under any appointment made by any probate court in any county of this state, for the benefit of any person or persons permanently residing in any other state of the union, such trustee or trustees may transfer, assign and deliver such estate so holden in trust to any trustee or trustees lawfully appointed in the state where such beneficiary resides to be by said trustee or trustees in such state holden upon the same trust as the same is holden in this state.

HISTORY: CL 1948, 706.4. This section re-enacts Sec. 44 of Ch. LXI of Act 314 of 1915, being CL 1915, 14065;—CL 1929, 15906.

706.5 Transfer of property to trustee; procedure.

Sec. 5. The person or persons entitled to the benefit of such estate, or some one of them, shall first procure the appointment of a trustee or trustees in the state where such beneficiary resides, to receive and hold such estate, and shall obtain a copy of such appointment certified conformably to the act of congress relating to the authentication of judicial proceedings between the different states, and file the same in the probate court where such will was admitted to probate or where such trustee or trustees received his or their appointment, and shall also proffer a petition to said court asking the court to direct a transfer and delivery of such trust estate to a trustee or trustees so appointed in another state.

HISTORY: CL 1948, 706.5. This section re-enacts Sec. 45 of Ch. LXI of Act 314 of 1915, being CL 1915, 14096;—CL 1929, 15907.

706.6 Transfer of property to trustee; discretion of court; discharge of trustee, filing receipt.

Sec. 6. The court of probate aforesaid may at its discretion authorize and direct such transfer, assignment and delivery of such trust estate to the said trustee or trustees so appointed in another state, and said trustee or trustees of such estate, after such assignment and delivery of such estate, shall procure a written acknowledgment of the reception of such estate, and the same being filed in the probate court where such will was admitted to probate, or where such trustee or trustees were appointed in this state, shall be thereupon discharged from all liability on account of the said trust.

HISTORY: CL 1948, 706.6. This section re-enacts Sec. 46 of Ch. LXI of Act 314 of 1915, being CL 1915, 14097;—CL 1929, 15908.

CHAPTER VII.
COLLECTION OF ASSETS.

707.1	Collection of assets; fiduciary's right to possession of real and personal estate; real estate, delivery to heirs, conditions.	707.12	Real estate acquired by foreclosure proceeding or execution sale considered personal property; sale.
707.2	Inventory and appraisal; appraisers, appointment; determination of fees and mileage. Appraisal; cash, securities, land contracts or mortgages receivable. Appraiser's fees, mileage.	707.13	Real estate acquired by foreclosure proceeding or execution sale considered personal property; distribution, partition.
707.3	Appraisers; appointment by other county; order of appointment.	707.14	Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; authorization.
707.4	Appraisal; contents; filing; amendment of inventory.	707.15	Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; application of creditor; security for costs; suit for creditor in name of fiduciary; bond; expenses.
707.5	Embezzled property of estate; examination of persons suspected of having knowledge; procedure.	707.16	Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; sale; proceeds.
707.6	Embezzled property of estate; refusal to submit to examination; testimony.	707.17	Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; disposition when deceased or ward held property for use of another.
707.7	Safe deposit boxes of decedents' and wards; opening.	707.18	Property replevined from fiduciary; discharge of fiduciary.
707.8	Persons entrusted with possession of estate; accounting; proceedings, citation; enforcement.	707.19	Death of vendor or purchaser under land contract; conveyance.
707.9	Debts due ward or estate; compounding.	707.20	Property conveyed to estate or fiduciary; vesting of title, disposition.
707.10	Death of mortgagee or assignee; authority of fiduciary; effect upon foreclosure proceedings.		
707.11	Mortgage debt, sale or redemption of property; funds from payment.		

707.1 Collection of assets; fiduciary's right to possession of real and personal estate; real estate, delivery to heirs, conditions.

Sec. 1. The fiduciary shall have a right to the possession of all of the real as well as the personal estate of the deceased or the ward, and it shall be his duty to take possession thereof immediately following his appointment. The fiduciary may lease said real estate as provided in this act, and cancel or modify any existing lease or leases given by a decedent or ward in the same manner that the deceased or ward might have done, and may receive the rents, issues and profits of the real estate of a decedent or ward until the estate shall have been settled, or until delivered over by order of the probate court to the person or persons entitled thereto; and he shall keep in good tenantable repair all houses, buildings and fences thereon, which are under his control, so long as they are under his control: Provided, That whenever, on the application of any heir or devisee interested in any parcel of real estate in a decedent's estate, it shall be made to appear to the probate court that there are no charges outstanding and unpaid against said estate and that there are no legacies unpaid or other rights unsatisfied for the payment or satisfaction of which such parcel of real estate is subject to appropriation, or that there is other property in the estate which is subject to prior appropriation for the payment of such charges and legacies or the satisfaction of such rights, and that such property is amply sufficient for that purpose, the said probate court shall thereupon by order deliver over the said parcel of real estate to said heir or devisee, although the said estate shall not then have been fully settled, and thereupon the right of the said executor or administrator to the possession of said parcel of real estate, and to receive the rents, issues and profits thereof shall cease. The provisions of this chapter shall not be construed to interfere with the possession of the homestead.

HISTORY: CL 1948, 707.1. This section supersedes with additions Sec. 6 of Ch. LIV of Act 314 of 1915, being CL 1915, 13850;—CL 1929, 15659.

707.2 Inventory and appraisal; appraisers, appointment; determination of fees and mileage.

Sec. 2. Every fiduciary shall, within 30 days after his appointment, make under oath and return into the probate court a true inventory of the real estate, and of all the goods, chattels, rights and credits of the deceased, or of the ward, which shall have come to his possession or knowledge. If any property of the decedent or ward is encumbered, said inventory shall include a statement of the nature and amount of each such lien.

Appraisal; cash, securities, land contracts or mortgages receivable.

The estate and effects, other than cash or money on deposit, in such inventory shall be appraised by 2 or more disinterested persons, appointed by the judge of probate for that purpose. The appraisers shall be sworn to the faithful discharge of their trust; and if any part of such estate or effects shall be in any other county, appraisers may be appointed either by the judge of probate having jurisdiction of the case, or by the judge of probate of such other county. The appraisers shall be competent persons residing in the county of the court of original jurisdiction or in such other county in which real estate belonging to such estate may be located. To the extent that the assets shall consist of cash, obligations of the United States of America, or stocks, bonds, notes or debentures listed on recognized securities exchanges, no appraisalment thereof shall be required or made and the fiduciary shall designate opposite such items the market value thereof as of the date of death of the deceased or the date of appointment of the guardian. To the extent that the assets consist of land contracts receivable or mortgages receivable, the fiduciary may elect to designate opposite such items the amount of principal and interest owing thereon as of the date of death of the deceased or the date of appointment of a guardian, in which case no appraisalment shall be required.

Appraiser's fees, mileage.

The fees of each appraiser so appointed shall be such amount as shall be found by the probate judge to be reasonable under the particular circumstances involved. Each appraiser shall be entitled to mileage computed at 5 cents per mile from his place of residence to the place or places of making such appraisal and return.

HISTORY: Am. 1947, p. 231, Act 164, Eff. Oct. 11;—CL 1948, 707.2;—Am. 1949, p. 41, Act 51, Eff. Sep. 23;—Am. 1961, p. 51, Act 52, Eff. Sep. 8.

This section as originally enacted superseded and merged with additions Sec. 1 of Ch. LIV of Act 314 of 1915, being CL 1915, 13845;—CL 1929, 15654; Sec. 2 of Ch. LIV of Act 314 of 1915, being CL 1915, 13846;—CL 1929, 15655; and part of Sec. 14 of Ch. LVIII of Act 314 of 1915, being CL 1915, 13963;—CL 1929, 15776; and Sec. 6 of Ch. LXI of Act 314 of 1915, being CL 1915, 14057;—CL 1929, 15668.

707.3 Appraisers; appointment by other county; order of appointment.

Sec. 3. When appraisers shall be appointed by the judge of probate of such other county, he shall issue an order to them in substance as follows:

“County of, ss.

“To, of, in said county:

“You are hereby appointed to appraise on oath the estate and effects of, of, which may be in said county; and when you have performed that service you are required to deliver this order, and your doings in pursuance thereof, to, (executor, administrator or guardian as the case may be) of said deceased, or ward, as the case may be.

“Given under my hand this day of, in the year

.....
Judge of Probate.”

HISTORY: CL 1948, 707.3. This section supersedes Sec. 3 of Ch. LIV of Act 314 of 1915, being CL 1915, 13847;—CL 1929, 15656.

707.4 Appraisal; contents; filing; amendment of inventory.

Sec. 4. The appraisers shall set down opposite each item in such inventory, other than those valued by the fiduciary pursuant to section 2 of this chapter, the value thereof in money, and deliver the same, certified by them, together with their appointment, to the fiduciary who shall file the same with the probate court. The court may order an amendment of the inventory when necessary and, after notice and hearing, may enter an order striking items of personal or real property therefrom which are not assets of said estate.

HISTORY: CL 1948, 707.4;—Am. 1949, p. 42, Act 51, Eff. Sep. 23.

This section supersedes with additions Sec. 4 of Ch. LIV of Act 314 of 1915, being CL 1915, 13848;—CL 1929, 15657.

707.5 Embezzled property of estate; examination of persons suspected of having knowledge; procedure.

Sec. 5. If any fiduciary, heir, legatee, creditor or any other person interested in the estate of any decedent or ward shall complain to the judge of probate, on oath, that any person is suspected to have concealed, embezzled, conveyed away or disposed of any money, goods or chattels of the decedent or ward, or that such person has possession or knowledge of any deeds, conveyances, bonds, contracts or other writings, which contain evidence of or tend to disclose the right, title, interest or claim of the decedent or ward to any of the real or personal estate, or any claim or demand of the decedent or ward, or any last will and testament of the decedent, the said judge may cite such suspected person to appear before said court, and there submit to examination upon oath upon the matter of such complaint.

HISTORY: CL 1948, 707.5. This section supersedes Sec. 7 of Ch. LIV of Act 314 of 1915, being CL 1915, 13851;—CL 1929, 15660.

707.6 Embezzled property of estate; refusal to submit to examination; testimony.

Sec. 6. If the person so cited shall refuse to appear and submit to such examination, or to answer such interrogatories as may be put to him touching the matter of such complaint, the court may, by warrant for that purpose, commit him to the common jail of the county, there to remain in close custody until he shall submit to the order of the court. The probate judge shall cause the examination to be taken stenographically, or in such other mode as he shall deem best, and said judge may direct that all such interrogatories and answers be reduced to writing, signed by the party questioned, and filed in said court.

HISTORY: CL 1948, 707.6. This section supersedes Sec. 8 of Ch. LIV of Act 314 of 1915, being CL 1915, 13852;—CL 1929, 15661.

707.7 Safe deposit boxes of decedents' and wards; opening.

Sec. 7. The safe deposit box of which a decedent was an individual or joint lessee, may be opened following his death only upon compliance with the provisions of Act No. 188 of the Public Acts of 1899, as amended. The safe deposit box of a person who is an individual or joint lessee and for whom a guardian has been appointed, may be opened by a duly appointed and qualified guardian of the estate of such ward.

HISTORY: Am. 1941, p. 264, Act 178, Eff. Jan. 10, 1942;—CL 1948, 707.7.

NOTE: Act 188, 1899, above referred to, is Compilers' § 205.201 et seq. See in particular Compilers' § 205.209b.

707.8 Persons entrusted with possession of estate; accounting; proceedings, citation; enforcement.

Sec. 8. The judge of probate, upon the complaint on oath of any fiduciary, may cite any person who shall have been entrusted by such fiduciary with any part of the estate of the decedent or ward, to appear before such court, and may require such person to render a full account, on oath, of any money, goods, chattels, bonds, accounts or other papers belonging to such estate, which shall have come to his possession, in trust for such fiduciary, and of his proceedings thereon; and if the person so cited shall refuse

to appear and render such account, the court may proceed against him as provided in section 6 of this chapter.

HISTORY: CL 1948, 707.8. This section supersedes Sec. 9 of Ch. LIV of Act 314 of 1915, being CL 1915, 13853;—CL 1929, 15662.

707.9 Debts due ward or estate; compounding.

Sec. 9. When any debtor of a decedent or ward shall be unable to pay all his debts, the fiduciary, under the order of the judge of probate, may compound with such debtor, and give him a discharge upon receiving a fair and just dividend of his effects.

HISTORY: CL 1948, 707.9. This section supersedes Sec. 10 of Ch. LIV of Act 314 of 1915, being CL 1915, 13854;—CL 1929, 15663.

707.10 Death of mortgagee or assignee; authority of fiduciary; effect upon foreclosure proceedings.

Sec. 10. When any mortgagee of real estate, or any assignee of such mortgage, shall die without having foreclosed the mortgage, all the interest in the mortgaged premises conveyed by such mortgage, and the debt secured thereby, shall be considered as personal assets in the hands of the executor or administrator; and he may foreclose the same, and have any other remedy for the collection of such debt which the decedent could have had if living, or may continue any proceeding commenced by the decedent for that purpose. The death of a mortgagee or assignee of a mortgage following first publication of notice of foreclosure, of such mortgage by advertisement shall not affect such proceedings regardless of whether such mortgagee or assignee held title to such mortgage individually or with others, but such proceedings may be continued as though originally instituted by either his executor or administrator, or in case title to such mortgage was held subject to right of survivorship by the surviving mortgagee or assignee.

HISTORY: CL 1948, 707.10. This section supersedes with additions Sec. 11 of Ch. LIV of Act 314 of 1915, being CL 1915, 13855;—CL 1929, 15664.

707.11 Mortgage debt, sale or redemption of property; funds from payment.

Sec. 11. In case of the payment of the mortgage debt, or the sale of the mortgaged premises by virtue of a power of sale, contained therein or otherwise, or redemption of the mortgaged premises from foreclosure sale, at which the premises were bid in by the executor or administrator, the money paid thereon shall be received by the executor or administrator, and he shall thereupon give all necessary releases and receipts.

HISTORY: CL 1948, 707.11. This section supersedes part of Sec. 12 of Ch. LIV of Act 314 of 1915, being CL 1915, 13856;—CL 1929, 15665.

707.12 Real estate acquired by foreclosure proceeding or execution sale considered personal property; sale.

Sec. 12. Any real estate, which may have been purchased or which may hereafter be purchased by an executor or an administrator as such, upon a sale on execution for the recovery of a debt due to the estate or conveyed to such estate by deed in lieu of foreclosure or execution sale or which may be received as a result of compromise of such debt or upon a sale in the foreclosure of a mortgage or land contract held by said executor or administrator (whether owned by the decedent in his lifetime or acquired after his death), or may have been purchased at any such sale by the decedent in his lifetime but as to which the period of redemption had not expired at the date of his death, shall be considered as personal estate and may be sold and conveyed by said executor or administrator in like manner as real estate may now be sold, and the same or the proceeds thereof shall be held and divided as personal estate.

HISTORY: CL 1948, 707.12. This section supersedes with additions part of Sec. 13 of Ch. LIV of Act 314 of 1915, being CL 1915, 13857;—CL 1929, 15666.

707.13 Real estate acquired by foreclosure proceeding or execution sale considered personal property; distribution, partition.

Sec. 13. If any land so held by an executor or administrator as mentioned in the preceding section shall not be sold by him as therein provided, it shall be assigned and distributed to the same persons, and in the same proportions, as if it had been part of the personal estate of the decedent; and if, upon such distribution, the estate shall come to 2 or more persons, partition thereof may be made between them, in like manner as if it were real estate which the decedent held in his lifetime.

HISTORY: CL 1948, 707.13. This section re-enacts Sec. 14 of Ch. LIV of Act 314 of 1915, being CL 1915, 13858;—CL 1929, 15667.

707.14 Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; authorization.

Sec. 14. When there shall be a deficiency of assets in the hands of a fiduciary, and when the decedent or ward shall in his lifetime have conveyed any real estate, or any right or interest therein, with intent to defraud his creditors, or to avoid any right, debt or duty of any person, or shall have so conveyed such estate, or so caused the same to be conveyed, that the deeds of conveyance are void as against creditors or so that the grantee of such estate is in equity a trustee for the benefit of creditors, the fiduciary may and it shall be his duty to commence and prosecute to final judgment any proper action or suit at law or in chancery for the recovery of the same, and may recover for the benefit of the creditors all such real estate, and may also and it shall be his duty to sue in any proper action at law or in equity and recover for all goods, chattels, rights, credits or assets of any kind which may have been so fraudulently conveyed by the decedent or ward, whatever may have been the manner of such fraudulent conveyance or which may have been so conveyed or caused to be conveyed, that the conveyance is void as against creditors, or so conveyed or caused to be conveyed that in equity the grantee is a trustee for the benefit of the creditors of the decedent or ward.

HISTORY: CL 1948, 707.14. This section supersedes with additions Sec. 15 of Ch. LIV of Act 314 of 1915, being CL 1915, 13859;—CL 1929, 15668.

707.15 Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; application of creditor; security for costs; suit for creditor in name of fiduciary; bond; expenses.

Sec. 15. No fiduciary shall be bound to sue for such estate as mentioned in the preceding section for the benefit of the creditors unless on application of a creditor or creditors of the decedent or ward, nor unless the creditor or creditors making the application shall pay such part of the costs or expenses, or give such security to the fiduciary therefor as the probate court shall deem just and equitable: Provided, That in case any fiduciary, after application of any creditor and an offer by such creditor to pay or secure to such fiduciary such portion of the costs or expenses as the probate court may deem reasonable, shall refuse or neglect to sue for such estate or to prosecute such suit, then such creditor upon filing a bond in such sum and with such sureties as shall be approved by the judge of probate, conditioned to save such fiduciary harmless from the whole of the costs and expenses of such proceedings in case of failure to recover, may sue and recover such estate in the name of such fiduciary, and for the benefit of the creditors of such estate: Provided further, That in case suit is brought by a creditor in the name of the fiduciary as well as when brought by the fiduciary individually, the court shall order the reasonable costs and expenses of the proceedings paid from the fund or estate recovered, if any, before any distribution of the same shall be made to creditors.

HISTORY: CL 1948, 707.15. This section supersedes Sec. 16 of Ch. LIV of Act 314 of 1915, being CL 1915, 13860;—CL 1929, 15669.

707.16 Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; sale; proceeds.

Sec. 16. All real estate so recovered shall be sold, in the same manner as other real estate, upon obtaining a license therefor from the probate court, and the proceeds of all goods, chattels, rights and credits recovered, as aforesaid, shall be held in the same manner as other assets in the hands of the fiduciary.

HISTORY: CL 1948, 707.16. This section supersedes Sec. 17 of Ch. LIV of Act 314 of 1915, being CL 1915, 13861;—CL 1929, 15670.

707.17 Recovery of real estate conveyed by deceased to defraud creditors by fiduciary; disposition when deceased or ward held property for use of another.

Sec. 17. When the fiduciary of any decedent or ward who claimed only a special property in any goods, to hold them for the use and benefit of another, shall recover such goods, or the value thereof, or damages for the taking or detention thereof, or for any injury done to the same, the goods or money so recovered shall not be considered assets in his hands, but shall, after deducting the costs and expenses of the suit, be paid over and delivered to the person for whose use or benefit they were so claimed or held by the decedent or ward.

HISTORY: CL 1948, 707.17. This section supersedes with additions Sec. 18 of Ch. LIV of Act 314 of 1915, being CL 1915, 13862;—CL 1929, 15671.

707.18 Property replevined from fiduciary; discharge of fiduciary.

Sec. 18. When judgment for a return, in an action of replevin, shall be rendered against a fiduciary, the goods returned by him shall not be considered assets in his hands; and if they shall have been included in the inventory, it shall be a sufficient discharge for the fiduciary, to show that they have been returned in pursuance of such judgment.

HISTORY: CL 1948, 707.18. This section supersedes Sec. 19 of Ch. LIV of Act 314 of 1915, being CL 1915, 13863;—CL 1929, 15672.

707.19 Death of vendor or purchaser under land contract; conveyance.

Sec. 19. In case a person shall have contracted, or shall contract to convey any land, or right interest, or claim in or to lands, and shall have died, or shall die, before he shall have executed, or shall execute, deeds or conveyances in pursuance of such contract, leaving such contract subsisting and in force, or if such contract shall have been assigned, or shall be assigned, then if the assignee of such contract, entitled to the benefit thereof, and grantee of such contracted premises subject to the contract, shall have died, or shall die, or if such person or the assignee of such contract shall have been adjudged, or shall be adjudged insane, incompetent, or a spendthrift, before deeds or conveyances shall have been executed of the contracted premises in pursuance of such contract, leaving such contract subsisting and in force, or if the owner of such vendor's interest is a minor, the fiduciary whether of the party contracting or his assignee, may demand and enforce payment of the moneys due or falling due on such contract, and in case a cause of forfeiture of such contract shall have accrued, or shall accrue, and shall not have been waived, may declare such contract forfeited; and when such contract shall have been performed so as to entitle the party thereto, or his assigns, to have a deed or conveyance to him executed under the terms of the contract of the premises thereby contracted, the fiduciary shall be authorized and empowered to execute, duly acknowledge, and deliver deeds or conveyances of the contracted premises in pursuance of the terms of the contract, to the party contracting to purchase, or his assigns, with like effect as if the party contracting to convey had himself executed and delivered such deed or conveyance: Provided, That every deed or conveyance to be executed as aforesaid shall contain a reference to the date and respective parties to the contract in pursuance of which it purports to have been made, and a copy of the original contract under which the grantee named in such deed or convey-

ance makes his claim, and of any assignment thereof under which he claims, shall be annexed to or embodied in every such deed or conveyance, and shall be deemed part and parcel thereof, and as such shall be recorded therewith; and whenever the person who contracted to purchase, or his assigns, shall have died, the deed or conveyance for the contracted premises, embodying the substance of the contract, or a copy of it, may be executed and issued to and in the name of such deceased person, and when so executed and issued shall have the same effect as though it had been executed and delivered during the lifetime of such person, or his assigns: And provided further, That when the contract for any lands, or any right, interest or claim in or to lands theretofore contracted to be sold, shall be forfeited, and shall have been duly declared to be forfeited, as aforesaid, or shall have been surrendered to the fiduciary in lieu of forfeiture or foreclosure, all such lands, and rights, interests and claims in or to such lands, shall, in all cases of a fiduciary of a decedent's estate, to all intents and purposes, be thenceforth deemed to be held, and shall be treated in the same manner and may be sold, as lands purchased at mortgage sales by executors or administrators under and in pursuance of the provisions of this chapter.

HISTORY: CL 1948, 707.19. This section supersedes Sec. 20 of Ch. LIV of Act 314 of 1915, Add. 1917, p. 474, Act 223, Eff. Aug. 10;—Am. 1919, p. 695, Act 396, Eff. Aug. 14, being CL 1929, 15673.

707.20 Property conveyed to estate or fiduciary; vesting of title, disposition.

Sec. 20. Any instrument by which property real or personal or any interest therein is conveyed, transferred or assigned and in which an estate or the fiduciary thereof is named as grantee, vendee or assignee shall be deemed to vest title thereto in such estate, and such property or interest therein shall be held and disposed of in like manner as provided by law for property constituting the assets of an estate.

HISTORY: CL 1948, 707.20.

CHAPTER VIII.

CLAIMS.

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708.1 Liability of estate for debts; secured claims; simultaneous death of husband and wife.

Sec. 1. Subject to the right of homestead, to the widow's right of dower when elected by her, and to all prior charges against the estate, a decedent's or ward's estate, both real and personal, is subject to the payment of his debts, but no debts except those which are secured by a lien upon the property of the decedent or ward shall be paid unless filed in the probate court and allowed by the court and secured claims not

so proved shall be paid only when the probate court, upon hearing, shall determine that the property covered by such lien is worth more than the amount of the indebtedness so secured.

Where a husband and wife die and there is no sufficient evidence that they have died otherwise than simultaneously, the reasonable expenses of the wife's funeral and burial shall be chargeable against her estate as a first class claim and if insufficient assets therein preclude payment thereof in full, any unpaid balance of the expenses may be presented against the estate of the husband as a fifth class claim and allowed and paid therein in the same manner as other claims of the same class.

HISTORY: CL 1948, 708.1;—Am. 1965, p. 9, Act 6, Eff. Mar. 31, 1966.

See Sec. 22 of Ch. LII of Act 314 of 1915, being CL 1915, 13794;—Am. 1923, p. 466, Act 293, Eff. Aug. 30;—CL 1929, 15553.

708.2 Hearing on claims; order; notice; service of copy of claim.

Sec. 2. When the court has approved the bond of the fiduciary in all estates of decedents and estates of incompetents, he shall immediately fix a date for the filing of claims and for the hearing on claims, which date for the hearing of claims shall be not less than 2 nor more than 4 months from the date of the first publication of the order therefor, and the court shall forthwith cause notice to prove claims and of the hearing thereon to be given by publication as provided in sections 32 to 35 of chapter 1 of this act. A copy of each claim shall be served upon fiduciaries by the claimant. The judge of probate may, upon his own motion, and shall upon the petition of a creditor of any minor past the age of 16 years of whose estate a guardian has been appointed, or any other interested party, setting forth grounds therefor, enter an order for a hearing on claims in such estate and proceed thereon as provided in this chapter.

HISTORY: CL 1948, 708.2. This section supersedes Sec. 5 of Ch. LV of Act 314 of 1915, being CL 1915, 13868;—CL 1929, 15678; also see Sec. 2 of Ch. LV of Act 314 of 1915, being CL 1915, 13865;—CL 1929, 15675; and Sec. 6 of Ch. LV of Act 314 of 1915, being CL 1915, 13869;—CL 1929, 15679.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

708.3 Claims; hearing; referees, appointment, recommendations, objections, order of approval; further hearing; appeal.

Sec. 3. All claims in each estate shall be heard by the probate court unless such probate court shall appoint a referee or referees to hear contested claims, which referee or referees shall be sworn to the faithful discharge of his or their duties and shall be authorized to administer oaths to parties or witnesses. If such referee is appointed by the probate court for the purpose of hearing said contested claims, it shall be the duty of such referee to examine all contested claims filed against such estate and any offsets in connection with any such contested claim or claims of the fiduciary of said estate. In the event that any claim or offset is contested or disputed, or subject to proofs, the probate judge or the referee, as the case may be, may adjourn the hearing on claims as originally fixed by order of the court until such time as the disputed matter can conveniently be heard, giving reasonable notice of such adjournment to the fiduciary and the claimant. A referee shall file with the probate court within 20 days following the close of the hearing on claims his report thereon, including a full statement of facts with respect to any disputed claims or offsets and his recommendations for the allowance or disallowance in whole or in part of all such claims or offsets and notice of the date of filing of such report by the referee shall be given to the fiduciary and the claimants affected, in the case of disputed and contested claims or offsets. Parties aggrieved by the recommendation of the referee may file objections to the report of the referee with the probate court within 10 days after the filing of such report.

After 10 days have elapsed since the report of a referee is filed, the probate judge shall enter an order approving or disapproving, in whole or in part, the recommendations of the referee unless objections are filed thereto within such 10 day period. In the event such objections are filed within such period, the probate judge may in his discre-

tion set the matter for further hearing before the court not more than 20 days following the filing of the objections to the referee's report and reasonable notice of such hearing, if any, shall be given to the fiduciary and the interested claimant. After such hearing, the probate judge shall enter an order allowing or disallowing in whole or in part, such claims or offsets, so heard by him. If said judge does not order a further hearing on said claim and give notice thereof within 20 days following the filing of objections to the referee's report, if any, as herein provided, he shall then enter an order approving or disapproving, in whole or in part, the recommendations of the referee: Provided, however, the parties may stipulate that such hearing may be more than 20 days after the filing of such objections if the judge orders such hearing.

All orders of the court approving a referee's recommendations with reference to the allowance or disallowance in whole or in part of such claims and offsets and all orders of the probate court allowing or disallowing in whole or in part such claims or offsets shall be final orders and appealable: Provided, however, That any order allowing or disallowing any claim of less than \$50.00 shall be final and not appealable. The order of the probate court following the filing of a referee's report setting the matter contained in such report for further hearing before the court, shall not be appealable: Provided further, however, That no referee or referees on claims shall be appointed except where it appears on the date set for the hearing of said claims that objections are made or filed to any claim or any claim appears to be contested.

HISTORY: Am. 1947, p. 88, Act 80, Eff. Oct. 11;—CL 1948, 706.3.

See Sec. 1 of Ch. LV of Act 314 of 1915, being CL 1915, 13864;—CL 1929, 15674; Sec. 8 of Ch. LV of Act 314 of 1915, being CL 1915, 13871;—CL 1929, 15681; Sec. 10 of Ch. LV of Act 314 of 1915, being CL 1915, 13873;—CL 1929, 15683; Sec. 11 of Ch. LV of Act 314 of 1915, being CL 1915, 13874;—Am. 1921, p. 346, Act 166, Eff. Aug. 18;—CL 1929, 15684; Sec. 12 of Ch. LV of Act 314 of 1915, being CL 1915, 13875;—CL 1929, 15685; and Sec. 29 of Ch. LV1 of Act 314 of 1915, being CL 1915, 13911;—CL 1929, 15722.

708.4 Claims; contest; costs allowed; attorney's fee.

Sec. 4. Costs in the discretion of the probate court may be allowed the prevailing party in connection with any contested claim, which costs, if so allowed by the court, shall include witness fees, except for the claimant and the fiduciary if they appear as witnesses, taxed at the same rate as in cases in circuit court, and the fees of the referee, if any shall be included, and the court in its discretion may allow the prevailing party an attorney fee of not exceeding \$25.00 in connection with any 1 claim. The order of the court allowing or disallowing such claim shall specify whether costs are allowed, and, if so, shall fix the amount thereof in accordance with this section. In the event that costs are allowed against an estate, the fiduciary shall pay the same as a part of the expenses of administration.

HISTORY: CL 1948, 706.4.

708.5 Claims; security for costs; furnishing by claimants; procedure.

Sec. 5. On motion of the fiduciary, all claimants who are nonresidents of the state of Michigan shall be, and all other claimants, when it shall appear reasonable and proper to the court, may be required to furnish sufficient surety or sureties, to be approved by the court, and who shall justify in double the amount of security ordered, for all such costs as may be awarded to the fiduciary, and such sureties shall be liable for all costs awarded either in the court of original jurisdiction, or in any appellate court: Provided, That in case any claimant except a nonresident of the state shall show the court that he is unable to comply with such order, if the court shall be satisfied that the claimant states a meritorious claim, and that the claim is made in good faith, the claimant shall be allowed to proceed in such action without giving security for costs. A copy of the bond or other undertaking, by which such security is given, shall be forthwith served upon the fiduciary or his attorney. If any claimant, or any surety for costs, shall remove out of the state, or if any such surety be deemed by the court insufficient, such court may require the claimant to give new or additional security to the satisfaction of

the court; and every person becoming such additional surety shall be liable for all costs from the filing of claim in like manner as if he had been the original surety.

HISTORY: Am. 1941, p. 264, Act 176, Eff. Jan. 10, 1942;—CL 1948, 708.5. This section as originally enacted superseded with additions Sec. 8 of Ch. LI of Act 314 of 1915, being CL 1915, 13771;—CL 1929, 15526.

708.6 Claims; referees serve at pleasure of appointing judge; fees.

Sec. 6. No referee so appointed shall receive any fee or perquisite other than as herein provided. Any referee, so appointed, shall serve at the pleasure of the probate judge making such appointment. He shall receive from each estate, the claims against which are assigned to him for hearing, such reasonable compensation as the judge of probate shall determine: Provided, however, That in any such county in which the board of supervisors may provide an annual or monthly salary for such referee or referees, no charge shall be made against any such estate for the services of such referee.

HISTORY: CL 1948, 708.6.

708.7 Claims; early hearing for burial expenses; time for payment of claims, extension.

Sec. 7. The court may in its discretion, upon petition, and 5 days' notice by personal service to such parties as the court may by its order direct, cause an earlier final hearing to be set as to a particular claim or as to particular claims in all cases where it deems it advisable, and the court shall set the hearing of the claims for the expenses of burial within 30 days after the appointment of the fiduciary. Upon such hearing, the court shall allow or disallow such claims in whole or in part and enter an order with reference to the payment thereof, which order shall provide for the immediate payment of such claims as allowed, providing that such payment can be made without injury or serious inconvenience to the estate. The order of the court, after the general hearing on claims, whether following reference of the same or otherwise, shall fix the time for the payment of such claims as shall have been allowed, which time, in the first instance, shall not exceed 1 year and 6 months from the date of hearing. The court may, in its discretion upon petition and notice, extend such time for an additional period of 1 year at a time for a total period not to exceed 10 years.

HISTORY: CL 1948, 708.7. New section, however, see Sec. 8 of Ch. LV of Act 314 of 1915, being CL 1915, 13871;—CL 1929, 15681.

708.8 Claims; form; bill of particulars; adjournment of hearing.

Sec. 8. All claims filed against an estate shall be in writing and under oath and shall contain sufficient detail reasonably to inform the fiduciary of the nature and amount of the claim. Any claim founded in whole or in part upon a written instrument shall have annexed thereto or endorsed thereon a true copy of such instrument.

The fiduciary in connection with any claim may demand a bill of particulars of claimant's demands, and the claimant shall furnish the same within 10 days after such demand. In case a copy of said claim has not been served upon the fiduciary, or his attorney, at least 20 days prior to the time set for hearing claims, the said claim shall not be heard for at least 10 days following the furnishing of such bill of particulars by the claimant. In case of setoff, claimant may demand a bill of particulars under like terms and conditions. In the event that either party considers the bill of particulars furnished insufficient, he may file motion in court for a more detailed bill of particulars. The practice on such motions, as to notice of hearing and the requiring of a more detailed statement, shall be the same as near as may be as the practice in circuit court.

HISTORY: CL 1948, 708.8.

708.9 Claims; setoffs; suits by fiduciaries and setoffs; limitations.

Sec. 9. When a creditor against whom the decedent or ward had claims shall present a claim against the estate, the fiduciary may file the claim of the decedent or ward in offset thereto and the court shall ascertain and allow the balance against or in favor of the estate as he shall find the same to be, but no claim barred by the statute of limi-

tations shall be allowed in favor of or against the estate as a setoff or otherwise, except that such a claim shall be allowed in favor of the estate by way of setoff if the same was not barred at the time claimant's cause of action accrued. If the fiduciary does not file the claim of his decedent or ward in offset against the claim of such creditor, he may sue the same in any other court of competent jurisdiction. Except as in this section otherwise stated, nothing in this chapter shall be construed to prevent a fiduciary, when he shall deem the same necessary, from commencing and prosecuting any action against any other persons, or from prosecuting any action commenced by the decedent in his lifetime or by the ward for the recovery of any debt or claim to final judgment, or from having execution on any judgment. In such case, the defendant may set off any claim he may have against the decedent or ward instead of presenting the same in probate court and all mutual claims may be set off in such action, and if final judgment shall be rendered by the court, the same shall be certified by the court rendering it to the probate court and the judgment shall be considered a true balance.

HISTORY: CL 1948, 708.9. This section supersedes with additions and merges Sec. 9 of Ch. LV of Act 314 of 1915, being CL 1915, 13872;—CL 1929, 15682; and Secs. 17 and 18 of Ch. LV of Act 314 of 1915, being CL 1915, 13880-13881;—CL 1929, 15690-15691.

708.10 Claims; classes; priority; closing estate to claims.

Sec. 10. Claims allowed against an estate shall have the following classification and preference:

1. The necessary funeral expenses as determined by the judge of probate;
2. Debts due the United States;
3. Expenses of last sickness;
4. Debts due the state of Michigan other than those established through section 34a of Act No. 280 of the Public Acts of 1939, as added by Act No. 262 of the Public Acts of 1947, being section 400.34a of the Compiled Laws of 1948;
5. All other debts.

The order of the court allowing or disallowing claims following the general hearing thereon shall contain a provision closing the estate to claims.

HISTORY: CL 1948, 708.10;—Am. 1956, p. 235, Act 127, Imd. Eff. Apr. 13.

This section supersedes Sec. 6 of Ch. LVI of Act 314 of 1915, being CL 1915, 13888;—Am. 1929, p. 81, Act 45, Eff. Aug. 28;—CL 1929, 15698.

708.11 Payment of claims by solvent estate.

Sec. 11. If, after the order of the probate court determining the claims against any estate, it shall appear that the fiduciary has in his possession sufficient assets to pay all the debts, he shall pay the same in full within the time limited or appointed for that purpose or within such extended time as the court may allow.

HISTORY: CL 1948, 708.11. This section supersedes Sec. 5 of Ch. LVI of Act 314 of 1915, being CL 1915, 13887;—CL 1929, 15696.

708.12 Payment of claims by insolvent estate; manner; priority; prorating.

Sec. 12. If there shall not be assets enough to pay all the debts of any 1 class, each creditor shall be paid a dividend in proportion to his claim; and no creditor of any 1 class shall receive any payment until all those of the preceding class shall be fully paid.

HISTORY: CL 1948, 708.12. This section re-enacts Sec. 7 of Ch. LVI of Act 314 of 1915, being CL 1915, 13889;—CL 1929, 15700.

708.13 Payment of claims pending disposal of appeal upon claim.

Sec. 13. If an appeal shall have been taken from the order of the court allowing claims, and shall remain undetermined, the probate court may order payment of claims having preference over such disputed claim and may also in its discretion order distribution among the creditors whose claims are of the same class as the disputed claim and shall have been allowed, leaving in the hands of the fiduciary sufficient assets to pay the same proportion of the claim which may have been disputed and appealed if allowed.

HISTORY: CL 1948, 708.13. This section supersedes with additions Sec. 9 of Ch. LVI of Act 314 of 1915, being CL 1915, 13891;—CL 1929, 15702.

708.14 Payment of claims pending disposal of appeal upon claim; determination of appeal, effect.

Sec. 14. When the disputed claims shall have been finally settled, the probate court shall order the same to be paid out of the assets retained, to the same extent, and in the same proportion as the claims of the other creditors in the same classification.

HISTORY: CL 1948, 708.14. This section re-enacts with addition of "in the same classification" Sec. 10 of Ch. LVI of Act 314 of 1915, being CL 1915, 13892;—CL 1929, 15703.

708.15 Payment of claims pending disposal of appeal upon claim; further distributions, probate court order.

Sec. 15. If the whole of the debts shall not have been paid by the first distribution, and if the whole assets shall not have been distributed, or if other assets shall afterwards come to the hands of the fiduciary, the probate court may, from time to time, according to the circumstances of the case, make further decree for the distribution of assets.

HISTORY: CL 1948, 708.15. This section re-enacts except changes "executor or administrator" or "fiduciary" Sec. 11 of Ch. LVI of Act 314 of 1915, being CL 1915, 13893;—CL 1929, 15704.

708.16 Payment of debts; notice to creditors of time limited.

Sec. 16. When the time for paying the debts shall be finally limited by order of the probate court, or by the expiration of the time allowed for that purpose, whether the estate shall be insolvent or not, the probate court may, on the application of the fiduciary, by an order for that purpose, cause notice to be given to the creditors, of the time appointed or limited for the payment of such debts; which notice shall be given by publication as provided in section 32 to 35 of chapter 1 of this act, or in such other manner as the court may direct.

HISTORY: CL 1948, 708.16. This section supersedes Sec. 13 of Ch. LVI of Act 314 of 1915, being CL 1915, 13895;—CL 1929, 15706.

708.17 Statute of limitations; adjudicated claims.

Sec. 17. After adjudication on claims, no statute of limitations shall run against claims so adjudicated, except that, if, after notice shall have been given as provided in the preceding section, any creditor shall neglect to demand from the fiduciary his debt, or the dividend thereon, within 2 years from the time so limited for the payment of the debts, or if the notice shall be given after such time, within 2 years from the last publication, the claim of such creditor shall be forever barred.

HISTORY: CL 1948, 708.17. This section supersedes with additions Sec. 14 of Ch. LVI of Act 314 of 1915, being CL 1915, 13896;—CL 1929, 15707.

708.18 Tardy claims; filing; application; costs; notice to fiduciary.

Sec. 18. On the application of a creditor who has failed to present his claim, if made within 18 months following the time originally fixed by the court for the presentation of claims, and before such estate is closed, the judge of probate shall allow further time, not exceeding 1 month, for such creditor to present his claim, which claim may then be heard by the court or referred to a referee as hereinbefore provided: Provided, That all costs and charges resulting from said application and the proceedings thereon had in probate court, or before the referee shall be paid by the party making the application. After 18 months following the time for presentation of claims as originally fixed by the probate court, no claim against the estate shall be received and considered unless the probate court, upon prior notice to the fiduciary and after hearing, shall determine that the failure of such creditor to present his claim sooner was not due to any fault or neglect on the part of such creditor. Five days' notice by personal service of the time and place of the hearing on any tardy claim shall be given to the fiduciary.

HISTORY: CL 1948, 708.18. This section supersedes with additions and merges part of Sec. 6 of Ch. LV of Act 314 of 1915, being CL 1915, 13869;—CL 1929, 15679; and Sec. 7 of Ch. LV of Act 314 of 1915, being CL 1915, 13870;—CL 1929, 15680.

708.19 Compromise of claims for or against estate of decedent or ward; order of court.

Sec. 19. Any fiduciary, under the order of the probate judge, after such notice as he may direct, or without notice in his discretion, may adjust, settle or compromise any claim for or against the estate of a decedent or ward.

HISTORY: CL 1948, 708.19. This section supersedes Sec. 10 of Ch. LIV of Act 314 of 1915, being CL 1915, 13854;—CL 1929, 15663; and supersedes and merges part of Sec. 15 of Ch. LVI of Act 314 of 1915, being CL 1915, 13897;—CL 1929, 15708.

708.20 Claims barred unless presented within six years after death.

Sec. 20. All debts and obligations of any person shall be barred after 6 years from the date of his death unless presented to the probate court as provided by law or unless sooner barred by law, notwithstanding that no proceedings shall have been taken to probate such estate: Provided, That in case any decedent died more than 6 years prior to the taking effect of this act or if said 6 year period shall expire within 3 months after this act takes effect, leaving any debt or obligation unsatisfied and not otherwise barred by law, the owner of the debt or obligation may present the same against the estate of such decedent in probate court within 6 months after this act shall take effect, and, unless such debt or obligation is so presented, the same shall be barred forever.

HISTORY: CL 1948, 708.20. This section supersedes Sec. 1 of Act 348 of 1917, Am. 1923, p. 7, Act 5, Eff. Aug. 30, being CL 1929, 15724.

CITED IN OTHER SECTIONS: The above section is cited in § 800.5852.

708.21 Payment of debts due at future date according to contract.

Sec. 21. Nothing in this chapter shall be construed to prevent any fiduciary from paying any debt which shall be payable at a future day, according to the terms, and at the time specified in the contract.

HISTORY: CL 1948, 708.21. This section supersedes Sec. 13 of Ch. LV of Act 314 of 1915, being CL 1915, 13876;—CL 1929, 15696.

708.22 Actions in circuit court against fiduciaries; notice in probate court; retention of funds; certification of judgments; contingent claims; writs.

Sec. 22. No action shall be commenced against the executor or administrator, except actions of ejectment, or other actions to recover the seizin or possession of real estate, and actions of replevin and trespass on the case and any other action in which the deceased might have been properly joined with others as a party defendant, nor shall any attachment or execution be issued against the estate of the deceased, until the expiration of the time limited by the court for the payment of debts: Provided, That such action shall be brought in the circuit court of any county having jurisdiction of the parties. Plaintiff may file in the probate court having jurisdiction of said estate a notice of suit pending. After the filing of such notice no assignment of property to heirs, nor payment of debts, or other distribution shall be made to creditors within the fifth class except said probate court may authorize such distribution in case the executor or administrator retains sufficient assets to secure said plaintiff payment of the judgment recovered including costs. The final judgment rendered in such action shall be certified to the probate court by the county clerk upon the same becoming final whereupon such judgment shall have the same effect as all other approved claims of the same class against said estate.

No person having any contingent or other lawful claim against a deceased person shall thereby be prevented from prosecuting the same against the executor, administrator, heirs, devisees or legatees, as provided by law, and in such case a claimant having a lien upon real or personal estate of the deceased, by attachment previous to his death may, on obtaining judgment, have execution against such real or personal estate.

In no other case, except such as are expressly provided for in this chapter, shall any action be commenced or prosecuted against an executor or administrator; nor shall any writ of attachment or execution issue against such executor or administrator, or

against the estate of the deceased in his hands, during the time allowed him for the payment of debts, except in the case provided for in the preceding paragraph.

HISTORY: CL 1948, 708.22. This section supersedes with additions part of Sec. 15 of Ch. LV of Act 314 of 1915, being CL 1915, 13878;—CL 1929, 15688; re-enacts part of Sec. 29 of Ch. LVI of Act 314 of 1915, being CL 1915, 13911;—CL 1929, 15722; and re-enacts except changes "section" to "paragraph" Sec. 30 of Ch. LVI of Act 314 of 1915, being CL 1915, 13912;—CL 1929, 15723.

708.23 Actions pending against deceased person; prosecution by fiduciary; certification.

Sec. 23. All actions and suits which may be pending against a deceased person at the time of his death may, if the cause of action survives, be prosecuted to final judgment, and the executor or administrator may be admitted to defend the same, and if judgment shall be rendered against the executor or administrator, the court rendering it shall certify the same to the probate court, and the amount thereof shall be paid in the same manner as other claims duly allowed against the estate.

HISTORY: CL 1948, 708.23. This section re-enacts Sec. 16 of Ch. LV of Act 314 of 1915, being CL 1915, 13879;—CL 1929, 15689.

SURVIVAL OF ACTIONS: Admission of executor or administrator as party, see Compilers' § 600.2921.

708.24 Joint indebtedness; estate liable for payment; contributions.

Sec. 24. When 2 or more persons shall be indebted on any joint contract, or upon a judgment founded on a joint contract, and either of them shall die, his estate shall be liable therefor, and it may be allowed by the court, as if the contract had been joint and several, or as if the judgment had been against him alone, and the other parties to such joint contract may be compelled to contribute or to pay the same, if they would have been liable to do so upon payment thereof by the deceased.

HISTORY: CL 1948, 708.24. This section re-enacts except changes "commissioners" to "court" Sec. 19 of Ch. LV of Act 314 of 1915, being CL 1915, 13882;—CL 1929, 15692.

CONTINGENT CLAIMS.

708.25 Presenting of contingent claims; proof; fiduciary authorized to compromise certain claims; purchase of property subject to lease.

Sec. 25. If any person shall be liable as security for the deceased or ward or have any other claim against his estate which cannot be proved as a debt, the same shall be presented with the proper proof to the probate court or a referee appointed by the court within the time limited for approving claims or otherwise be barred; and in case such claim shall be made against such estate by reason of any bond or agreement of any kind in writing, signed by the deceased or ward and binding him to pay any certain sum or sums for the support of the claimant for the lifetime of such claimant or another or for a term of years, or to perform certain work for another, for the nonperformance of which his estate is liable, or binding the deceased or ward to pay any sums as rental or royalty during a lease or license, the fiduciary of said estate, by and with the consent of such claimant and the approval of the judge of probate, may compromise and settle such claim in such manner as shall be just and shall be determined by said judge of probate, and the same so determined shall be paid as other debts of said deceased or ward, and the fiduciary in effecting such compromise is empowered, if necessary and if so ordered by the judge of probate, after such notice as he shall direct, to purchase the real estate or property covered by the lease or license, and in case of the purchase of real estate as above provided, the same shall be treated as personal property in the hands of the executor, administrator or guardian and disposed of and distributed as such.

HISTORY: CL 1948, 708.25. This section supersedes Sec. 15 of Ch. LVI of Act 314 of 1915, being CL 1915, 13897;—CL 1929, 15706.

708.26 Retention of part of estate to satisfy contingent claim.

Sec. 26. If the court shall be satisfied by the proof exhibited that claimant has a valid claim against the estate of a decedent although not yet absolute, said court may order the fiduciary to retain in his hands sufficient estate to pay such contingent claim when the same shall become absolute, or, if the estate shall be insolvent, sufficient to

pay a proportion equal to the dividends of the other creditors and shall not permit the closing of said estate until said claim has become absolute and opportunity for the presentation and allowance thereof given as provided in section 29 hereof, or until any liability on the part of the estate upon said claim has been terminated, or until said claimant has been adequately protected by the giving of bond or otherwise.

HISTORY: CL 1948, 708.28. This section supersedes with additions Sec. 18 of Ch. LVI of Act 314 of 1915, being CL 1915, 13898;—CL 1929, 15708.

708.27 Payment of contingent claim; distribution if not allowed.

Sec. 27. If such contingent claim shall be allowed, as mentioned in the preceding section, or established on appeal, the creditor shall be entitled to receive payment to the same extent as other creditors, if the estate retained by the executor or administrator shall be sufficient for that purpose; but if the claim shall not be finally established as provided in the preceding section, or if the assets retained in the hands of the fiduciary shall not be wholly exhausted in the payment of such claims, such assets, or the residue of them, shall be disposed of by order of the probate court, to the persons entitled to the same according to law.

HISTORY: CL 1948, 708.27. This section supersedes Sec. 18 of Ch. LVI of Act 314 of 1915, being CL 1915, 13900;—CL 1929, 15711.

708.28 Presenting claim after accrual; payment out of assets in hands of fiduciary.

Sec. 28. If a contingent claim presented as aforesaid shall accrue or become absolute, at any time after the time limited for creditors to present their claims, the person having such claim may present it to the probate court, and prove the same at any time within 60 days after it shall accrue or become absolute, and if established in the manner provided in this chapter, the fiduciary shall be required to pay it, if he shall have sufficient assets for that purpose, and shall be required to pay such part as he shall have assets to pay; and if real or personal estate shall afterwards come to his possession, he shall be required to pay such claim, or such part as he may have assets sufficient to pay, not exceeding the proportion of the other creditors, in such time as the probate court may prescribe.

HISTORY: CL 1948, 708.28. This section supersedes Sec. 19 of Ch. LVI of Act 314 of 1915, being CL 1915, 13901;—CL 1929, 15712.

708.29 Presenting claim after accrual; right to collect balance of claim from heirs, devisees and legatees.

Sec. 29. When such a claim shall be presented within 60 days from the time when it shall accrue or become absolute, and be established, as mentioned in the preceding section, and the fiduciary shall not have sufficient assets to pay the whole of such claim, the creditor shall have a right to recover such part of his claim as the fiduciary has not assets to pay, against the heirs, devisees or legatees, who shall have received sufficient real and personal property from the estate.

HISTORY: CL 1948, 708.29. This section supersedes Sec. 20 of Ch. LVI of Act 314 of 1915, being CL 1915, 13902;—CL 1929, 15713.

708.30 Plea of administration of assets by fiduciary to action upon contingent claim.

Sec. 30. If an action shall be commenced against an executor or administrator on such claim as is mentioned in section 29, and for the payment of which sufficient assets shall not have been retained, as before provided in this chapter, the executor or administrator may give notice under his plea to such action, that he has fully administered the estate which has come to his possession or knowledge.

HISTORY: CL 1948, 708.30. This section re-enacts except changes word and figures "nineteen (19)" to figures "29" Sec. 21 of Ch. LVI of Act 314 of 1915, being CL 1915, 13903;—CL 1929, 15714.

708.31 Plea of administration of assets by fiduciary to action upon contingent claim; fiduciary liable for amount of assets in hand.

Sec. 31. If it shall appear on the trial of such action that the defendant had fully administered at the time the claim was presented, and had no assets which could be lawfully appropriated for that purpose, he shall be discharged, and shall have judgment for his costs; but if it shall be found that he had assets sufficient to pay only a part of such claim, judgment shall be rendered against him for such sum only as shall be equal to the amount of assets in his hands.

HISTORY: CL 1948, 708.31. This section re-enacts Sec. 22 of Ch. LVI of Act 314 of 1915, being CL 1915, 13904;—CL 1929, 15715.

708.32 Contingent creditor; right of action against distributees.

Sec. 32. When the heirs, devisees or legatees shall have received real or personal estate, an unpaid creditor whose contingent claim has been established as hereinbefore provided may sue at law or in equity, and shall have a right to recover his claim against a part or all of such heirs, devisees or legatees, to the amount of the estate they may have respectively received, but no such action shall be maintained unless commenced within 1 year from the time the claim shall be allowed or established.

HISTORY: CL 1948, 708.32. This section supersedes Sec. 23 of Ch. LVI of Act 314 of 1915, being CL 1915, 13905;—CL 1929, 15716.

708.33 Contingent creditor action brought against part of distributees; interpleading of others.

Sec. 33. If all the persons liable for the payment of any such debt shall not be included in the action or suit as defendants, the suit or action shall not thereby be in any way dismissed or barred; but the court before which it shall be pending may order any other parties brought in, by any proper process, and may allow such amendments as may be necessary to make them defendants, on such terms as the court shall prescribe.

HISTORY: CL 1948, 708.33. This section re-enacts Sec. 25 of Ch. LVI of Act 314 of 1915, being CL 1915, 13907;—CL 1929, 15718.

708.34 Contingent creditor; liability of respective distributees; chancery, determination of court; execution.

Sec. 34. If more than 1 person shall be liable as aforesaid, and the creditor shall bring a suit in chancery against all or a part of the persons so liable, and the persons liable shall dispute the debt or the amount claimed, the court of chancery shall ascertain and determine how much each is liable to pay and may award execution therefor.

HISTORY: CL 1948, 708.34. This section supersedes Sec. 26 of Ch. LVI of Act 314 of 1915, being CL 1915, 13908;—CL 1929, 15719.

708.35 Deceased distributee; estate liable for share.

Sec. 35. If any of the heirs, devisees or legatees shall die without having paid his just share of the debts, his estate shall be liable therefor, as for his own debt, to the extent to which he would have been liable if living.

HISTORY: CL 1948, 708.35. This section re-enacts Sec. 27 of Ch. LVI of Act 314 of 1915, being CL 1915, 13909;—CL 1929, 15720.

708.36 Liability; order among heirs, devisees and legatees; contribution.

Sec. 36. The heirs, devisees and legatees shall be liable among themselves to any such creditor in accordance with the provisions of this act relative to the appropriation of personal and real estate for the payment of charges against an intestate estate and relative to the order of satisfaction of devises and legacies in a testate estate when the assets are insufficient to pay all charges against such estate, and any of the heirs, devisees or legatees who may be required to pay any such debt shall have the right to exoneration, reimbursement, or contribution, as the case may be, from any of the other heirs, devisees or legatees accordingly.

HISTORY: CL 1948, 708.36. This section supersedes Sec. 28 of Ch. LVI of Act 314 of 1915, being CL 1915, 13910;—CL 1929, 15721.

708.37 Creditors having received payment not liable to payment of contingent claim.

Sec. 37. Creditors of an estate who have in good faith received payment of their claims shall not be obliged to contribute to the payment of an unpaid claimant whose contingent claim has become absolute.

HISTORY: CL 1948, 708.37.

SMALL ESTATES.

708.38 Petition for appointment of administrator of intestate estate; filing inventory; filing bond for funeral expenses.

Sec. 38. When application shall be made to the judge of probate for the appointment of an administrator of an intestate estate, there may accompany the petition, the following:

1. A true and complete inventory of the estate of said deceased, appraised under oath by 1 or more competent and disinterested persons of the county at its true cash value;

2. A bond running to the judge of probate in the penal sum of not less than \$300.00, with such surety or sureties as the judge of probate may approve, conditioned for the payment of the funeral expenses of said deceased, within 1 year from the date of death.

HISTORY: CL 1948, 707.38. This section supersedes Sec. 24 of Ch. LIII of Act 314 of 1915, being CL 1915, 13842;—CL 1929, 15606.

CITED IN OTHER SECTIONS: Sections 708.38 to 708.41 are cited in § 38.931.

708.39 Letters of administration for small estates; notice.

Sec. 39. Upon receiving and filing such petition, the judge of probate may make such investigation of the circumstances of the case and the facts set forth in such petition, as he deems proper and necessary, and if from such petition and such investigation it shall appear to the satisfaction of the court that the deceased left surviving him a widow, or surviving her a widower, or children under the age of 16 years, or both, that the deceased died seized of no real estate, and that the personal estate of such deceased, appraised at its true cash value, amounts to not more than the sum of \$5,000.00, the court may thereupon grant administration of the estate to such petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to such administrator without requiring further bonds.

HISTORY: Am. 1945, p. 280, Act 208, Imd. Eff. May 17;—CL 1948, 708.39;—Am. 1949, p. 7, Act 6, Eff. Sep. 23;—Am. 1954, p. 5, Act 3, Eff. Aug. 13;—Am. 1964, p. 237, Act 177, Eff. Aug. 28;—Am. 1967, p. 24, Act 16, Eff. Nov. 2.

This section originally enacted superseded Sec. 25 of Ch. LIII of Act 314 of 1915, being CL 1915, 136483;—CL 1929, 15609.

708.40 Letters of administration for small estates of not more than five thousand dollars; discharge of administrator upon payment of funeral expenses and balance to widow, children.

Sec. 40. Whenever it shall appear to the satisfaction of the judge of probate that an administrator appointed under the last 2 preceding sections has paid or caused to be paid the funeral expenses of said deceased, and has paid over to the widow or widower of said deceased, or in case there shall be no widow or widower, to the guardian of the minor children of said deceased, all the balance and residue of said estate, the court may forthwith discharge such administrator without further accounting and without notice.

HISTORY: Am. 1945, p. 281, Act 208, Imd. Eff. May 17;—CL 1948, 708.40.

This section as originally enacted superseded Sec. 26 of Ch. LIII of Act 314 of 1915, being CL 1915, 13844;—CL 1929, 15610.

708.41 Administration of estate of less than one thousand dollars.

Sec. 41. If the estate of a deceased person consists solely of a pay check or checks in the amount of less than \$1,000.00, or other personal property of the value of less than \$1,000.00, the probate judge may issue an order that such amount or such personal

property be turned over to the widow or widower, if any, of such deceased person, or, upon the showing of evidence that funeral expenses have been paid, to the nearest of kin or the person who shall be shown to have paid such funeral expenses. Such order shall be made without the appointment of an administrator or the giving of a bond.

HISTORY: Add. 1941, p. 264, Act 176, Eff. Jan. 10, 1942;—Am. 1945, p. 281, Act 208, Imd. Eff. May 17;—CL 1948, 708.41;—Am. 1949, p. 7, Act 6, Eff. Sep. 23;—Am. 1964, p. 238, Act 177, Eff. Aug. 28.

CHAPTER IX.

SALE, MORTGAGE OR LEASE OF PROPERTY

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SALE OF PERSONAL PROPERTY.

709.1 Sale of personal property; authority of fiduciary without order.

Sec. 1. The fiduciary of an estate may sell at private sale:

(1) All or any part of the personal property which has a market value which is definitely ascertainable from time to time because of quotations or transactions on any securities, produce, or commodity exchange or similar establishments at such market value; (2) all other kinds of personal property at not less than the inventory value thereof; without an order of the probate court: Provided, That an executor may not sell personal property specifically bequeathed by the will of the testator except after notice to the specific legatee and upon order of the probate court. Upon the filing of a sworn petition of the fiduciary setting forth that he has not been able, after diligent effort, to sell certain specified items of personal property of the kind having no definitely ascertainable market value, as defined in this section, the court may authorize the sale of such items of personal property at private sale at less than the inventory value thereof.

Upon application of the fiduciary, the probate court may authorize the sale of all or any part of the personal property in the estate at public auction, and in the order authorizing such sale the probate court shall direct the mode of giving notice of the time and place of such sale.

HISTORY: Am. 1941, p. 264, Act 176, Eff. Jan. 10, 1942;—CL 1948, 709.1. This section as originally enacted superseded with additions Sec. 9 of Ch. 11 of Act 314 of 1915, being CL 1915, 13772;—CL 1929, 15527.

709.1a Sale of real estate of decedent; fiduciaries sale subject to land contract, mortgage; confirmation.

Sec. 1a. If the fee title to real estate, or a fractional interest therein, of a deceased person, of any person under guardianship or held in trust, is subject to an executory contract for the sale thereof, the probate court, by ex parte order, may direct the sale thereof subject to the contract for an amount not less than the remaining face value of the contract, or, in case of a fractional interest, for that portion of the remaining face value to which the estate is entitled. Any sale so directed shall be made by the fiduciary subject to all charges on the real estate, by mortgage or otherwise. If the estate in any way is liable for the amount secured by any mortgage, or for any charge, no order shall be entered until there has been compliance with the conditions required to be fulfilled by this chapter before confirmation of sale pursuant to license to sell real estate which is subject to a mortgage or other charge for which the estate in any way is liable.

HISTORY: Add. 1964, p. 112, Act 114, Eff. Aug. 28.

SALE, MORTGAGE OR LEASE OF REAL ESTATE.

709.2 Sale of real estate of decedent; authorization.

Sec. 2. Real estate of a deceased person, or any interest therein, may be sold upon petition of the executor or administrator under license of the probate court in the following cases:

1. When it shall appear to the court that the personal estate of a deceased person in the hands of his executor or administrator is insufficient to pay the debts of the deceased and the charges of administering his estate, or whenever it shall appear to the court that it is for the best interest of all persons interested in the estate that his real estate or some part thereof be sold for such purpose in lieu of disposing of the personal estate;

2. When it shall appear to the court that sale of such real estate is necessary to preserve the estate or to prevent a sacrifice thereof, or to carry out the provisions of a will;

3. When a testator shall have given any legacy by will that is effectual to pass or charge real estate, and his personal property is insufficient to pay such legacy, together with his debts and charges of administration;

4. When a testator shall have given real estate to 2 or more persons, or when a person shall have died intestate, and it shall appear to the court that it is necessary or will be for the best interests of the persons interested in said real estate as such devisees, legatees or heirs, to sell the same for the purpose of distribution: Provided, That application under this subdivision shall be approved in writing by the persons owning a majority in interest of the real estate proposed to be sold, which approval may be given by the guardians of persons under guardianship. In the determination as to whether the persons owning a majority in interest of the real estate proposed to be sold have approved such sale, any inchoate right of dower or any other interest held by the wife of any person entitled to an interest in such real estate as heir or devisee, or assignee, of an interest or any heir or devisee except such interest as may be held by her by virtue of a deed or recorded contract, shall not be considered in computing such majority in interest but such computation shall be based upon the interests of those persons only who would be entitled to participate in the distribution of the real estate proposed to be sold if the same were personal property. In case of sale under any of the subdivisions of this section, the widow, if any, shall not be entitled to a greater interest in the estate than she would have received had such real estate been distributed instead of being sold: Provided further, That if it shall be made to appear to the probate court that persons owning a majority in interest of the real estate proposed to be sold are desirous of having such real estate sold for any of the purposes or reasons set forth in this section, and the executor or administrator neglects or refuses to petition for the sale as above provided, then and in such cases the court shall entertain a petition for such purpose from persons owning a majority in interest of such real estate and the court may license such sale and make such order in the same manner as if petitioned by the executor or administrator; and thereupon it shall be the duty of such executor or administrator to file a bond and make such sale in the same manner as if petition for such sale had been originally made by the executor or administrator, and the neglect or refusal of such executor or administrator to perform such order shall constitute sufficient cause for removal: Provided further, That if it shall be made to appear to the probate court that the heirs, or the majority in interest thereof or that the majority in interest of the parties that would be entitled to the real estate of a decedent, are residents of any nation or country other than the United States, the probate judge may, during the period of the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hos-

ilities and for 1 year thereafter, in his sound discretion, issue license to sell real estate for any of the grounds appearing in this section: Provided, however, That he shall first appoint guardian ad litem for such persons, who shall make an investigation independent of any fiduciary or other parties in interest and shall report in writing to the court recommending that such license be granted.

HISTORY: Am. 1942, 2nd Ex. Sess., p. 37, Act 1, Imd. Eff. Feb. 24;—CL 1948, 709.2.

This section as originally enacted re-enacted Sec. 1 of Ch. LIX of Act 314 of 1915, being CL 1915, 13987;—CL 1929, 15800, with additions.

709.3 Sale of real estate of ward; license; property held jointly or by entirety; common law.

Sec. 3. The real estate, or any interest therein, of any person under guardianship may be sold under license of the probate court in the following cases:

1. When the personal property of such person is insufficient to pay his just debts, together with the charges of managing his estate or whenever it shall appear to the court that it is for the best interest of the ward that his real estate or some part thereof be sold for such purpose in lieu of disposing of the personal estate;

2. When the personal property of such person is insufficient to pay the expenses incurred by any county or by the state in the care, support or maintenance of such person, together with the charges of managing his estate;

3. When the income of the estate of any person under guardianship is insufficient to maintain the ward and his family; or to educate the ward when a minor, or the children of such ward;

4. When it shall appear to the court that it would be for the benefit of the ward that his real estate or any part thereof be sold and the proceeds thereof reinvested;

5. When the interest of the ward is that of tenant by the entirety or is that of a joint tenant in either of which cases the guardian of the ward may then be licensed upon that ground alone to join in the sale with the other tenant, and for the purposes of such sale, the license to sell with respect thereto and the distribution of the proceeds thereof, the interest of the estate of the ward and the other tenant shall be deemed to be equal: Provided, That this sentence shall be declaratory of the common law in the state of Michigan.

HISTORY: Am. 1947, p. 537, Act 322, Eff. Oct. 11;—CL 1948, 709.3. This section as originally enacted superseded Sec. 2 of Ch. LIX of Act 314 of 1915, being CL 1915, 13988;—CL 1929, 15801;—Am. 1931, p. 126, Act 78, Eff. Sept. 18.

ACQUISITION BY RAILROAD: Of real estate of person under guardianship, see Compilers' §§ 464.16 and 471.5.

709.4 Sale of real estate held in trust; order of court; disposition of proceeds.

Sec. 4. When the sale or conveyance or transfer of any real estate held in trust appears to be necessary or expedient, the probate court having jurisdiction of the trust estate, upon petition of a trustee or other interested party, may order, license and empower such sale and conveyance or transfer to be made, and the investment, reinvestment, and application of the proceeds of such sale in such manner as will best effect the objects of the trust. The proceedings under this section shall be the same as proceedings for the sale of similar property by other fiduciaries except that the petition therefor and order shall set forth as the grounds for such sale, conveyance or transfer, 1 or both of those specified in this section.

HISTORY: CL 1948, 709.4. This section supersedes and merges Sec. 12 of Ch. LXI of Act 314 of 1915, being CL 1915, 14063;—CL 1929, 15874; and Sec. 13 of Ch. LXI of Act 314 of 1915, being CL 1915, 14064;—CL 1929, 15875.

709.5 Lease or easement upon real estate of ward or decedent; limitations; license.

Sec. 5. A fiduciary may lease the land of the estate, or any interest therein, including oil, gas and mineral rights, from year to year or for a term of years when licensed so to do by the probate court, and such license may be granted when such lease appears to be necessary or expedient for the best interests of the estate: Provided, however, That

no lease of the estate of a minor ward shall extend beyond the twenty-first birthday of said ward, unless ratified by said ward upon attaining his majority, except that in all estates the term of a lease of oil, gas and minerals, or any of them, shall not exceed 5 years, but may contain a provision that the lease may extend for such additional term as there shall be commercial production under the lease of oil, gas or minerals, as the case may be.

A fiduciary, when licensed so to do by the probate court, may also sell, transfer or convey any easement affecting real estate which is an asset of the estate, and such license may be granted when the sale, transfer or conveyance of such easement appears to be necessary or expedient or for the best interests of the estate. The term "sell, transfer or convey" shall include the grant of an easement by original creation.

HISTORY: CL 1948, 709.5. See Act 214 of 1935.

709.6 Lease or easement upon real estate of ward or decedent; petition; notice of hearing.

Sec. 6. In order to obtain a license, the fiduciary or other interested party shall present a petition to the probate court, setting forth the facts upon which such application is based. The petition shall be verified by the oath of the party presenting it. If such facts appear by the petition as, if true, would justify the granting of the order applied for, the judge of probate shall thereupon make an order directing all persons interested in the estate to appear before him at a time and place therein to be specified, to show cause why a license should not be granted to the fiduciary to sell, transfer or convey such easement, or to sell, transfer, convey or lease such real estate or interest therein, or so much of such real estate or such interest therein as shall be necessary and proper for the purposes set forth in the petition.

HISTORY: CL 1948, 709.6;—Am. 1966, p. 79, Act 56, Eff. Mar. 10, 1967.

This section supersedes with additions Sec. 3 of Ch. LIX of Act 314 of 1915, being CL 1915, 13969;—CL 1929, 15802.

709.7 Hearing; personal service; time; publication; consent of interested persons.

Sec. 7. If the order is so made by the court fixing a time of hearing, a copy of such order to show cause shall be served on all persons interested in the estate in the manner provided in sections 32 to 35 of chapter 1. If all persons interested in the estate shall signify in writing their assent to such sale, transfer, conveyance or lease, the notice may be dispensed with.

HISTORY: CL 1948, 709.7;—Am. 1966, p. 80, Act 56, Eff. Mar. 10, 1967.

This section supersedes Sec. 4 of Ch. LIX of Act 314 of 1915, being CL 1915, 13990;—CL 1929, 15803.

709.8 Persons interested in ward's estate.

Sec. 8. In guardianships, those who are next of kin, and heirs apparent or presumptive of the ward, and except in case of minors, the superintendents of the poor of the county of which the ward is an inhabitant, or in which he resides, shall be considered as interested in the estate, and may appear as such and answer to the petition of the guardian; and when personal notice of the time and place of hearing the petition is required to be given, they shall be notified as persons interested.

HISTORY: CL 1948, 709.8. This section supersedes Sec. 5 of Ch. LIX of Act 314 of 1915, being CL 1915, 13991;—CL 1929, 15804.

709.9 Hearing; procedure; license without notice.

Sec. 9. (1) The judge of probate, at the time and place appointed in such order, or at such other time as the hearing shall be adjourned to, upon proof of the due service or publication of a copy of the order, or upon filing the consent in writing to such sale, transfer, conveyance or lease of all the persons interested, shall proceed to the hearing of such petition, and if such consent be not filed, shall hear and examine the allegations and proofs of the petitioner, and of all persons interested in the estate, who shall oppose the application.

(2) When on the filing of a petition for license to sell real estate, or any interest therein, belonging to any estate, it appears to the judge of probate that the real estate or interest is subject to a mortgage or vendor's interest which has been foreclosed, and that insufficient time remains in which to give notice of hearing on the petition before the equity of redemption period of the foreclosure expires, the judge may enter an order forthwith granting the license without notice.

HISTORY: CL 1948, 709.9;—Am. 1966, p. 80, Act 56, Eff. Mar. 10, 1967.

This section supersedes Sec. 6 of Ch. LIX of Act 314 of 1915, being CL 1915, 13992;—CL 1929, 15805.

709.10 Testimony; compelled attendance of witnesses.

Sec. 10. The fiduciary may be examined on oath, and witnesses may be produced and examined by any interested party, and process to compel their attendance and testimony may be issued by the judge of probate, in the same manner and with the like effect as in other cases.

HISTORY: CL 1948, 709.10. This section supersedes Sec. 7 of Ch. LIX of Act 314 of 1915, being CL 1915, 13993;—CL 1929, 15806.

WITNESSES: Compelling attendance and testimony, see GCR 506.

709.11 Sale of entire estate when sale of part would be injurious.

Sec. 11. If it shall appear to the court that it is necessary to sell a part of the real estate, and that by a sale of such part the residue of the estate, or some specific part or piece thereof, would be greatly injured, said court may authorize the sale of the whole estate, or of such part thereof as may be judged necessary, and for the best interest of all concerned.

HISTORY: CL 1948, 709.11. This section supersedes Sec. 8 of Ch. LIX of Act 314 of 1915, being CL 1915, 13994;—CL 1929, 15807.

709.12 License must specify grounds or purpose.

Sec. 12. In all cases, the order of the court granting a license for the sale, transfer or conveyance of any easement, or for the sale, transfer, conveyance or lease of real estate or interest in real estate shall specify therein the purpose or reason for which it is authorized.

HISTORY: CL 1948, 709.12. This section supersedes with additions Sec. 9 of Ch. LIX of Act 314 of 1915, being CL 1915, 13995;—CL 1929, 15808.

709.13 Posting bond for debts and expenses in lieu of sale.

Sec. 13. No license to sell real estate of a deceased person, except for the purpose of distribution, shall be granted, if any of the persons interested in the estate shall give bond to the judge of probate, in such sum and with such sureties as he shall direct and approve, with condition to pay all the debts, and the expenses of administration, so far as the goods and chattels, rights and credits of the deceased shall be insufficient therefor, within such time as the judge of probate shall direct.

HISTORY: CL 1948, 709.13. This section re-enacts Sec. 10 of Ch. LIX of Act 314 of 1915, being CL 1915, 13996;—CL 1929, 15809.

709.14 Posting bond for debts and expenses in lieu of sale; prosecution of bond for use of creditors or fiduciary.

Sec. 14. The bond mentioned in the preceding section shall be for the security, and may be prosecuted for the benefit of the creditors, as well as the executor or administrator.

HISTORY: CL 1948, 709.14. This section re-enacts Sec. 11 of Ch. LIX of Act 314 of 1915, being CL 1915, 13997;—CL 1929, 15810.

709.15 License for conveyance of real estate; issuance.

Sec. 15. If the judge of probate shall be satisfied, after a full hearing upon the petition, and an examination of the proofs and allegations of the parties interested, that a sale, transfer, conveyance or lease of the whole or some portion of the real estate, interest therein, or easement, described in the petition is necessary or proper for the purposes or reasons set forth in such petition, or if such sale, transfer, conveyance or lease be assented to by all persons interested, he shall thereupon make an order of sale, authorizing the fiduciary to sell, transfer, convey or lease the whole, or so much and

such part of the real estate, interest therein, or easement, described in the petition as he shall judge necessary or beneficial.

HISTORY: CL 1948, 709.15. This section supersedes Sec. 12 of Ch. LIX of Act 314 of 1915, being CL 1915, 13996;—CL 1929, 15811.

709.16 License for conveyance of real estate; issuance; order to specify property to be sold, transferred, conveyed or leased.

Sec. 16. The order shall specify the property to be sold, transferred, conveyed or leased. In the case of a sale, the judge of probate may therein direct the order in which several tracts, lots or parcels, shall be sold; and if it appear that any part of such real estate has been devised, and not charged in such devise with the payment of debts, the judge of probate shall order that part descended to heirs to be sold before that so devised; and if it appear that any lands devised or descended have been sold by the heirs or devisees, then the lands in their hands remaining unsold shall be ordered to be first sold.

HISTORY: CL 1948, 709.16. This section supersedes Sec. 13 of Ch. LIX of Act 314 of 1915, being CL 1915, 13999;—CL 1929, 15812.

709.17 Bond on license; liability of surety; cancellation.

Sec. 17. In all cases where license is granted for the sale, transfer or conveyance of real estate, or any interest therein, or easement, the judge of probate shall require a further bond from the fiduciary with sufficient sureties, conditioned to account for all the proceeds of the sale, transfer or conveyance of such property; all of such proceeds shall be deemed assets in the hands of the fiduciary in like manner as if the same had been originally part of the goods and chattels of the deceased, or ward, or beneficiary, and the sureties on his fiduciary bond shall be accountable and chargeable therefor, as well as the sureties on such additional bond. A bond on sale of real estate, where the sale is not consummated, shall be considered automatically cancelled upon the lapse of the period of time covered by the license to sell.

HISTORY: Am. 1941, p. 265, Act 176, Eff. Jan. 10, 1942;—CL 1948, 709.17.

This section as originally enacted superseded Sec. 15 of Ch. LIX of Act 314 of 1915, being CL 1915, 14001;—CL 1929, 15814.

709.18 License authorizes sale within one year and six months.

Sec. 18. Upon the making of such order, and the filing with the judge of probate of such bond as is required by the provisions of this chapter in cases other than leases, a certified copy of the order licensing the fiduciary to sell, transfer, convey or lease shall be delivered by the judge of probate to the fiduciary, who shall thereupon be authorized, in the case of a sale, transfer or conveyance, to sell the real estate, interest therein, or easement, as therein directed, within 1 year and 6 months after the making of the order.

HISTORY: CL 1948, 709.18. This section supersedes Sec. 16 of Ch. LIX of Act 314 of 1915, being CL 1915, 14002;—CL 1929, 15815;—Am. 1937, p. 24, Act 20, Eff. Oct. 29.

709.19 Reversion of widow's dower; authorized sale.

Sec. 19. License to sell real estate, as provided in this chapter, may extend to the reversion of the dower of the widow of a deceased person, and if such reversion be not sold with the other real estate, it may be sold after the expiration of the widow's term.

HISTORY: CL 1948, 709.19. This section re-enacts Sec. 17 of Ch. LIX of Act 314 of 1915, being CL 1915, 14003;—CL 1929, 15816.

709.20 Public sale; posting and publication of notice.

Sec. 20. When a sale is ordered, unless such order specifies that the land may be sold at private sale, notice of the time and place of holding the same shall be posted up in 3 of the most public places in the township or ward in which the land is situated, at least 6 weeks before the sale, and shall be published once in each week for 6 weeks successively next before such sale in a newspaper printed and circulated in the same county if there be one, and if there be none, then in such newspaper as the court may direct, in which notice the lands and tenements to be sold shall be described with common certainty.

Private sale of land held by fiduciary; notice; appraisal, determination of value; confirmation, terms.

In any case where license to sell real estate, any interest therein, or easement, is applied for, the judge of probate may, in his discretion, after due notice to all persons interested as required by this chapter grant a license to the fiduciary to dispose of the real estate, interest therein or easement, at private sale at the highest price obtainable but not less than the appraised value thereof. If for any reason the judge of probate feels the appraised value does not represent the then value of the real estate, any interest therein or easement, or if the inventory and appraisal has not been filed, or if license to sell is not granted within 18 months after the death of the deceased or the appointment of a fiduciary for the ward, the judge may, after taking, or causing to be taken, the testimony as to the value of such real estate, interest therein, or easement, of 2 or more competent and disinterested persons under oath in writing administered by the judge of probate or probate register of either the county where the petition is filed or the county in which the real estate is situated, grant a license to the fiduciary to dispose of said real estate, interest therein, or easement, at private sale, at the highest price obtainable, not less than the value thereof, as determined by said judge of probate. If any fiduciary shall make diligent effort to sell the property so licensed to be sold at private sale as above provided and is unable to obtain for any parcel or parcels or any interest therein, or any easement, the value as established by the inventory and appraisal or as determined by the probate court as hereinbefore provided, he may petition the probate court for a license to sell such parcel or parcels, or interest therein, or easement, for a less amount. Upon the filing of such petition, the judge of probate shall direct that notice be given to all parties interested as provided in sections 32 to 35 of chapter 1 of this act, and if upon the day of hearing it shall appear that a notice has been given to all parties interested as directed by the court and from the testimony of the petitioner and that the value as previously determined by the court is more than the parcel or parcels, or interest therein, or easement, are reasonably worth, then such judge may redetermine the value of such property and grant a new license to sell such property at the highest price obtainable not less than the value thereof as so redetermined by said judge of probate. In his discretion the judge of probate may require the testimony of 2 or more competent and disinterested persons as to the value of such property before making such redetermination. Any such sale shall be confirmed and approved by said judge of probate before any deed passing the title to said property so sold at private sale shall be valid and effectual. The disinterested persons shall be well known to the judge or probate register taking such testimony to be credible witnesses and when taken by a judge or the probate register of a court not having the estate in charge the testimony shall be paid for and transmitted the same as depositions in other courts, and in either case such testimony shall be filed and kept with other papers relating to the sale of said property. All other provisions of this chapter, except where plainly inapplicable, shall be applicable to private sales under this section, except that if any guardian or testamentary trustee shall file in said court a petition setting forth that after continued and diligent effort he has been unable to dispose of any real estate for cash, or on such length of credit, and on such terms as provided in section 28 of this chapter, and such petition shall set forth the best terms upon which he is able to make sale of such real estate, the court, after due notice to the parties interested, and after the taking or causing to be taken of testimony of competent and disinterested persons, as hereinbefore provided, may grant a license to such guardian or testamentary trustee to dispose of said real estate, upon such terms as the court shall find to be for the best interest of the ward or beneficiary.

HISTORY: CL 1948, 709.20;—Am. 1964, p. 195, Act 160, Eff. Aug. 28.

This section supersedes Sec. 18 of Ch. LIX of Act 314 of 1915, being CL 1915, 14004;—CL 1929, 15817; and Sec. 42 of Ch. LIX of Act 314 of 1915, being CL 1915, 14028;—Am. 1919, p. 311, Act 171, Eff. Aug. 14;—CL 1929, 15841.

709.21 Public sale; adjournment of date.

Sec. 21. If, at the time appointed for any such public sale, the fiduciary shall deem it for the interest of all persons concerned therein that the sale should be postponed, he may adjourn the same from time to time, not exceeding in all 3 months.

HISTORY: CL 1948, 709.21. This section supersedes Sec. 19 of Ch. LIX of Act 314 of 1915, being CL 1915, 14005;—CL 1929, 15818.

709.22 Public sale; adjournment of date; announcement; further notice.

Sec. 22. In case of such adjournment, notice thereof shall be given by a public declaration at the time and place first appointed for the sale; and if the adjournment shall be for more than 1 day, further notice shall be given by posting or publishing the same, or both, as the time and circumstances may admit.

HISTORY: CL 1948, 709.22. This section re-enacts Sec. 20 of Ch. LIX of Act 314 of 1915, being CL 1915, 14006;—CL 1929, 15819.

709.23 Notice of sale; proof of posting and publication by affidavit; evidence.

Sec. 23. An affidavit of the fiduciary, or of some other person having knowledge of the fact that notice of any such sale was given as provided in this chapter, made before the judge of probate, or some other officer authorized to administer oaths, and filed and recorded in the probate court, together with a copy of the notice, shall be admitted as evidence of the time, place and manner of giving the notice.

HISTORY: CL 1948, 709.23. This section supersedes Sec. 21 of Ch. LIX of Act 314 of 1915, being CL 1915, 14007;—CL 1929, 15820.

709.24 Order confirming sale; vacating, failure to pay price.

Sec. 24. If it shall appear to the judge of probate that the sale was legally made and fairly conducted, and that the sum bid whether at public or private sale was not disproportionate to the value of the property sold, or if disproportionate, that a greater sum as above specified cannot be obtained, he shall make an order confirming such sale, and directing conveyances to be executed, but if the purchaser shall for a period of 20 days thereafter neglect to pay or cause to be paid the sum bid at such sale, the court may, in its discretion, revoke such confirming order, and vacate such sale upon the application of the fiduciary making such sale, and after such notice to the purchaser as the probate court may direct, and shall thereupon direct another sale to be had, of which notice shall be given, if a sale at public auction, and the sale shall in all respects be conducted as if no previous sale had taken place.

HISTORY: CL 1948, 709.24. This section supersedes Sec. 22 of Ch. LIX of Act 314 of 1915, being CL 1915, 14008;—CL 1929, 15821.

709.25 Order confirming sale; not to be entered for eight days unless waived or delay injurious; objections.

Sec. 25. No order for the confirmation of any report of sale of real estate or interest therein or easement by a fiduciary shall be made until at least 8 days after filing such report, unless all parties interested in the estate shall in person, by attorney or guardian, consent in writing to such confirmation, or unless, in the opinion of the court, such delay shall be clearly injurious to the estate. Any person interested therein desiring to object to such confirmation may file objections in writing setting forth the reasons therefor.

HISTORY: CL 1948, 709.25. This section supersedes Sec. 23 of Ch. LIX of Act 314 of 1915, being CL 1915, 14009;—CL 1929, 15822.

709.26 Public sale; hours of day for holding.

Sec. 26. Such sale if at public vendue shall be in the county where the lands are situated, between the hours of 9 o'clock in the morning and the setting of the sun the same day.

HISTORY: CL 1948, 709.26. This section supersedes Sec. 24 of Ch. LIX of Act 314 of 1915, being CL 1915, 14010;—CL 1929, 15823.

709.27 Sale by fiduciary; fiduciary prohibited from purchasing; purchase by guardian for benefit of ward.

Sec. 27. The fiduciary making the sale shall not directly or indirectly purchase, or be interested in the purchase of any part of the property so sold, and all sales made contrary to the provisions of this section shall be void; but this section shall not prohibit any such purchase by a guardian for the benefit of his ward.

HISTORY: CL 1948, 709.27. This section supersedes Sec. 25 of Ch. LIX of Act 314 of 1915, being CL 1915, 14011;—CL 1929, 15824.

709.28 Terms of sale; cash, mortgage or land contract; requirements.

Sec. 28. Such fiduciary, upon compliance with all of the provisions of this chapter, may sell such property upon the following terms and conditions:

(1) For cash, or

(2) Not less than 1/3 cash with the note of the purchaser and mortgage back for the balance of such purchase price, such mortgage to run for a period not exceeding 5 years and to carry such legal rate of interest as may be agreed upon by the fiduciary and purchaser, all of the terms and conditions of such mortgage to be subject to the approval of the judge of probate, or

(3) By executory contract with a down payment of at least 20 per cent of the purchase price, such contract to run for a period not exceeding 5 years: Provided, however, That such contract may contain a provision that if 50 per cent of said purchase price is paid within said period of 5 years, the fiduciary shall convey the land to the purchaser, his heirs, or assigns, and take back a mortgage for the remainder of such purchase price, such mortgage to run for a period not exceeding 5 years from its date and to carry interest at such rate as may be agreed upon between the fiduciary and the purchaser, all the terms and conditions of said executory contract to be subject to the approval of the probate court: Provided, That the probate court may subsequently, by ex-parte order, direct the sale of the fee subject to the contract for an amount not less than the remaining face value of the contract: Provided further, That, in cases where it is desired to subsequently sell the fee subject to the contract for an amount less than the remaining face value of the contract, the probate court may then direct the sale of the fee subject to the contract for an amount not less than the fair market value of the vendor's interest in said contract upon compliance with all the provisions of this chapter as in the case of the original sale of such property by executory contract.

All interest upon mortgages or executory contracts, as provided in this section, shall be payable at least as often as annually.

There shall be no modification of the terms and conditions of sale as set forth in this section except as otherwise provided in this chapter.

HISTORY: Am. 1947, p. 361, Act 239, Eff. Oct. 11;—CL 1948, 709.28.

This section supersedes Sec. 26 of Ch. LIX of Act 314 of 1915, being CL 1915, 14012;—CL 1929, 15825;—Am. 1933, p. 113, Act 90, Imd. Eff. May 25;—Am. 1937, p. 63, Act 49, Imd. Eff. May 21.

709.29 Report of sale; reasons for vacating sale and holding another; copy of deed, mortgage, filed with report of sale.

Sec. 29. The fiduciary making any sale shall immediately make a report of his proceedings, upon receipt of the license to sell in pursuance of which it is made, to the judge of probate granting the same, who shall examine the proceedings, and may also examine such fiduciary, or any other person on oath, touching the same; and if he shall be of the opinion that the proceedings were unfair, or that the sum bid is disproportionate to the value, or that a sum exceeding such bid by at least 10 per cent exclusive of the expenses of a new sale, may be obtained, and in the last mentioned case, if a deposit of at least 10 per cent of said sum has been made with the fiduciary, he shall vacate such sale and direct another to be had; of which notice shall be given, if a sale at public auction, and the sale shall be in all respects conducted as if no previous sale had

taken place, or the said court may in its discretion receive a report in writing from the fiduciary of a subsequent bid: Provided, however, That if after a period of 8 days no further bid is received, said court may confirm sale of the property to said subsequent bidder. Said 8 day period may be waived as provided in section 25 of this chapter.

The report of the proposed sale shall have attached thereto a true copy of the executory contract or deed, or deed, mortgage and note to be used in consummating the sale.

HISTORY: CL 1948, 709.29.—Am. 1949, p. 175, Act 167, Eff. Sep. 23.

This section supersedes with additions Sec. 27 of Ch. LIX of Act 314 of 1915, being CL 1915, 14013;—CL 1929, 15826.

709.30 Sale of vendee's interest under land contract.

Sec. 30. If a deceased person at the time of his death, or a person under guardianship at the time of the appointment of his guardian, was possessed of a contract for the purchase of land, his interest in such land and under such contract may be sold on the application of his fiduciary in the same cases and in the same manner as if he had died seized of such land, or as if he had been seized thereof in fee at the time of the appointment of such guardian; and the same proceedings may be had for that purpose, as are prescribed in this chapter in such cases, except as hereinafter provided.

HISTORY: CL 1948, 709.30. This section re-enacts except changes "executor, administrator or guardian" to "fiduciary" Sec. 28 of Ch. LIX of Act 314 of 1915, being CL 1915, 14014;—CL 1929, 15827.

709.31 Sale of vendee's interest under land contract; subject to subsequent payment, bond to secure.

Sec. 31. Such sale shall be made subject to all payments that may thereafter become due on such contract; and if there be any such payments thereafter to become due, such sale shall not be confirmed by the judge of probate until the purchaser shall execute a bond to the fiduciary for his benefit and indemnity and for the benefit and indemnity of the persons entitled to the interest of the deceased or the ward in the lands so contracted for, in double the whole amount of payments thereafter to become due on such contract, with such sureties as the judge of probate shall approve.

HISTORY: CL 1948, 709.31. This section supersedes Sec. 29 of Ch. LIX of Act 314 of 1915, being CL 1915, 14015;—CL 1929, 15828.

709.32 Bond; conditions, exception.

Sec. 32. Such bond shall be conditioned that such purchaser will make all payments for such land that shall become due after the date of such sale, and will fully indemnify the fiduciary and the persons so entitled, against all demands, costs, charges and expenses, by reason of any covenant or agreement contained in such contract; but if there be no payment thereafter to become due on such contract or if the estate or trust shall have been discharged from any liability for all such payments, then no bond shall be required of the purchaser.

HISTORY: CL 1948, 709.32. This section supersedes Sec. 30 of Ch. LIX of Act 314 of 1915, being CL 1915, 14016;—CL 1929, 15829.

709.33 Assignment of contract; effect.

Sec. 33. Upon the confirmation of such sale, the fiduciary shall execute to the purchaser an assignment of such contract, which assignment shall vest in such purchaser, his heirs and assigns, all the rights, remedies, interest and title of the original vendee, or his heirs or assigns in said contract, and the lands so sold.

HISTORY: CL 1948, 709.33. This section re-enacts except changes "executor, administrator or guardian" to "fiduciary" Sec. 31 of Ch. LIX of Act 314 of 1915, being CL 1915, 14017;—CL 1929, 15830.

709.34 Proceeds of sale; disposition.

Sec. 34. The proceeds of every such sale shall be disposed of in all respects in the same manner as the proceeds of the sale of lands in other cases.

HISTORY: CL 1948, 709.34. This section re-enacts Sec. 32 of Ch. LIX of Act 314 of 1915, being CL 1915, 14018;—CL 1929, 15831.

709.35 Conveyances of land subject to lien; bond to secure payment; release of estate from liability; confirmation of sale without bond; condition.

Sec. 35. (1) All sales and conveyances of land made by fiduciaries pursuant to the provisions of this chapter, shall be subject to all charges thereon, by mortgage or otherwise; and in case the estate shall be in any way liable for the amount secured by any such mortgage, or for any such charge, such sale shall not be confirmed by the judge of probate until the purchaser shall execute a bond to the fiduciary, as required in this chapter in the case of a sale of a contract for the purchase of land, on which payments are to become due. The mortgagee may release the estate from liability without releasing the lien and the judge may confirm the sale and any lien on the premises prior to the time of release shall remain in full force and effect until discharged without the necessity of bond.

(2) In all cases where the estate is liable on a mortgage or a contract for the purchase of land, a judge of probate may confirm the sale of the decedent's or ward's interest in the mortgaged land or the contract for the purchase of land and in the land without the filing of a purchaser's bond or the obtaining of a discharge of the estate's liability where, all the parties interested in the estate, individually or by their guardians ad litem, consent in writing to a confirmation without the purchaser's bond or discharge of estate's liability; or where cash is to be received for the land equal to or exceeding the total of the value of the estate's interest therein as theretofore determined by the judge and the balance owing on the contract or mortgage.

HISTORY: CL 1948, 709.35;—Am. 1960, p. 8, Act 9, Eff. Aug. 17;—Am. 1966, p. 80, Act 56, Eff. Mar. 10, 1967.

This section supersedes Sec. 33 of Ch. LIX of Act 314 of 1915, being CL 1915, 14019;—CL 1929, 15832.

709.36 Balance of proceeds; distribution of real estate.

Sec. 36. In all cases of a sale by a fiduciary, of part or the whole of the real estate of his testator, intestate or ward, under a license granted by any probate court, by virtue of the provisions of this chapter, the surplus of the proceeds of the sale, remaining on the final settlement of the accounts, shall be considered as real estate, and disposed of among the persons, and in the same proportions, as the real estate would have been disposed of by the laws of this state, if it had not been sold.

HISTORY: CL 1948, 709.36. This section supersedes Sec. 36 of Ch. LIX of Act 314 of 1915, being CL 1915, 14022;—CL 1929, 15835.

709.37 Costs upon hearing on license to sell; award to prevailing party.

Sec. 37. If any person shall appear and object to the granting of any license prayed for under the provisions of this chapter, by a fiduciary, and if it shall appear to the court, either that the petition, or the objection thereto, is unreasonable, the court may, in its discretion, award costs to the party prevailing, and may enforce the payment thereof.

HISTORY: CL 1948, 709.37. This section re-enacts except changes "an executor, administrator or guardian" to "a fiduciary" Sec. 37 of Ch. LIX of Act 314 of 1915, being CL 1915, 14023;—CL 1929, 15836.

709.38 Contest of validity of sale; not voided when requirements complied with; deed prima facie evidence after ten years.

Sec. 38. In case of an action relating to any real estate, or interest therein, or easement, sold by a fiduciary, in which an heir or other person claiming under the deceased, or in which the ward or any person claiming under him, shall contest the validity of the sale, it shall not be avoided on account of any irregularity in the proceedings, provided it shall appear:

1. That the fiduciary was licensed to make the sale by the probate court having jurisdiction;
2. That he gave a bond which was approved by the judge of probate, in case a bond was required upon granting a license;

3. That he gave notice of the time and place of sale, if at public vendue, as in this chapter prescribed; and

4. That the property was sold accordingly, and the sale confirmed by the court, and that they are held by one who purchased them in good faith: Provided, That in all cases where any person, or those under whom he holds, has been in actual possession of any lands or premises for the period of 10 years, holding and claiming under and by virtue of a deed executed by a fiduciary, such deed shall be prima facie evidence of the regularity of all the proceedings from and including the application to sell such lands, or interest therein, or easement, to the date and execution of the deed, inclusive.

HISTORY: CL 1948, 709.38. This section supersedes Sec. 38 of Ch. LIX of Act 314 of 1915, being CL 1915, 14024;—CL 1929, 15837.

709.39 Contest of validity of sale; not voided if deed executed by licensed fiduciary.

Sec. 39. If the validity of a sale made by a fiduciary shall be drawn in question by any person claiming adversely to the title of the deceased testator, or intestate, or of the ward, or claiming under any title that is not derived from or through the deceased person or the ward, the sale shall not be held void on account of any irregularity in the proceedings: Provided, That it shall appear that the fiduciary was licensed to make the sale by a probate court having jurisdiction, and that he did accordingly execute and acknowledge, in legal form, a deed conveyance or assignment, as the case may be, of the property sold.

HISTORY: CL 1948, 709.39. This section supersedes Sec. 39 of Ch. LIX of Act 314 of 1915, being CL 1915, 14025;—CL 1929, 15838.

709.40 Fiduciary liable on bond for neglect or misconduct.

Sec. 40. If there shall be any neglect or misconduct in the proceedings of the fiduciary in relation to such sale, by which any person interested in the estate shall suffer damages, such aggrieved party may recover the same in a suit on the general bond of the fiduciary, or otherwise, as the case may require.

HISTORY: CL 1948, 709.40. This section supersedes Sec. 40 of Ch. LIX of Act 314 of 1915, being CL 1915, 14026;—CL 1929, 15839.

709.41 Fraudulent sale; fiduciary liable in double value of land.

Sec. 41. Any fiduciary who shall fraudulently sell any real estate of his testator, intestate or ward, contrary to the provisions of this chapter, shall be liable in double the value of the land sold, as damages to be recovered in an action on the case by the person having an estate of inheritance therein.

HISTORY: CL 1948, 709.41. This section re-enacts except changes "executor, administrator or guardian" to "fiduciary" Sec. 41 of Ch. LIX of Act 314 of 1915, being CL 1915, 14027;—CL 1929, 15840.

709.42 Estate of ward; investment and use of proceeds.

Sec. 42. If the estate of a ward is sold for a purpose mentioned in the first 3 subdivisions of section 3 of this chapter, the guardian shall apply the proceeds of the sale to such purpose, so far as necessary, and shall put out the residue, if any, on interest, or invest it in the best manner in his judgment until the capital shall be wanted for the maintenance of the ward and his family, or for the education of the ward when a minor, or the children of such insane person or spendthrift, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward.

HISTORY: CL 1948, 709.42. This section supersedes Sec. 43 of Ch. LIX of Act 314 of 1915, being CL 1915, 14029;—CL 1929, 15842.

709.43 Estate of ward; sale for purpose of investment.

Sec. 43. If the estate is sold for the purpose of investing the proceeds, as provided in the fourth subdivision of section 3 of this chapter, the guardian shall make the investment according to his best judgment, or in pursuance of any order that may be made by the probate court.

HISTORY: CL 1948, 709.43. This section supersedes Sec. 44 of Ch. LIX of Act 314 of 1915, being CL 1915, 14030;—CL 1929, 15843.

MORTGAGING ESTATES OF DECEASED PERSONS AND PERSONS UNDER GUARDIANSHIP.**709.44 Mortgaging or pledging of estates; license, grounds; homestead.**

Sec. 44. The several judges of probate may by order license and empower any fiduciary of estates within their jurisdiction, for the purpose of paying the debts of any deceased person or ward or against the estate of any deceased person or ward, or paying the legacies provided in the last will of any deceased person, or supporting any ward, or making necessary repairs to buildings belonging to such estate or ward, or for the purpose of completing the erection of buildings begun by such deceased person or ward or by some person in his behalf or for his benefit, to borrow money by mortgaging or otherwise pledging the estate of such deceased person or ward, or any part thereof, and if the interest of the ward is that of tenant by the entirety or that of a joint tenant, the court may license the guardian, under the provisions of this section, to join in a mortgage with the other tenant: Provided, That the authority herein given to mortgage or pledge estate for the payment of debts and legacies shall extend to such estate only as might be sold for such purpose, unless a mortgage or other lien exists against the homestead of such deceased person or ward, in which case the fiduciary may be authorized to mortgage such homestead for sufficient to pay such mortgage or other lien and the necessary expenses connected with such proceedings.

HISTORY: CL 1948, 709.44. This section supersedes with additions Sec. 49 of Ch. LIX of Act 314 of 1915, being CL 1915, 14035;—CL 1929, 15848;—Am. 1931, p. 125, Act 77, Eff. Sept. 18.

709.45 Mortgaging or pledging of estates; petition, contents; order, contents.

Sec. 45. Such order shall be obtained by a petition to the proper judge of probate, which petition shall contain the like statements as are required in a petition for license to sell such estate by a fiduciary, of which petition the same notice shall be given, with the same effect as is required in the case of an order to sell the estate of deceased persons or wards; and such order shall specify the amount to be secured by such mortgage or other security, the rate of interest shall be given, and also the description of the property to be mortgaged or otherwise pledged, which mortgage or other security the said fiduciary shall execute with all the formalities required by law for such securities.

HISTORY: CL 1948, 709.45. This section supersedes Sec. 50 of Ch. LIX of Act 314 of 1915, being CL 1915, 14036;—CL 1929, 15849.

709.46 Mortgaging or pledging of estates; bond, confirmation and procedure.

Sec. 46. Before executing such order, such fiduciary shall give bond in like manner and form, as near as may be, as is required from him by law, in case of the sale of such estate, to faithfully execute the trust, and apply and account for moneys thereby received, and said proceedings of the said fiduciary, in mortgaging or otherwise pledging such estate, shall be reported to the judge of probate, and by him be subject to be confirmed or vacated, and new proceedings to be had to the same extent and in the same manner as near as may be, as provided by law in the case of the sale of such estate.

HISTORY: CL 1948, 709.46. This section supersedes Sec. 51 of Ch. LIX of Act 314 of 1915, being CL 1915, 14037;—CL 1929, 15850.

709.47 Mortgaging or pledging of estates; filing copy of mortgage with report.

Sec. 47. The report of the fiduciary to the probate court in connection with the mortgage of real property shall contain a copy of the mortgage to be used.

HISTORY: CL 1948, 709.47.

709.48 Mortgaging or pledging of estates; property held in trust; license; grounds.

Sec. 48. The judge of probate may, subject to the limitations and restrictions contained in the will or other instrument creating the trust, by order, license and empower any trustee to mortgage or otherwise pledge any real or personal estate held by him in trust, for the purpose of paying taxes or assessments levied or assessed on the trust estate, or the expenses of the management of such estate; for the purpose of paying the expense of erecting, altering, completing, repairing or improving a building on such estate; for the purpose of paying an existing lien or mortgage on such trust estate, or on a part thereof, or any debt chargeable against the trust estate or for which it is liable; to raise money for any purpose in order to carry out the provisions of the will or other instrument creating the trust; or the trustee may be authorized to make an agreement for the extension or renewal of any existing mortgage. The proceedings to obtain such order shall be governed by the 3 next preceding sections.

HISTORY: CL 1948, 709.48. This section supersedes Sec. 14 of Ch. LXI of Act 314 of 1915, being CL 1915, 14065;—CL 1929, 15876.

709.48a Married minor; purchase of home; appointment of guardian.

Sec. 48a. A married minor, who has no guardian and who desires to purchase real estate for a home, may petition the probate court of the county in which he resides for appointment of a guardian to execute a mortgage in connection with the purchase. On receipt of the petition, the judge may appoint a guardian without notice or bond and grant him authority to execute the mortgage immediately without the giving of notice, posting of bond or confirmation of the mortgage. The petition shall set forth its purpose, the legal description of the real estate to be mortgaged, the name of the mortgagee and the terms of the mortgage. The powers of the guardian appointed under this section shall be limited to such mortgage and the purchase of the real estate covered by it. If it appears to the judge of probate that execution of the mortgage has been accomplished or plans for the purchase of real estate abandoned, he may discharge the guardian without further proceedings.

HISTORY: Add. 1970, p. 147, Act 56, Imd. Eff. Jul. 10.

SPECIFIC PERFORMANCE OF CONTRACTS OF DECEASED PERSONS AND PERSONS UNDER DISABILITY.**709.49 Specific performance of land contracts; jurisdiction of court.**

Sec. 49. When any person owning a vendor's interest in a land contract in writing, however acquired, shall die before making the conveyance or when a guardian shall be appointed for such person before he has made such conveyance and the fiduciary of the estate of such person, after payment or tender of the balance due on said contract, shall not have made or shall refuse to make conveyance of said real estate in accordance with the provisions of section 19 of chapter 7 of this act, any person claiming to be entitled to such conveyance from the fiduciary may file a petition setting forth the facts upon which such claim is predicated, and the judge of probate shall make an order appointing a time and place for hearing such petition, a copy of which order shall be served upon the parties designated therein in the manner provided in sections 32 to 35 of chapter 1 of this act.

HISTORY: Am. 1941, p. 265, Act 176, Eff. Jan. 10, 1942;—CL 1948, 709.49. This section as originally enacted superseded and merged Sec. 1 of Ch. LX of Act 314 of 1915, being CL 1915, 14038;—CL 1929, 15852; and Sec. 11 of Ch. LX of Act 314 of 1915, being CL 1915, 14048;—Am. 1925, p. 132, Act 96, Eff. Aug. 27;—CL 1929, 15862.

NOTE: Sec. 19, Ch. 7 above referred to, is Compilers' § 707.19. Secs. 32-35 are Compilers' §§ 701.32-701.35.

Sec. 50.

HISTORY: Rep. 1941, p. 267, Act 176, Eff. Jan. 10, 1942. This section as originally enacted superseded Sec. 2 of Ch. LX of Act 314 of 1915, being CL 1915, 14039;—CL 1929, 15853.

This section provided for hearing and notice, now covered by Sec. 49.

709.51 Specific performance of land contracts; hearing; proof of service of notice.

Sec. 51. At the time and place appointed for such hearing, or at such other time as the same may be adjourned to, upon proof by affidavit of service of the notice directed by the judge of probate, the court shall proceed to a hearing, and all persons interested in the estate may appear before the probate court, and defend against such petition; and the court may examine, on oath, the petitioner and all others who may be produced before him for that purpose.

HISTORY: CL 1948, 709.51. This section re-enacts Sec. 3 of Ch. LX of Act 314 of 1915, being CL 1915, 14040;—Am. 1917, p. 243, Act 128, Eff. Aug. 10;—Am. 1923, p. 265, Act 166, Eff. Aug. 30;—CL 1929, 15854.

709.52 Specific performance of land contracts; order directing fiduciary to execute conveyance.

Sec. 52. After a full hearing upon such petition, and examination of the facts and circumstances of such claim, if the judge of probate shall be satisfied that the grantee in such contract is entitled to a conveyance of the real estate described in such petition, according to the provisions of this chapter, he shall thereupon make an order authorizing and directing the fiduciary to make and execute a conveyance thereof to such grantee.

HISTORY: CL 1948, 709.52. This section supersedes Sec. 4 of Ch. LX of Act 314 of 1915, being CL 1915, 14041;—CL 1929, 15855.

709.53 Specific performance of land contracts; appeal; performance of order and recording.

Sec. 53. Any person interested may appeal from such order to the circuit court for the same county, as in other cases; but if no appeal be taken from such order within the time limited therefor by law, or if such order be affirmed on appeal, it shall be the duty of the fiduciary to execute the conveyance according to the direction contained in such order, and a certified copy of the order shall be recorded with the deed, in the office of the register of deeds in the county where the lands lie, and shall be evidence of the correctness of the proceedings, and of the authority of the fiduciary to make the conveyance.

HISTORY: CL 1948, 709.53. This section supersedes Sec. 5 of Ch. LX of Act 314 of 1915, being CL 1915, 14042;—CL 1929, 15856.

709.54 Specific performance of land contracts; jurisdiction of probate court concurrent.

Sec. 54. The jurisdiction herein conferred upon the probate court shall not be deemed to be exclusive of the jurisdiction of the circuit court in chancery, but any person entitled to such specific performance, may at his election, file his bill in equity therefor.

HISTORY: CL 1948, 709.54. This section re-enacts Sec. 6 of Ch. LX of Act 314 of 1915, being CL 1915, 14043;—CL 1929, 15857.

709.55 Conveyance made in pursuance of court order; effect to transfer estate.

Sec. 55. Every conveyance made in pursuance of an order of the probate court, as provided in this chapter, shall be effectual to pass the estate contracted for, as fully as if the contracting party, if a decedent, were still living, or, if a ward, were still competent, and had executed the conveyance.

HISTORY: CL 1948, 709.55. This section supersedes Sec. 7 of Ch. LX of Act 314 of 1915, being CL 1915, 14044;—CL 1929, 15858.

709.56 Copy of order or decree without deed entitles party to land.

Sec. 56. A copy of the order for a conveyance made by the probate court, and duly certified and recorded in the office of the register of deeds in the county where the lands lie, or a copy of the decree of a court of chancery for that purpose, duly certified by the clerk of said court and recorded as aforesaid, shall give the person entitled to such conveyance a right to the possession of the lands contracted for, and to hold the same according to the terms of the intended conveyance, in like manner as if they had been conveyed in pursuance of the order.

HISTORY: CL 1948, 709.56. This section supersedes Sec. 8 of Ch. LX of Act 314 of 1915, being CL 1915, 14045;—CL 1929, 15859.

709.57 Enforcement of order by court; unaffected by recording.

Sec. 57. The recording of any order, as provided in the preceding section, shall not prevent the court making such order from enforcing the same by any proper process, according to the course of proceedings therein.

HISTORY: CL 1948, 709.57. This section supersedes Sec. 9 of Ch. LX of Act 314 of 1915, being CL 1915, 14046;—CL 1929, 15860.

709.58 Death of vendee; heir completes conveyance.

Sec. 58. If the person to whom the conveyance was to be made shall die before the commencement of proceedings according to the provisions of this chapter, or before the conveyance is completed, any person who would have been entitled to the estate under him as heir, devisee or otherwise, in case the conveyance had been made according to the terms of the contract, or the fiduciary of such deceased person, for the benefit of the person so entitled, may commence such proceedings, or may prosecute the same if already commenced; and the conveyance shall thereupon be so made as to vest the estate in the same persons who would have been so entitled to it, or in the fiduciary for their benefit.

HISTORY: CL 1948, 709.58. This section supersedes Sec. 10 of Ch. LX of Act 314 of 1915, being CL 1915, 14047;—CL 1929, 15861.

SALE OF HOMESTEADS FOR PAYMENT OF DEBTS, AND EXPENSES OF ADMINISTERING ESTATES.**709.59 Homestead of deceased or ward; determination, sale.**

Sec. 59. Whenever petition shall be made to a probate court for an order to sell the real estate of a deceased person or a person under guardianship for the purpose of paying his debts or the expenses of administering his estate, it shall be the duty of the court to ascertain and determine, at the hearing of such petition, what, if any, of such real estate in fact constituted the homestead of the deceased at the time of his death, or of the ward at the time of the appointment of such guardian, and to fix, by its decree, the location and description thereof without reference to its value, but not exceeding in extent the quantity exempted by law from the payment of debts. If it shall appear at the hearing of such petition that there is real estate not included in the homestead as thus decreed that may be used for the payment of debts, the same shall be first sold and the proceeds thereof applied according to law. If it shall appear that there is no real estate other than that thus decreed to be the homestead, that may be used for the payment of debts, or, if the proceeds of the sale of the real estate, other than such homestead, shall, upon the report and approval of such sale, prove insufficient for the purposes thereof, the probate court may order the sale of the homestead, or a division of the same and the sale of a portion thereof, under the circumstances and in the manner hereinafter provided.

HISTORY: CL 1948, 709.59. This section supersedes Sec. 45 of Ch. LIX of Act 314 of 1915, being CL 1915, 14031;—CL 1929, 15844.

709.60 Homestead of deceased or ward; examination and appraisal; report to probate court.

Sec. 60. Before a sale or division of the homestead is ordered, it shall be examined and appraised by 2 disinterested persons, who shall be appointed by the probate judge

and who shall be sworn to the faithful discharge of their trust. The persons so appointed shall, with reasonable diligence, examine the homestead and appraise the same at its fair cash value, and in case such value shall exceed \$3,500.00, they shall determine whether or not the premises can be divided without material loss of injury, so that a homestead not exceeding in value \$3,500.00 may be set apart for the benefit of the widow or family of the deceased, the person under guardianship, or his wife or family. Upon the completion of such examination and appraisal, they shall report under their hands to the probate court their appraisal of the fair cash value of the homestead, and if such value shall exceed \$3,500.00, they shall also report whether or not the homestead as fixed by the decree of the probate court can be so divided that a homestead, of which they shall give the metes and bounds, and in which they shall include the dwelling house and its appurtenances, not exceeding in value \$3,500.00, can be set apart for the benefit of the widow or family of the deceased, or the person under guardianship, or his wife or family.

HISTORY: Am. 1945, p. 12, Act 13, Imd. Eff. Mar. 1;—CL 1948, 709.60;—Am. 1965, p. 93, Act 64, Imd. Eff. Jun. 22.

This section as originally enacted re-enacted, except changes word and figure "three (3)" to "2", Sec. 46 of Ch. LIX of Act 314 of 1915, being CL 1915, 14032;—CL 1929, 15645.

709.61 Report to probate court; confirmation; order to show cause; hearing, revision or order of new examination.

Sec. 61. At any time after the filing of such report and before the estate shall have been finally closed, the probate court, at the request of any person interested in the estate, shall order all parties interested therein to show cause why such report should not be confirmed. Notice of the time to show cause shall be given in accordance with the provisions of sections 32 to 35 of chapter 1 of this act. At the time appointed, or at some adjourned time, the probate court shall hear and consider all objections to the confirmation of the report, whether of law or fact, and in its discretion shall enter an order either confirming the report, or revising the report and confirming it as revised or disapproving the report and directing a new examination and appraisal. Whenever the court shall order a new examination and appraisal, it shall appoint 2 other competent and disinterested persons, who shall proceed as above provided in the case of the persons first appointed, subject to like review and action by the probate court.

HISTORY: CL 1948, 709.61. This section supersedes Sec. 47 of Ch. LIX of Act 314 of 1915, being CL 1915, 14033;—CL 1929, 15646.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

709.62 Report to probate court; confirmation; sale or division.

Sec. 62. Upon the confirmation of the report, the probate court shall proceed as follows:

(1) If the appraised value of the homestead, as fixed by the probate court in the manner provided in the preceding sections of this chapter, shall not exceed \$3,500.00, no further action shall be taken or had in the matter, until such homestead shall cease to be exempt from the payment of debts;

(2) If the appraised value of the homestead, as fixed by the probate court, in the manner provided in the preceding sections of this chapter, shall exceed \$3,500.00, and it shall have been reported, as above provided, that the premises can be divided, and that a homestead not exceeding in value \$3,500.00 can be set apart for the benefit of the ward, wife, widow or family, the probate court shall order that the latter homestead be set apart for the benefit of the ward, wife, widow or family, until the same shall cease to be exempt from the payment of the debts, and shall further order that the remainder of the premises be sold for the payment of debts and the expenses of administration in the manner provided by law;

(3) If the appraised value of the homestead, as fixed by the probate court in the manner provided in the preceding sections of this chapter, shall exceed \$3,500.00, and if it shall have been reported that the premises cannot be so divided that a homestead

not exceeding in value \$3,500.00 can be set apart for the benefit of the ward, wife, widow or family, the probate court shall order the whole of such premises to be sold according to law. The fiduciary shall reserve and retain from the proceeds of such sale the sum of \$3,500.00 for the benefit of the ward, wife, widow or family and shall apply the remainder, so far as the same shall extend, or so far as the same shall be necessary, in payment of the debts and expenses of administering his estate. The sum so reserved and retained by the fiduciary shall be invested by the fiduciary with the approval of the probate judge, either in the purchase of a new homestead, or in proper securities for the benefit of the ward, wife, widow or family, as may seem best, and the same, or the property or securities in which it shall be invested, shall remain exempt from the payment of debts and the expenses of administering his estate in like manner as a legal homestead would have remained exempt, and shall finally go to the persons, who, upon termination of such exemption, would have been entitled to the homestead if it had not been sold.

HISTORY: Am. 1945, p. 12, Act 13, Imd. Eff. March 1;—CL 1948, 709.62;—Am. 1965, p. 94, Act 64, Imd. Eff. Jun. 22.

This section as originally enacted superseded Sec. 48 of Ch. LIX of Act 314 of 1915, being CL 1915, 14034;—CL 1929, 15847.

CHAPTER X.
ADOPTION AND CHANGE OF NAMES OF MINORS.

710.1	Adoption petition; order of adoption, validation of prior proceedings.	710.9	Order of adoption; duties and rights of foster parents; child as heir at law of adopting parents and of kindred of adopting parents; custody.
710.2	Adoption petition; verification, contents.	710.10	Order of adoption; denial; disposition of child.
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710.4	Adoption petition; birth certificate, filing.	710.12	Order terminating parental rights before placing in home.
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710.7	Adoption petition; order of adoption.	710.14	Violation of section; misdemeanor, penalty.
710.7a	Adoption petition; order of adoption, certified copies.		
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710.8	Adoption petition; supervision of child before entry of order; supervision and reports made by one agency.		

710.1 Adoption petition; order of adoption, validation of prior proceedings.

Sec. 1. Whenever any person shall desire to adopt any minor child, and to bestow upon said child his family name, or to adopt any minor child without a change of name, with intent to make said child his heir, said person, together with his wife or her husband, if married, shall file a petition with the probate court of the county wherein petitioner resides.

Any order of adoption issued after the effective date of amendatory Act No. 324 of the Public Acts of 1945, with respect to adoption proceedings commenced prior thereto, issued by any probate court of this state, if issued in conformity with the law prior to the effective date of said amendatory act, is hereby validated, and the same shall have the same effect as if said amendatory act had not been passed.

HISTORY: Am. 1945, p. 573, Act 324, Eff. Sept. 8;—Am. 1947, p. 50, Act 43, Eff. Oct. 11;—CL 1948, 710.1. This section as originally enacted, re-enacted Sec. 1 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14138;—CL 1929, 15651.

MICHIGAN CHILDREN'S INSTITUTE: See Compilers' §§ 400.209-400.210.

710.2 Adoption petition; verification, contents.

Sec. 2. The petition for adoption shall be verified by each petitioner. It shall contain:

- (a) The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother;
- (b) The name, date and place of birth, and place of residence if known of the child sought to be adopted;
- (c) The relationship, if any, of the child to the petitioner;
- (d) The full name by which said child shall be known after adoption;
- (e) The full description of the property, if any, of the child;
- (f) The names of the parents of the child, and the address of each living parent if known: Provided, That if the rights of the natural parents have been terminated by a court of competent jurisdiction, the names and addresses of parents if known may be omitted;
- (g) The name and address of the guardian of the person or estate of the child if any has been appointed;

(h) Any further facts deemed necessary or desirable by the court.

HISTORY: Am. 1945, p. 573, Act 324, Eff. Sept. 6;—CL 1948, 710.2. This section as originally enacted superseded Sec. 2 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14139;—Am. 1923, p. 94, Act 70, Eff. Aug. 30;—Am. 1925, p. 141, Act 103, Eff. Aug. 27;—Am. 1927, p. 99, Act 75, Eff. Sept. 5;—CL 1929, 15952;—Am. 1931, p. 49, Act 34, Eff. Sept. 18.

710.3 Adoption petition; consent, filing, acknowledgment.

Sec. 3. Consent to such adoption shall be filed:

a. By the parents or the survivor or, in the case of a child born out of wedlock, the mother,

(1) Unless their rights have been terminated by a court of competent jurisdiction; or

(2) Unless the child has been released for the purpose of adoption by the parents or surviving parent, or by the mother if the child is born out of wedlock, to a licensed child placement agency; said release shall be evidenced by a writing duly executed and acknowledged before any probate judge or in counties having a population of 150,000 or more, as determined by the last federal decennial census or by any federal decennial census hereafter taken, before either the judge or the referee of the juvenile court, after said judge or referee has fully explained to the parents their legal rights and the fact that they thereby voluntarily terminate permanently their rights to said child and, after such investigation as to the court may seem proper, or, if executed in any other state or country, in accordance with the laws thereof: Provided, That if the parent is a minor, the natural parent or guardian of said minor parent shall join in the execution of the release and consent, except that, in the case of an illegitimate child, the court may appoint a guardian ad litem for the minor parent who may be a natural parent or guardian, who shall join in the execution of the release and consent;

(3) Unless a guardian of the person of said child has been appointed, in which case said guardian shall execute said consent and court order therefor need not be first obtained; or

(4) Unless a general guardian has been appointed for said parent because he is mentally incompetent in which case the consent of the general guardian shall have the same effect as if made by said parent while in sound mind; such consent shall not be executed by the general guardian until he shall have first obtained authority from the probate court which appointed him.

b. By the individual, or by the duly authorized representative of a placement agency licensed by the state to whom the child shall have been committed by an order of the juvenile division of the probate court having permanent custody of said child, if said child has been so committed: Provided, That such consent shall not be required where the juvenile division of the probate court having permanent custody of the child shall enter an order consenting to said adoption, in which case such order shall constitute the consent to adoption herein required;

c. By the duly authorized representative of the Michigan children's institute, or a placement agency licensed by the state to whom the child has been released, if said child has been so released;

d. By the guardian of the person of said child if one has been appointed;

e. By the superintendent of the Michigan children's institute in case said child has been committed thereto;

f. By said child if over the age of 10 years;

g. By the authorized representative of any child placement agency of any other state which has authority so to do and which consent may be executed and acknowledged before the judge of any court of record of such state. Such consent shall be by a separate instrument acknowledged before the judge of the probate court having jurisdiction or, at the court's direction, before any judge of a court of record in this state or elsewhere: Provided, That when the party to the consent is in any of the armed serv-

ices, or the child is legally a ward of the Michigan children's institute or of any state licensed child placement agency of this or another state, such consent may be acknowledged before any person authorized by law to administer oaths; and in counties of 250,000 population or more, as determined by the last federal decennial census or by any federal decennial census hereafter taken, such acknowledgment may also be taken before the referee of the probate or juvenile court, after said judge or referee has fully explained to the parents their legal rights and the fact they thereby voluntarily terminate permanently their rights to said child and, after such investigation, as to the court may seem proper: And provided, That proof of such termination, release, authorization, appointment or commitment shall be filed therewith. The execution of the consent hereinbefore mentioned for the purpose of adoption shall terminate the jurisdiction of the circuit court in chancery in any divorce or separate maintenance action over said child.

HISTORY: Am. 1945, p. 573, Act 324, Eff. Sept. 6;—Am. 1947, p. 682, Act 358, Eff. Oct. 11;—CL 1948, 710.3;—Am. 1952, p. 136, Act 120, Eff. Sep. 18.

This section as originally enacted superseded Sec. 3 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14140;—CL 1929, 15953.

710.4 Adoption petition; birth certificate, filing.

Sec. 4. Said child's birth certificate or other satisfactory proof of date and place of birth, if obtainable, shall be filed in said cause.

HISTORY: Am. 1945, p. 574, Act 324, Eff. Sept. 6;—CL 1948, 710.4. This section as originally enacted re-enacted Sec. 4 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14141;—Am. 1923, p. 96, Act 70, Eff. Aug. 30;—CL 1929, 15954.

710.5 Adoption petition; investigation; written report, filing within six months.

Sec. 5. The court shall thereupon direct a full investigation by the county agent or probation officer or by a placement agency licensed by the state or by the Michigan children's institute or the state department of social welfare. There shall be considered in such investigation the following:

- (a) The physical and mental health, emotional stability and personal integrity of the petitioner and the ability of the petitioner to promote the welfare of the child;
- (b) The physical and mental condition of the child;
- (c) The child's family background, including names and identifying data regarding the parents, if obtainable;
- (d) Reasons for the child's placement away from his parents, and their attitude toward the proposed adoption;
- (e) The suitability of the adoption of this child by this petitioner, taking into account the child's own attitude toward the adoption in any case in which the child's age makes this feasible.

A written report of the investigation shall be filed in the cause within 6 months.

(f) If the child has reached the age of 7 years or older and has been living under a certain environmental religious doctrine previous to the contemplated placement, such background shall be considered as a factor in the investigative report unless the child has been waiting for six months or more for an adoptive home.

HISTORY: Am. 1945, p. 574, Act 324, Eff. Sept. 6;—CL 1948, 710.5;—Am. 1953, p. 44, Act 50, Eff. Oct. 2;—Am. 1970, p. 611, Act 228, Imd. Eff. Nov. 25.

This section as originally enacted re-enacted Sec. 5 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14142;—Am. 1923, p. 96, Act 70, Eff. Aug. 30;—CL 1929, 15955.

710.6 Adoption petition; child deemed ward of court, termination rights of parents; consent not withdrawn.

Sec. 6. If, upon examination of this report, the judge of probate shall satisfy himself as to:

- (a) The genuineness of consent to such adoption and the legal authority of the person or persons signing such consent.

(b) The good moral character, ability to support and educate such child, and the suitability of the home of the person or persons adopting such child for said child.

(c) The mental and physical condition of the child as a proper subject for adoption in said home, and

(d) That the best interests of such child will be served by said adoption.

He shall forthwith cause to be entered an order which shall terminate the rights of the child's natural parents or the persons in loco parentis except a natural parent who is also a petitioner in said cause, and the child shall thereupon be deemed a ward of said court. Consent to adoption may not thereafter be withdrawn.

HISTORY: Am. 1945, p. 575, Act 324, Eff. Sept. 6;—Am. 1947, p. 683, Act 358, Eff. Oct. 11;—CL 1948, 710.6;—Am. 1953, p. 45, Act 50, Eff. Oct. 2.

This section as originally enacted re-enacted Sec. 5a of Ch. LXIV of Act 314 of 1915, Add. 1931, p. 214, Act 136, Eff. Sept. 18.

710.7 Adoption petition; order of adoption.

Sec. 7. One year after the entry of said order, unless circumstances have arisen that, in the opinion of the court, make adoption undesirable, the court may enter an order of adoption: Provided, however, That if the best interests of the child shall be served thereby, the court may waive the 1 year period, except where such waiver may be objected to in writing by the adopting parents.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—CL 1948, 710.7.

710.7a Adoption petition; order of adoption, certified copies.

Sec. 7a. Whenever the court enters an order of adoption, certified copies shall be given to the adopting parents and in case the consent to the adoption was given by a duly authorized representative of a state licensed child placement agency of this or another state or by the Michigan children's institute, then a certified copy of the order of adoption shall be furnished by the court to such licensed agency or the Michigan children's institute.

HISTORY: Add. 1947, p. 684, Act 358, Eff. Oct. 11;—CL 1948, 710.7a.

710.7b Adoption petition; order and record not to contain name of parents or name before adoption.

Sec. 7b. Where the natural parents have given their consent to an adoption and in the case of a child born out of wedlock where the mother has given her consent to an adoption and the adopting parents desire to change the name of the adopted child, the order of adoption and exemplification of record shall not contain the name of the child's parents or mother or the name bestowed upon the child before the adoption.

HISTORY: Add. 1906, p. 105, Act 80, Eff. Mar. 10, 1907.

710.8 Adoption petition; supervision of child before entry of order; supervision and reports made by one agency.

Sec. 8. During the period before entry of the order of adoption said child, in his foster home, shall be supervised at the direction of the court, by a county agent, or a placement agency licensed by the state, or the state department of social welfare, or the county social welfare board, or the Michigan children's institute, who shall make such reports regarding the adjustment of the child in said home as the court shall order. All such investigations shall be made under reasonable circumstances and at reasonable intervals. Not more than 1 agency shall so supervise or make such reports.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—Am. 1947, p. 684, Act 358, Eff. Oct. 11;—CL 1948, 710.8.

710.9 Order of adoption; duties and rights of foster parents; child as heir at law of adopting parents and of kindred of adopting parents; custody.

Sec. 9. Upon the entry of the order of adoption, such child shall, in case of a change of name, thereafter be known and called by said new name, and the person or persons so adopting said child shall thereupon stand in the place of a parent or parents to such child in law, in all respects as though the adopted child had been the natural child of

the adopting parents, and be liable to all the duties and entitled to all the rights of parents thereto. Thereupon there shall be no distinction in any way between the rights and duties of natural children and adopted children, and such child shall thereupon become the heir at law of such adopting person or persons, as well as the heir at law of the lineal and collateral kindred of the adopting person or persons, and entitled to inherit property from such person or persons in accordance with the law of descent and distribution of this state: Provided, That nothing herein shall affect his right to inherit from or through his natural parents. On the death of the adopting parents, custody of the adopted child shall be determined as though the child was natural born of the adopting parents.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—CL 1948, 710.9;—Am. 1955, p. 132, Act 84, Imd. Eff. May 26;—Am. 1957, p. 312, Act 255, Eff. Sep. 27.

710.10 Order of adoption; denial; disposition of child.

Sec. 10. If the court shall deny an order of adoption, the court may return the child to the parents or original custodian and restore their rights, or make such disposition appropriate for the welfare of the ward as is authorized by section 18 of Act No. 54 of the Public Acts for 1944, First Extra Session, by an ex parte order entered in said probate court.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—Am. 1947, p. 684, Act 358, Eff. Oct. 11;—CL 1948, 710.10.

NOTE: Sec. 18, Act 54, 1944, 1st Ex. Ses., above referred to, is Compilers' § 712A.18.

710.11 Records of adoption proceedings in separate file; limited inspection; sworn petition; certificate of registration to adopting parents; birth certificate, form.

Sec. 11. (1) All records of proceedings in adoption cases and all papers and books relating to the proceedings shall be kept in separate locked files and shall not be open to inspection or copy except upon order of a court of record for good cause shown expressly permitting inspection or copy. The court after 90 days following entry of the final order of confirmation shall not permit copy or inspection of the adoption proceedings except upon a sworn petition setting forth the purpose of the inspection or copy. The court may order notice and hearing on the petition.

(2) No person in charge of adoption records shall disclose the names of the natural or adoptive parents of a child unless ordered to do so by a court of record, except to meet requirements of the director of public health for the purpose of creating a new certificate of birth in the adoptive name and sealing the original certificate of birth.

(3) The director of public health shall furnish to the adopting parents a certified copy of the new birth certificate which shall not disclose the adoption of the child. A birth certificate issued to an adopted child shall make no reference to adoption and shall conform as nearly as possible to the appearance of birth certificates issued in other cases.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—Am. 1947, p. 684, Act 358, Eff. Oct. 11;—CL 1948, 710.11;—Am. 1953, p. 137, Act 132, Eff. Oct. 2;—Am. 1968, p. 211, Act 148, Imd. Eff. Jun. 12.

710.12 Order terminating parental rights before placing in home.

Sec. 12. No child shall be placed in any home for the purpose of adoption until an order terminating parental rights and making the child a ward of the court as herein provided has been entered.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—CL 1948, 710.12.

710.13 Unlawful fees in connection with adoption.

Sec. 13. No person or persons shall offer, give or receive any money or other consideration, or thing of value in connection with the placing of any child for adoption, or

in connection with the consent to adoption, or with the petition for adoption except such charges and fees as may be approved by the probate court.

HISTORY: Add. 1945, p. 575, Act 324, Eff. Sept. 6;—CL 1948, 710.13.

710.13a Subsidies to adopting parents; support, pre-existing mental or physical conditions; amount, continuation, termination, source.

Sec. 13a. (1) Notwithstanding the provisions of this or any other act, when a petition has been filed to adopt a child who has been in foster care for not less than 4 months, a governmental unit or agency may pay either or both of the following subsidies to the adopting parents:

(a) For support of the child, a subsidy not to exceed \$600.00 per year.

(b) For medical, surgical, hospital and related expenses due to a physical or mental condition of the child which existed before the adoption, a subsidy, which may be ordered at any time.

(2) The probate court shall enter an order fixing the amount of the subsidies and containing a finding by the court that after taking testimony from the social agency responsible for placing the child for adoption that efforts have been made to place the child and it has no notice of any other persons who are presently willing and qualified to adopt the child without subsidies.

(3) The subsidies shall continue until the child reaches 19 years of age, becomes emancipated or dies, or until the further order of the court, whichever occurs first. The subsidies shall continue although the adopting parents leave the state. As a condition for continuation of the subsidies, the court shall require the adopting parents to file a sworn report with the court at least once each year as to the location and other matters relating to the child as the court determines, but not including the financial condition of the parents. On the basis of such report or information received by the court at any time indicating changed conditions, other than financial conditions, the subsidies may be discontinued by order of the court. The subsidies shall not affect the legal status of the child, nor the rights and responsibilities of the adoptive parents as provided by law.

(4) The subsidies shall be paid from the same public funds and in the same manner as foster care payments as provided by section 18b of Act No. 280 of the Public Acts of 1939, as added by Act No. 113 of the Public Acts of 1955, being section 400.18b of the Compiled Laws of 1948.

HISTORY: Add. 1969, p. 558, Act 303, Imd. Eff. Aug. 12.

710.14 Violation of section; misdemeanor, penalty.

Sec. 14. Any person violating any of the provisions of sections 12 and 13 of this chapter shall, upon conviction, be guilty of a misdemeanor, and upon the third or any subsequent conviction shall be guilty of a felony.

HISTORY: Add. 1945, p. 576, Act 324, Eff. Sept. 6;—CL 1948, 710.14.

CHAPTER XI.
CHANGE OF NAME OF ADULT OR MINOR

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| <p>711.1 Change of name of adult or minor; procedure; consent, change of name of remainder of family.</p> | <p>711.2 Change of name of adult or minor; petition, fee; copy of order.</p> |
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711.1 Change of name of adult or minor; procedure; consent, change of name of remainder of family.

Sec. 1. The probate court of any county of this state shall have power by an order to be entered on its journal to change the name of any person who has been 1 year a resident of such county and who may make a petition in writing to such court for that purpose showing a sufficient reason for such proposed change and that such change is not sought with any fraudulent or evil intent: Provided, That when such petition is filed, the court shall set time and place for hearing and order publication as provided in sections 32 to 35 of chapter 1 of this act, as amended. Upon the filing of a petition therefor said court may permit any person having the same name, or a similar name as that which such person proposes to assume, to intervene in said proceeding for the purpose of showing said fraudulent or evil intent. When such petitioner is a minor said petition shall be signed by the mother and father jointly, or by the surviving parent if one be deceased, or if both parents be deceased, by the guardian of the person of said minor: Provided, That if either parent shall have been declared to be mentally incompetent, the petition may be signed by the guardian for such parent: Provided, however, That the written consent to the change of name of any minor over the age of 16 years, signed by said minor in the presence of said court, shall be filed with the court before any order changing the name of said minor is entered.

When such petitioner is the husband or head of the family, in its order changing the name of such petitioner, the court shall include the name of the wife of such petitioner and may also in its discretion include the names of such minor children of the petitioner of whom the petitioner has legal custody: Provided, however, That the written consent to the change of name of any child over the age of 16 years signed by said child in the presence of the court shall be filed with the court before the court shall include such child in its order: Provided further, That the name of any minor under the age of 16 years may not be changed unless he or she is the natural or adopted child of petitioners whose names are also changed under the provisions of this act.

HISTORY: CL 1948, 711.1;—Am. 1955, p. 142, Act 89, Eff. Oct. 14;—Am. 1956, p. 241, Act 131, Eff. Aug. 11.

Chapter heading Am. 1955, p. 142, Act 89.

This section supersedes with additions Sec. 6 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14143;—CL 1929, 15956.

NOTE: Secs. 32-35, Ch. 1, above referred to, are Compilers' §§ 701.32-701.35.

CHANGE OF NAME: Changing name of woman in divorce suit when there are no minor children, see Compilers' § 552.391.

711.2 Change of name of adult or minor; petition, fee; copy of order.

Sec. 2. Such judge of probate shall require the person making such petition under the preceding section to pay to the probate court to be remitted to the county treasurer for the use of the county a fee of \$5.00, and shall furnish to said applicant if desired, a certified copy of the order made in such matter, upon the payment of the statutory fee therefor.

HISTORY: CL 1948, 711.2;—Am. 1955, p. 78, Act 49, Imd. Eff. Apr. 29;—Am. 1963, p. 184, Act 131, Eff. Sep. 6.

This section supersedes Sec. 7 of Ch. LXIV of Act 314 of 1915, being CL 1915, 14144;—CL 1929, 15957.

CHAPTER XII.

Secs. 1-27.

HISTORY: Rep. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6. Secs. 1 through 27 repealed, and superseded by Ch. XIIA which was added by Act 54, 1st Ex. Ses., 1944.

This chapter provided for juveniles and the juvenile division, now covered by Chapter 12a following.

Secs. 17 and 20 Am. 1941, p. 265, Act 178, Eff. Jan. 10, 1942.

CHAPTER XIII.

JUVENILES AND JUVENILE DIVISION

712A.1	Juvenile division of probate court; proceedings not criminal; construction of chapter.	Private homes, institutions or agencies, compensation.
712A.2	Juvenile division of probate court; prior order of another court; transfer to county of residence; programs for prevention of delinquency.	712A.16a Repealed.
712A.2a	Juvenile division of probate court; extent of jurisdiction.	712A.17 Hearings; jury; bond; counsel to represent child.
712A.2b	Juvenile division of probate court; procedure of hearing.	712A.17a Hearings; record, tape recordings, transcription.
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712A.3a	Prior order of another court affecting child's welfare; notice, filing, service, disclosure.	Warning.
712A.4	Jurisdiction; waiver; trial in criminal court.	Probation in own home.
712A.5	Jurisdiction; child over nineteen years old; exception.	Placement in licensed boarding home.
712A.6	Jurisdiction; adults.	Placement in licensed private institution or agency.
712A.7	Juvenile division of probate court; register of probate; appointment, duties, salary.	Commitment to public institution or county facility; religious affiliation; reimbursement of cost; notice to revenue department; special guardian.
712A.8	County agent; creation of office; duties; assistants.	Jail confinement for 17-19 year old children; parole; separate care.
712A.9	Probation officers; appointment, compensation, duties; notification to social welfare office.	Reimbursement by parent.
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712A.11	Preliminary inquiry; petition.	Conduct of parents, guardian, or custodian.
712A.12	Examination of child; hearing; summons.	Order; hearing, service of notice.
712A.13	Service of summons.	712A.18a Commitment of child to out-of-state institutions; validation of prior commitments.
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	Child care home, standards; use of jails.	712A.21 Rehearing; petition; supplemental orders.
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		712A.23 Unlawful evidence in actions against child.
		712A.24 Placement in institutions; summary of information; conveyance of child; progress report.
		712A.25 Foster care of children; expenses, payment; rules; standards of care.
		712A.26 Contempt of court; punishment.
		712A.27 Quarters, equipment and supplies for use of juvenile division.
		712A.28 Record of cases; reimbursement orders; reports by court.

712A.1 Juvenile division of probate court; proceedings not criminal; construction of chapter.

Sec. 1. While proceeding under this chapter, the probate court shall be termed the juvenile division of the probate court.

Proceedings under this chapter shall not be deemed to be criminal proceedings.

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the court shall receive such care, guidance and control, preferably in his own home, as will be conducive to the child's welfare and the best interest of the state and that when such child is removed from the control of his parents the court

shall secure for him care as nearly as possible equivalent to the care which should have been given to him by them.

HISTORY: Add. 1944, 1st Ex. Ses., p. 116, Act 54, Imd. Eff. March 6;—CL 1948, 712A.1.

See Sec. 1 and last sentence of Sec. 7 of Ch. XII of Act 288 of 1939, also CL 1929, 12835.

BOYS' VOCATIONAL SCHOOL: See Compilers' § 803.101.

GIRLS' TRAINING SCHOOL: See Compilers' § 804.101.

CITED IN OTHER SECTIONS: Sections 712A.1 to 712A.28 are cited in §§ 3.704 and 764.27.

712A.2 Juvenile division of probate court; prior order of another court; transfer to county of residence; programs for prevention of delinquency.

Sec. 2. Except as provided herein, the juvenile division of the probate court shall have:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of any other court in proceedings concerning any child under 17 years of age found within the county

(1) Who has violated any municipal ordinance or law of the state or of the United States; or

(2) Who has deserted his home without sufficient cause or who is repeatedly disobedient to the reasonable and lawful commands of his parents, guardian or other custodian; or

(3) Who repeatedly associates with immoral persons, or who is leading an immoral life; or is found on premises occupied or used for illegal purposes; or

(4) Who, being required by law to attend school, wilfully and repeatedly absents himself therefrom, or repeatedly violates rules and regulations thereof; or

(5) Who habitually idles away his or her time; or

(6) Who repeatedly patronizes or frequents any tavern or place where the principal purpose of the business conducted is the sale of alcoholic liquors.

(b) Jurisdiction in proceedings concerning any child under 17 years of age found within the county

(1) Whose parent or other person legally responsible for the care and maintenance of such child, when able to do so, neglects or refuses to provide proper or necessary support, education as required by law, medical, surgical or other care necessary for his health, morals or well-being, or who is abandoned by his parents, guardian or other custodian, or who is otherwise without proper custody or guardianship; or

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality or depravity on the part of a parent, guardian or other custodian, is an unfit place for such child to live in, or whose mother is unmarried and without adequate provision for care and support.

In the event a petition is filed in any probate court alleging that a child is within the provisions of subdivisions (b) (1) or (b) (2) of this section, and the custody of such child shall be subject to the prior or continuing order of another court of record of this state, the court in which such petition is filed shall forthwith cause notice of the filing of such petition to be served upon the prosecuting attorney for the county in which such other court is situated, personally or by registered mail. Immediately upon receiving such notice, the prosecuting attorney shall prepare and file such pleadings, petitions, notices or orders as may be necessary to bring the matter before such other court for hearing and such disposition, consistent with the powers of such court, as may be for the best interests of such child. Pending action by such other court in regard to the matter, the probate court with which such petition has been filed shall have jurisdiction to make any temporary orders pertaining to care or custody which may be deemed advisable or necessary for the protection of such child.

(c) Jurisdiction over children under 19 years of age, jurisdiction of whom shall have been waived to the juvenile division of the probate court by a court in chancery by

provision to that effect in a temporary order for custody of children based upon a bill for divorce or upon a motion pursuant to such a bill for divorce by the prosecuting attorney, or in a decree of divorce dissolving a marriage between the parents of such minor children, or by an amended decree relative to the custody of such child in such a divorce.

(d) Concurrent jurisdiction in proceedings concerning any child between the ages of 17 and 19 found within the county

(1) Who is repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors; or

(2) Who repeatedly associates with criminal, dissolute or disorderly persons; or

(3) Who is found of his or her own free will and knowledge in a house of prostitution or assignation or ill-fame; or

(4) Who repeatedly associates with thieves, prostitutes, pimps or procurers; or

(5) Who is wilfully disobedient to the reasonable and lawful commands of his parents, guardian or other custodian and is in danger of becoming morally depraved; or

(6) Who habitually idles away his or her time.

If any child is brought before the juvenile division of the probate court in a county other than that in which said child resides, said court may enter an order prior to hearing transferring the jurisdiction of such matter to the court of the county of residence (which shall not be construed as settlement as defined in section 55(a-1) of Act No. 280 of the Public Acts of 1939, as amended, being section 400.55 of the Compiled Laws of 1948), with the consent of the judge of probate of said county of residence, which order, together with a certified copy of the proceedings theretofore had in the court of such county other than residence, shall be delivered to the court of the county of residence.

(e) Authority to establish or assist in the development of a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to behavior of children who do not require formal court jurisdiction but otherwise fall within subdivision (a) of this section. Such services shall be voluntarily accepted by the child and his parents, guardian or custodian.

HISTORY: Add. 1944, 1st Ex. Sess., p. 116, Act 54, Imd. Eff. March 6;—Am. 1947, p. 78, Act 68, Imd. Eff. May 2;—CL 1948, 712A.2;—Am. 1953, p. 257, Act 193, Eff. Oct. 2;—Am. 1965, p. 283, Act 182, Imd. Eff. Jul. 15.

See Secs. 2, 3, 4 and 5 of Ch. XII of Act 288 of 1939, also CL 1929, 12834.

CITED IN OTHER SECTIONS: The above section is cited in §§ 3.704, 400.207, 764.27, 803.103a, and 804.103a.

712A.2a Juvenile division of probate court; extent of jurisdiction.

Sec. 2a. Where the juvenile division of any probate court has exercised jurisdiction over any child under the provisions of section 2 of this chapter by virtue of any of the provisions under subdivision (a) or (b) jurisdiction shall continue until the child's nineteenth birthday, other than in criminal complaints occurring subsequent to the child's seventeenth birthday, unless released sooner by order of said court.

HISTORY: Add. 1953, p. 258, Act 193, Eff. Oct. 2;—Am. 1959, p. 90, Act 81, Eff. Mar. 19, 1960;—Am. 1962, p. 10, Act 8, Imd. Eff. Mar. 19.

712A.2b Juvenile division of probate court; procedure of hearing.

Sec. 2b. When a child is accused of an act, the nature of which constitutes a violation of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, or of a provision of an ordinance substantially corresponding to any provision of Act No. 300 of the Public Acts of 1949, as amended, the following procedure shall apply, any other provision of this chapter notwithstanding:

(a) No petition shall be required, but the probate court may act upon a copy of the written notice to appear given the accused child as required by section 728 of Act No.

300 of the Public Acts of 1949, as amended, being section 257.728 of the Compiled Laws of 1948.

(b) The parent or parents, guardian, or custodian of the child may be required to attend a hearing conducted in accordance with this section when notified by the probate court, without additional service of process or delay, however, the probate court may extend the time for such appearance.

(c) If, after hearing the case, the probate court finds the accusation to be true, the court may dispose of the case in accordance with section 18 of this chapter.

(d) Within 10 days after a hearing in which the probate court finds an accusation made in accordance with this section against a child to be true, the court shall prepare and forward an abstract of its finding in accordance with section 732 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.732 of the Compiled Laws of 1948.

(e) This section shall not be construed as limiting the discretion of the probate court to restrict the driving privileges of a child as a term or condition of probation.

HISTORY: Add. 1965, p. 61, Act 42, Imd. Eff. May 25.

712A.3 Juvenile division of probate court; transfer of cases from other court of child under seventeen.

Sec. 3. If during the pendency of a criminal charge against any person in any other court, it is ascertained that the person was under the age of 17 years at the time of the commission of the offense, the court shall transfer such case without delay, together with all the papers, documents, and testimony connected therewith, to the juvenile division of the probate court of the county in which such other court is situated or in which the person resides.

The court making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division of the probate court or to that court itself, or release the child in the custody of some suitable person to appear before the probate court at a time designated. The juvenile division of the probate court shall thereupon proceed to hear and dispose of the case in the same manner as if it had been instituted in the probate court in the first instance.

HISTORY: Am. 1944, 1st Ex. Sess., p. 117, Act 54, Imd. Eff. March 6;—Am. 1946, 1st Ex. Sess., p. 44, Act 22, Imd. Eff. Feb. 26;—CL 1948, 712A.3;—Am. 1961, p. 53, Act 54, Eff. Sep. 8.

See Sec. 26 of Ch. XII of Act 288 of 1939, also CL 1929, 12839.

712A.3a Prior order of another court affecting child's welfare; notice, filing, service, disclosure.

Sec. 3a. When any order affecting the welfare of a child is entered under this chapter by the judge of probate in any case where the child is subject to the prior or continuing order of any other court of this state, a notice thereof shall be filed in such other court and a copy of such notice shall be served personally or by registered mail upon the parents, guardian, or persons in loco parentis and upon the prosecuting attorney of the county wherein such other court is located. Such notices shall not disclose any allegations or findings of facts set forth in such petitions or orders, nor the actual person or institution to whom custody is changed. Such facts may be disclosed directly to such prosecuting attorney and shall be disclosed on request of the prosecuting attorney or by order of such other court, but shall be considered as confidential information, the disclosure of which will be subject to the same care as in all juvenile matters.

HISTORY: Add. 1953, p. 258, Act 193, Eff. Oct. 2.

712A.4 Jurisdiction; waiver; trial in criminal court.

Sec. 4. In any case where a child over the age of 15 years is accused of any act the nature of which constitutes a felony, the judge of probate of the county wherein the offense is alleged to have been committed may, after investigation and examination,

including notice to the prosecuting attorney, and parents or guardians if addresses are known, and upon the court's own motion or motion of the prosecuting attorney, waive jurisdiction; whereupon it shall be lawful to try such child in the court having general criminal jurisdiction of such offense.

HISTORY: Add. 1944, 1st Ex. Ses., p. 118, Act 54, Imd. Eff. March 6;—Am. 1946, 1st Ex. Ses., p. 44, Act 22, Imd. Eff. Feb. 26;—CL 1948, 712A.4;—Am. 1969, p. 287, Act 140, Eff. Mar. 20, 1970.

See Sec. 26 of Ch. XII of Act 288 of 1939, also CL 1929, 12639.

712A.5 Jurisdiction; child over nineteen years old; exception.

Sec. 5. No probate court shall have jurisdiction over any child under the juvenile division of the probate court after he or she shall have reached the age of 19 years, except as herein provided. No commitment of any child to a private or public institution or agency shall be valid after such child has reached the age of 19 years except that when a child shall have come within the jurisdiction of the probate court under the provisions of subsection "c" of section 2 and is committed to the Michigan corrections commission as provided in subsection "f" of section 18. Commitments to a private or incorporated institution or agency shall not divest the probate court of jurisdiction unless such child is adopted in a manner provided by law.

HISTORY: Add. 1944, 1st Ex. Ses., p. 118, Act 54, Imd. Eff. March 6;—CL 1948, 712A.5.

712A.6 Jurisdiction; adults.

Sec. 6. The juvenile division of the probate court shall have jurisdiction over adults as hereinafter provided and may make such orders affecting adults as in the opinion of the court are necessary for the physical, mental, or moral well-being of a particular child or children under its jurisdiction: Provided, That such orders shall be incidental to the jurisdiction of the court over such child or children.

HISTORY: Add. 1944, 1st Ex. Ses., p. 118, Act 54, Imd. Eff. March 6;—CL 1948, 712A.6.

712A.7 Juvenile division of probate court; register of probate; appointment, duties, salary.

Sec. 7. The judge of probate may appoint the register of probate, a deputy probate register, or clerk of his court as register of the juvenile division of the probate court. Such register of the juvenile division shall prepare all petitions for investigation, summons, writs and other necessary papers, and shall perform such duties as required by the judge of probate, and he shall exercise and be competent to do all acts required of the judge of probate, except judicial acts. Such register so appointed shall receive for his services under this chapter, in addition to his regular salary, such sum as the board of supervisors shall fix: Provided, however, That in counties having a population of 100,000, and not more than 350,000 inhabitants, according to the last federal census, the compensation shall be not less than \$500.00 annually.

HISTORY: Add. 1944, 1st Ex. Ses., p. 118, Act 54, Imd. Eff. March 6;—CL 1948, 712A.7.

This section re-enacts Sec. 9 of Ch. XII of Act 288 of 1939, which superseded part of Sec. 5 of Act 6, Ex. Ses., 1907;—Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12638.

NOTE: Regular salary, see Compilers' § 701.12.

712A.8 County agent; creation of office; duties; assistants.

Sec. 8. The office of county agent is hereby created. The county agent shall be an officer of the juvenile division of the probate court and under the general supervision of the judges thereof and shall serve during their pleasure. The county agent shall organize, direct and develop the child welfare work of the court when so authorized by the judge. He shall, when requested by the superintendent or director, supervise children when released from public institutions or agencies and may perform such other child welfare work as requested and with the approval of the judge, including services to school-age children of the various school districts within the county, after consultation and agreement with the county school commissioner and the superintendents of

schools in a county. The county agent or assistants shall, with the approval of the judge of probate, make such investigations and reports on children or families within the county as may be requested by the state department of social welfare or by the superintendent of any state institution relative to the welfare of any child. The state department of social welfare shall assist in the work of the county agents and assistants as provided in subdivision (c) of section 14 of Act No. 280 of the Public Acts of 1939. Assistant county agents shall perform such duties as may be assigned to them by the county agent.

HISTORY: Add. 1944, 1st Ex. Ses., p. 118, Act 54, Imd. Eff. March 6;—CL 1948, 712A.8. See Compilers' § 400.251.

NOTE: Sec. 14, Act 280, 1939, above referred to, is Compilers' § 400.14.

712A.9 Probation officers; appointment, compensation, duties; notification to social welfare office.

Sec. 9. The judge of probate in each county may appoint 1 or more suitable persons of good character and qualified training or experience, other than the county agent or assistants, to act as probation officer, who shall receive such compensation as the board of supervisors may appropriate for that purpose, and who, at the discretion of the judge, may be authorized and empowered to perform county agent duties.

The judge of probate may also appoint other probation officers who shall receive no compensation from the county treasury for the duties performed under such appointment.

It shall be the duty of the judge of probate to notify the state department of social welfare of the appointment of all paid probation officers made by him under the provisions of this chapter. All probation officers shall hold office during the pleasure of the court and shall report to the said court upon all cases under their care.

HISTORY: Add. 1944, 1st Ex. Ses., p. 119, Act 54, Imd. Eff. March 6;—CL 1948, 712A.9.

This section supersedes Sec. 10 of Ch. XII of Act 288 of 1939, which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.10 Probation officer; county agent as referee; oath.

Sec. 10. The judge of probate may designate a probation officer or county agent to act as referee in taking the testimony of witnesses and hearing the statements of parties upon the hearing of petitions alleging that a child is within the provisions of this chapter, where there is no objection by parties in interest. The probation officer or county agent so designated shall take and subscribe the oath of office provided by the constitution and shall have authority to administer oaths and examine witnesses, and shall in all cases so referred for hearing and taking of testimony make a written signed report to the judge of probate containing a summary of the testimony taken and a recommendation for the court's findings and disposition of such matters.

HISTORY: Add. 1944, 1st Ex. Ses., p. 119, Act 54, Imd. Eff. March 6;—CL 1948, 712A.10.

This section supersedes Sec. 11 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.11 Preliminary inquiry; petition.

Sec. 11. Whenever any person gives information to the juvenile division of the probate court that a child is within the provisions of this chapter, a preliminary inquiry may be made to determine whether the interests of the public or of the child require that further action be taken. If it appears that formal jurisdiction should be acquired, the court shall authorize a petition to be filed.

The petition shall be verified and may be upon information and belief. It shall set forth plainly the facts which bring said child within the provisions of this chapter, and shall state (1) the name, birth date, and residence of the child; the names and residence: (2) of the parents; (3) of his legal guardian, if there is one; (4) of the person or

persons having custody or control of the child; and (5) of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known to the petitioner, the petition shall so state. If the child attains his seventeenth birthday after the filing of the petition, the jurisdiction of the court shall continue beyond his seventeenth birthday and the court shall have authority to hear and dispose of the petition in accordance with the provisions of this chapter.

Any petition or other court records may be amended at any stage of the proceedings, as the ends of justice may require.

If it appears that the services of the court can be utilized in the prevention of delinquency without formal jurisdiction, the court may offer the services of the court to children without a petition being authorized as provided in subdivision (e) of section 2 of this chapter.

HISTORY: Add. 1944, 1st Ex. Ses., p. 119, Act 54, Imd. Eff. March 6;—CL 1948, 712A.11;—Am. 1963, p. 167, Act 118, Eff. Sept. 6;—Am. 1965, p. 285, Act 182, Imd. Eff. Jul. 15.

This section supersedes part of Sec. 17 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.12 Examination of child; hearing; summons.

Sec. 12. After a petition shall have been filed and after such further investigation as the court may direct, in the course of which the court may order the child to be examined by a physician, dentist, psychologist or psychiatrist, the court may dismiss said petition or may issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child, or with whom the child may be, to appear personally and bring the child before the court at a time and place stated: Provided, That the court in its discretion may excuse but not restrict children from attending the hearing. If the person so summoned shall be other than the parent or guardian of the child, then the parents or guardian, or both, shall also be notified of the petition and of the time and place appointed for the hearing thereon, by personal service before the hearing, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

Any interested party who shall voluntarily appear in said proceedings, may, by writing, waive service of process or notice of hearing.

HISTORY: Add. 1944, 1st Ex. Ses., p. 119, Act 54, Imd. Eff. March 6;—CL 1948, 712A.12.

This section supersedes with additions part of Sec. 17 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.13 Service of summons.

Sec. 13. Service of summons may be made anywhere in the state personally by the delivery of true copies thereof to the persons summoned: Provided, That if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to their last known addresses, or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if (1) personal service is effected at least 72 hours before the date of hearing; (2) registered mail is mailed at least 5 days before the date of hearing if within the state or 14 days if outside of the state; (3) publication is made once in some newspaper printed and circulated in the county in which said court is located at least 1 week before the time fixed in the summons or notice for the hearing.

Service of summons, notices or orders required by this chapter may be made by any peace officer or by any other suitable person designated by the judge. The judge may, in his discretion, authorize the payment of necessary traveling expenses incurred by

any person summoned or otherwise required to appear at the time of hearing of any case coming within the provisions of this chapter, and such expenses and the expenses of making service as above provided, when approved by the judge, shall be paid by the county treasurer from the general fund of the county.

If any person so summoned, as herein provided, shall fail without reasonable cause to appear before said court, he may be proceeded against for contempt of court and punished accordingly.

HISTORY: Add. 1944, 1st Ex. Ses., p. 120, Act 54, Imd. Eff. March 6;—CL 1948, 712A.13.

This section supersedes with additions part of Sec. 17 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.14 Child taken into custody; release to parents, guardian, or custodian; hearing; order of court; placement.

Sec. 14. Any municipal police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or whose surroundings are such as to endanger his health, morals or welfare. Whenever any such officer or county agent takes a child coming within the provisions of this chapter into custody, he shall forthwith notify the parent or parents, guardian or custodian, if they can be found within the county. While awaiting the arrival of the parent or parents, guardian or custodian, no child under the age of 17 years taken into custody under the provisions of this chapter shall be held in any detention facility unless such child be completely isolated so as to prevent any verbal, visual or physical contact with any adult prisoner. Unless the child requires immediate detention as hereinafter provided, the arresting officer shall accept the written promise of said parent or parents, guardian or custodian, to bring the child to the court at a time fixed therein. Thereupon such child shall be released to the custody of said parent or parents, guardian or custodian.

If not so released, such child and his parents, guardian or custodian, if they can be located, shall forthwith be brought before the court for a preliminary hearing on his status, and an order signed by a judge of probate or a referee authorizing the filing of a complaint shall be entered or the child shall be released to his parents, guardian or custodian.

In the event the complaint is authorized the order shall also direct the placement of the child, pending investigation and hearing, which placement may be in the home of parents, guardian or custodian, in the boarding care of a licensed child care agency, or in a suitable place of detention designated by the court.

HISTORY: Add. 1944, 1st Ex. Ses., p. 120, Act 54, Imd. Eff. March 6;—CL 1948, 712A.14;—Am. 1952, p. 151, Act 133, Eff. Sep. 18;—Am. 1961, p. 31, Act 30, Eff. Sep. 8;—Am. 1966, p. 67, Act 43, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: Sections 712A.14 to 712A.16 are cited in §§ 400.14 and 720.651.

712A.15 Child under nineteen years old; detention, limitation.

Sec. 15. In the case of any child under the age of 19 years concerning whom a complaint has been made as hereinbefore provided, or a petition or supplemental petition or petition for revocation of probation has been filed, the court may order said child, pending the hearing, detained in such place of detention as shall be designated: Provided, That nothing herein shall prevent the court from releasing the child, pending said hearing, in the custody of a parent, guardian, or custodian, to be brought before the court at the time designated.

Detention, pending hearing, shall be limited to the following children:

- (a) Those whose home conditions make immediate removal necessary;
- (b) Those who have run away from home;

- (c) Those whose offenses are so serious that release would endanger public safety;
- (d) Those detained for observation, study and treatment by qualified experts.

HISTORY: Add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6;—CL 1948, 712A.15.

This section supersedes part of Sec. 18 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act 24, Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.16 Child under seventeen years old; confinement prohibited, exception.

Sec. 16. (1) In case a child under the age of 17 years is taken into custody or detained, such child shall not be confined in any police station, prison, jail, lock-up, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. However, a child 15 years of age or older whose habits or conduct are deemed such as to constitute a menace to other children, or who may not otherwise be safely detained, may, on order of the court, be placed in a jail or other place of detention for adults, but in a room or ward separate from adults, and for a period not to exceed 30 days, unless longer detention is necessary for the service of process.

Child care home, standards; use of jails.

(2) Provision may be made by the board of supervisors in each county or of counties contracting together for the diagnosis, treatment, care, training, and detention of children in a child care home to be conducted as an agency of the court or county, provided such home or facility meets licensing standards as established by the state department of social services. The court or a court approved agency may arrange for the boarding of such children in private homes, subject to the supervision of the court, or may arrange with an incorporated institution or agency approved by the state department of social services, to receive for care children within the jurisdiction of the court; or may use a room or ward, separate and apart from adult criminals, in the county jail in cases of children over 17 years of age and under 19 years of age within the jurisdiction of the court.

Detention home, superintendent, employees, compensation.

(3) In case a detention home is established as an agency of the court, the judge may appoint a superintendent or matron and other necessary employees for such home who shall receive such compensation as shall be provided by the board of supervisors of such county. Nothing in this section shall alter, or diminish, the legal responsibility of the state department of social services to receive juveniles committed by the probate courts.

Private homes, institutions or agencies, compensation.

(4) In case the court shall arrange for the board of children temporarily detained in private homes or in an institution or agency, a reasonable sum, to be fixed by the court, for the board of such children shall be paid by the county treasurer out of the general fund of the county.

HISTORY: Add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6;—CL 1948, 712A.16;—Am. 1963, p. 76, Act 65, Eff. May 8;—Am. 1968, p. 213, Act 150, Eff. Nov. 15.

See Sec. 27 of Ch. XII of Act 288 of 1939, also CL 1929, 12841.

712A.16a Repealed. 1963, p. 311, Act 214, Imd. Eff. May 17.

Provided for joint regional facilities for diagnosis and custody of minors pending criminal proceedings.

712A.17 Hearings; jury; bond; counsel to represent child.

Sec. 17. The court may conduct hearings in an informal manner and may adjourn the hearing from time to time. Stenographic notes or other transcript of the hearing shall be taken only when requested by an attorney of record or when so ordered by the court. In the hearing of any case the general public may be excluded and only such persons admitted as have a direct interest in the case.

In all hearings under this chapter, any person interested therein may demand a jury of 6, or the judge of probate of his own motion, may order a jury of the same number to try the case. Such jury shall be summoned and impanelled in accordance with the law relating to juries in courts held by justices of the peace.

Any parent, guardian, or other custodian of any child held under this chapter shall have the right to give bond or other security for the appearance of the child at the hearing of such case; and in the event such child or his or her parents desire counsel and are unable to procure same, the court in its discretion may appoint counsel to represent the child. The attorney so appointed shall be entitled to receive from the county treasurer from the general fund of the county, on the certificate of the probate judge that such services have been duly rendered, such an amount as the probate judge shall, in his discretion, deem reasonable compensation for the services performed: Provided, That the prosecuting attorney shall appear for the people when requested by the court.

HISTORY: Add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6;—CL 1948, 712A.17. See Sec. 12 of Ch. XII of Act 288 of 1939, also CL 1929, 12835 and 12836.

712A.17a Hearings; record, tape recordings, transcription.

Sec. 17a. In any case in which a record of the hearing is kept by a recording device, no transcription need be made of the hearing in the absence of a request by an interested party. The tape of the hearing shall be stored as a permanent record of the court.

HISTORY: Add. 1989, p. 184, Act 95, Imd. Eff. Jul. 24.

712A.18 Order of deposition of child.

Sec. 18. If the court shall find that a child, concerning whom a petition has been filed, is not within the provisions of this chapter, he shall enter an order dismissing said petition. If, however, the court shall find that a child is within the provisions of this chapter, he may enter an order of disposition which shall be appropriate for the welfare of said child and society in view of the facts so proven and ascertained, as follows:

Warning.

(a) Warn the child or the parents, guardian, or custodian and dismiss the petition;

Probation in own home.

(b) Place the child on probation, or under supervision in his own home, upon such terms and conditions (including reasonable rules for the conduct of the parents, guardian, or custodian, designed for the physical, mental or moral well-being and behavior of the child) as the court shall determine;

Placement in licensed boarding home.

(c) Place the child in a suitable boarding home, which if a home of persons not related to said child, shall be licensed as provided by law;

Placement in licensed private institution or agency.

(d) Place the child in or commit the child to a private institution or agency incorporated under the laws of this state and approved or licensed by the state department of social welfare for the care of children of similar age, sex and characteristics;

Commitment to public institution or county facility; religious affiliation; reimbursement of cost; notice to revenue department; special guardian.

(e) Commit the child to a public institution or county facility or institution operated as an agency of the court or county or agency authorized by law to receive children of similar age, sex and characteristics. In every placement under subsection (d), or every commitment under subsection (e), excepting to a state institution, the religious affiliation of the child shall be protected, by placement or commitment to a private child-placing or child-caring agency/institution, if available. In every commitment to a state or county institution or agency under this subsection, except when all parental rights are terminated, the order shall contain a provision requiring the parent or parents re-

taining parental rights to reimburse the state or county monthly for the cost of the care given the child to the extent such parent or parents are able so to do as shall be determined by the court. The amount of such reimbursement to be paid shall be included in the order of commitment of the child. It shall be the duty of the superintendent to notify the department of revenue of the date any child was received in the institution or agency when the order committing such child included an amount of reimbursement to be paid the state. The department of revenue shall collect the amounts so determined and credit them to the general fund of the state: Provided, That no collections shall be made after a child is released or discharged except delinquent accounts. The court in every order of commitment to a state institution or agency under this subsection shall name the superintendent of the institution to which the child is committed as a special guardian to receive any benefits due the child from the government of the United States, and such benefits are to be used to the extent necessary to pay for the portions of the cost of care in the institution which the parent or parents are found unable to pay;

Jail confinement for 17-19 year old children; parole; separate care.

(f) In the case of a child between 17 years of age and 19 years of age, commit for a period not to exceed 30 days to the county jail, or commit said child for such minimum term as the judge may determine to the Michigan corrections commission for correctional treatment and care. Parole shall be granted, rescinded, amended or revoked, or discharge granted, by said commission in the manner prescribed by chapter 3 of Act No. 232 of the Public Acts of 1953, being sections 791.231 to 791.245 of the Compiled Laws of 1948, and any child violating parole shall be treated in accordance with the provisions of said chapter 3 of Act No. 232 of the Public Acts of 1953 and the period of time between the date of commitment and the date on which said child reaches the age of 21 years shall be considered in the maximum term: Provided, however, That any child so committed shall be confined and cared for separate and apart from persons committed by courts of criminal jurisdiction, and shall not be confined or subject to probationary or parole orders beyond his twenty-first birthday;

Reimbursement by parent.

(g) Require that the parent or other adult legally responsible for the care of such child, unless said child is in the permanent custody of the court, provided such care, or reimburse the county or state for the cost of any care provided or to be provided by the county or state on order of the court, as shall to the court seem reasonable and within the ability of said parent or adult so to do, and such reimbursement shall be credited to the general fund of the county or state;

Health care.

(h) Provide the child with such medical, dental, surgical or other health care, in a local hospital if available or elsewhere, maintaining insofar as possible a local physician-patient relationship, and with clothing and such other incidental items, as to the court seems necessary;

Conduct of parents, guardian, or custodian.

(i) Order the parents, guardian or custodian or any other person to refrain from continuing conduct which, in the opinion of the court, has caused or tended to cause the child to come within, or to remain under, the provisions of this act.

Order; hearing, service of notice.

Any order directed to a parent, or any person other than the child, shall not be effectual and binding on said parent or other person unless opportunity for hearing has been given pursuant to issuance of summons or notice as provided in sections 12 and 13 of this chapter, and until a copy of such order, bearing the seal of said court, shall

have been served on such parent or other person, (1) personally, or, (2) by registered mail to his last known address, as hereinbefore provided in section 13.

HISTORY: Add. 1944, 1st Ex. Ses., p. 122, Act 54, Imd. Eff. March 6;—CL 1948, 712A.18;—Am. 1953, p. 142, Act 139, Eff. Oct. 2;—Am. 1963, p. 77, Act 65, Imd. Eff. May 8.

See Secs. 18, 20, 21 and 22 of Ch. XII of Act 288 of 1939, also CL 1929, 12838; and CL 1929, 12940;—Am. 1931, p. 44, Act 30, Imd. Eff. April 22;—Am. 1937, p. 467, Act 260, Eff. Oct. 29.

CITED IN OTHER SECTIONS: The above section is cited in § 3.705.

712A.18a Commitment of child to out-of-state institutions; validation of prior commitments.

Sec. 18a. Where desirable or necessary, the court may place the child in or commit the child to a private institution or agency incorporated under the laws of another state and approved or licensed by that state's department of social welfare, or the equivalent approving or licensing agency, for the care of children of similar age, sex and characteristics. Any order committing a child to such an out-of-state institution made prior to the effective date of this section which is otherwise valid is hereby validated from the date of its entry.

HISTORY: Add. 1964, p. 85, Act 83, Eff. Aug. 28.

712A.18b Reimbursement order; failure to comply, contempt of court; assignment of wages.

Sec. 18b. Whenever the court under section 18 of this act enters a reimbursement order and the parent or other adult legally responsible for the care of the child fails or refuses to obey and perform the order, and has been found guilty of contempt of court for such failure or refusal, the court making the order may order an assignment to the county or state of the salary, wages or other income of the person responsible for the care of the child, which assignment shall continue until the support is paid in full. The order of assignment shall be effective 1 week after service upon the employer of a true copy of the order by personal service or by registered or certified mail. Thereafter the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the county or state until notified by the court that the support arrearage is paid in full. An employer shall not use the assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected.

HISTORY: Add. 1965, p. 273, Act 172, Imd. Eff. Jul. 15.

712A.19 Supplemental order of disposition; foster care, rehearings, reports.

Sec. 19. Such cause may be terminated or such order may be amended or supplemented, within the authority granted to the court in the preceding section 18, at any time or from time to time, as to the court seems necessary and proper, as long as the child remains under the jurisdiction of the court, subject to the provisions of section 20, and such amended or supplemented order shall be referred to as a "supplemental order of disposition". In all cases in which the child is placed in foster care, the cause shall be reheard not more than 6 months after entry of the order of disposition, at which time the parents of the child shall appear and be required to show the efforts made by them to reestablish a home for the child. The showing shall be recorded stenographically at a hearing held by the judge or referee. If the child remains in foster care in the temporary custody of the court following such hearing, the cause shall be further reheard not more than 1 year after entry of the original order of disposition. At such hearing the parents shall appear and be required to show the further efforts made by them to reestablish a home for the child, and also to show why the child should not be placed in permanent custody of the court. If the child is not placed in permanent

custody of the court, such cause shall be reheard not less frequently than annually in the same manner. The county juvenile agent shall submit reports at such hearings based on investigations conducted by his office or by a probation officer or on information submitted by a suitable public or private family service or child caring agency approved by the court, regarding the situation of the child's family and close relatives and the possibility of their reestablishing a home for the child.

HISTORY: Add. 1944, 1st Ex. Ses., p. 123, Act 54, Imd. Eff. March 6;—CL 1948, 712A.19;—Am. 1951, p. 130, Act 98, Eff. Sep. 28;—Am. 1966, p. 204, Act 181, Imd. Eff. Jul. 1.

See Sec. 18 of Ch. XII of Act 288 of 1939, also CL 1929, 12838.

712A.20 Temporary or permanent custody.

Sec. 20. The court in all cases involving custody shall state in the order for disposition or any supplemental order of disposition whether the child is placed in the temporary or permanent custody of the court. If the child is placed in the temporary custody of the court, no supplemental order of disposition providing permanent custody, or containing any other order of disposition shall be made except at a hearing pursuant to issuance of summons or notice as provided in sections 12 and 13 of this chapter or at a rehearing provided by section 19 of this chapter. If the child is placed in the permanent custody of the court, all parental rights are terminated, though such rights may be reinstated by a supplemental order of disposition after rehearing pursuant to section 21.

HISTORY: Add. 1944, 1st Ex. Ses., p. 123, Act 54, Imd. Eff. March 6;—CL 1948, 712A.20;—Am. 1966, p. 204, Act 181, Imd. Eff. Jul. 1.

712A.21 Rehearing; petition; supplemental orders.

Sec. 21. Any interested person, at any time while the child is under the jurisdiction of the court, may file a petition, in writing and under oath, for a rehearing upon all matters coming within the provisions of this chapter, and upon the rehearing the court may affirm, modify or set aside any order so reviewed. If parental rights have been terminated by an order entered in the proceedings and custody of the child has been removed from the parents, guardian or other person, the petition for rehearing shall be filed within 3 months from the date of entry of the order terminating parental rights; and the petition shall set forth in detail the place, manner and all other information requested by the court in reference to the proposed future custody of the child. The rehearing shall be conducted in accordance with the provisions of this chapter relative to the conduct of original hearings. At any time the court may enter an order for supplemental disposition as long as the child remains under the jurisdiction of the court.

HISTORY: Add. 1944, 1st Ex. Ses., p. 123, Act 54, Imd. Eff. March 6;—CL 1948, 712A.21;—Am. 1956, p. 142, Act 129, Eff. Sep. 13;—Am. 1965, p. 361, Act 202, Imd. Eff. Jul. 16.

See Sec. 8 of Ch. XII of Act 288 of 1939, also CL 1929, 12846.

712A.22 Appeal to circuit court; procedure.

Sec. 22. Appeal may be taken to the circuit court by the prosecuting attorney or any person aggrieved by any order of the juvenile division of the probate court, in the same manner as from other orders or judgments of the probate court as provided by section 45a of chapter 1. The pendency of an appeal shall not suspend the order unless the circuit court shall specifically so order. An application for a delayed appeal from any order or judgment shall be filed within 6 months after entry thereof.

HISTORY: Add. 1944, 1st Ex. Ses., p. 123, Act 54, Imd. Eff. March 6;—Am. 1947, p. 183, Act 134, Eff. Oct. 11;—CL 1948, 712A.22;—Am. 1966, p. 204, Act 181, Imd. Eff. Jul. 1;—Am. 1970, p. 474, Act 143, Imd. Eff. Jan. 1, 1971.

712A.23 Unlawful evidence in actions against child.

Sec. 23. A disposition of any child under this chapter, or any evidence given in such case, shall not in any civil, criminal or any other cause or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases against the same child under this chapter.

HISTORY: Add. 1944, 1st Ex. Ses., p. 123, Act 54, Imd. Eff. March 6;—CL 1948, 712A.23. See Secs. 13 and 14 of Ch. XII of Act 288 of 1939, also CL 1929, 12834 and 12836.

712A.24 Placement in institutions; summary of information; conveyance of child; progress report.

Sec. 24. Whenever the court shall place a child in any public or private institution or agency, it shall transmit with the order of disposition or supplemental order of disposition a summary of its information concerning such child, and such child may be placed in the care of a county agent, probation officer, juvenile matron or some other reliable person designated by the court to be conveyed to the institution, and the same compensation shall be paid by the state for the transportation of said child as is paid to county agents in like cases.

Whenever the court shall place a child in a private or incorporated institution or agency, it shall require a progress report concerning said child which shall be made at least once every 6 months from the date of the order.

HISTORY: Add. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6;—Am. 1947, p. 451, Act 284, Eff. Oct. 11;—CL 1948, 712A.24. See Sec. 20 of Ch. XII of Act 288 of 1939, also CL 1929, 12838.

712A.25 Foster care of children; expenses, payment; rules; standards of care.

Sec. 25. All expenses incurred in carrying out the provisions of this chapter, except as may otherwise be specifically provided by law, shall be paid upon the order of the judge of probate by the county treasurer from the general fund of the county: Provided, That the provisions of Act No. 283 of the Public Acts of 1939, as amended, being sections 722.301 to 722.325, inclusive, of the Compiled Laws of 1948, and Act No. 158 of the Public Acts of 1937, as amended, being sections 722.201 to 722.244, inclusive, of the Compiled Laws of 1948, shall remain in full force and effect: And provided further, That payments for the foster care of children may also be made from the child care fund of the county, established in section 73 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.73 of the Compiled Laws of 1948, for receiving state funds for foster care if the children are in the care of a licensed child caring institution or placement agency; or, the children having been placed under the direct supervision of the court, payments may be made from the said child care fund of the county if the court certifies in its order to the treasurer that the care given the child meets administrative rules of the probate court for such care and service established as herein provided: Provided, That payments may be made without such certification during the 1-year period following the effective date of this act or until the rules are established, whichever period of time is shorter. Immediately following the effective date of this act, the presiding probate judge shall appoint a committee of probate judges on administrative rules for the care of children in foster care. The committee of probate judges shall confer with the director of the state social welfare department for the purpose of promulgating said rules.

Such rules shall include standards of (1) personnel engaged in placement and supervision of children; (2) record keeping for the planning for the child; (3) homes selected for foster care; (4) family foster homes used by the court shall be selected with consideration of the religious, racial and cultural background of the child to be placed.

HISTORY: Add. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6;—CL 1948, 712A.25;—Am. 1951, p. 130, Act 98, Eff. Sep. 28;—Am. 1955, p. 175, Act 112, Eff. Oct. 14.

See Secs. 7, 21, 22, 24 and 25 of Ch. XII of Act 288 of 1939, also CL 1929, 12840;—Am. 1931, p. 44, Act 30, Imd. Eff. April 22;—Am. 1937, p. 467, Act 260, Eff. Oct. 29; and CL 1929, 12844.

CITED IN OTHER SECTIONS: The above section is cited in § 400.73.

712A.26 Contempt of court; punishment.

Sec. 26. The court shall have the power to punish for contempt of court in accordance with the provisions of chapter 5 of Act No. 314 of the Public Acts of 1915, "The

Judicature Act of 1915," as amended, any person who wilfully violates, neglects, or refuses to obey and perform any order or process said court has made or issued in the enforcement of the provisions of this chapter.

HISTORY: Add. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6;—CL 1948, 712A.28.

NOTE: Ch. 5, Act 314, 1915, above referred to, is Compilers' repealed § 605.1 et seq. See § 600.1701 et seq.

712A.27 Quarters, equipment and supplies for use of juvenile division.

Sec. 27. Suitable quarters, equipment, and supplies shall be provided by the board of supervisors of each county for the use of the juvenile division of the probate court in said county.

HISTORY: Add. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6;—CL 1948, 712A.27.

712A.28 Record of cases; reimbursement orders; reports by court.

Sec. 28. The court shall maintain records of all cases brought before it. Such records shall be open only by order of the court to persons having a legitimate interest. Whenever the court issues an order in respect to payments by a parent under subdivision (e) of section 18 of this chapter, a copy shall be mailed to the department of revenue. Action taken against parents or adults shall not be released for publicity unless such parents or adults are adjudged guilty of contempt of court. The court shall furnish the state department of social welfare with reports of the administration of the juvenile division in such form as shall be recommended by the Michigan association of probate and juvenile court judges. Copies of such reports shall, upon request, be made available to other state departments by the department of social welfare.

HISTORY: Add. 1944, 1st Ex. Ses., p. 124, Act 54, Imd. Eff. March 6;—CL 1948, 712A.28;—Am. 1959, p. 280, Act 184, Eff. Mar. 19, 1960.

See Sec. 13 of Ch. XII of Act 288 of 1939, also CL 1929, 12836.

CHAPTER XIII.

MISCELLANEOUS AND REPEALS

713.1	Jurisdiction of probate courts not prescribed in act.	713.5	Saving clause.
713.3	Saving clause; acts unaffected.	713.6	Probate code; short title.

713.1 Jurisdiction of probate courts not prescribed in act.

Sec. 1. In addition to the jurisdiction, powers and duties prescribed in this act, the probate courts and the judges thereof shall have such jurisdiction, powers and duties as shall be prescribed by the laws of this state with respect to secret marriages; drain proceedings; condemnation proceedings; afflicted and crippled children; afflicted adults; poor persons and the liability for their support; insane, feeble-minded and epileptic persons; addicts; sterilization proceedings; determination of inheritance tax; escheated estates; and shall have and exercise all such other powers, jurisdiction and duties as are or may be conferred by law.

HISTORY: CL 1948, 713.1. See Sec. 1 of Ch. LI of Act 314 of 1915, being CL 1915, 13764;—CL 1929, 15519.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25. New section.

ACTS REPEALED:

Chapter Number	Year of Revised Statutes	Section Numbers	Compiled Law Sections (1929)
66	1846	17-19 inc.	13084-13086
67	1846	23	13090
68	1846	1-14 inc.	13440-13453
		1-9 inc.	13478-13486
Public Act Number	Chapter Number	Year of Act	Section Numbers
94		1887	15930-15931
176		1889	13367-13369
6		1907 X	12634-12649
45		1911	13488
314	3	1915	13863-13861
314	51	1915	15519-15527
314	52	1915	15528-15577
314	53	1915	15585-15610
314	54	1915	15654-15673
314	55	1915	15674-15693
314	56	1915	15694-15723
314	57	1915	15728-15762
314	58	1915	15763-15799
314	59	1915	15800-15850
314	60	1915	15852-15862
314	61	1915	15863-15914
314	62	1915	15915-15929
314	63	1915	15932-15950
314	64	1915	15951-15957
314	65	1915	15958-15978
348		1917	15724-15725
249		1921	15581-15584
205		1925	15624-15653
227		1925	13504-13505
312		1927	13487
136		1931	
214		1935	
240		1935	
298		1937	

713.3 Saving clause; acts unaffected.

Sec. 3. Nothing in this act shall be construed to repeal or supersede the provisions of either Act No. 321 of the Public Acts of 1937 or any amendments thereto or Act No. 243 of the Public Acts of 1919, being section 899 of the Compiled Laws of 1929, or any amendments thereto.

HISTORY: CL 1948, 713.3.

NOTE: Act 321, 1937, above referred to, is Compilers' § 35.71 et seq. Act 243, 1919, is Compilers' § 35.41.

Sec. 4. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 287, Imd.Eff. May 25. New section.

713.5 Saving clause.

Sec. 5. This act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

HISTORY: CL 1948, 713.5.

713.6 Probate code; short title.

Sec. 6. This act shall be known and may be cited as "the probate code".

HISTORY: Add. 1946, 1st Ex. Ses., p. 45, Act 22, Imd. Eff. Feb. 26;—CL 1948, 713.6.

CHAPTER 720. PROBATE CODE—SUPPLEMENTAL CHAPTER

LABOR CLAIMS Act 12 of 1941		720.104	Uniform simultaneous death act; insurance policies; death of insured and beneficiary.
720.1	Labor claims; preference against insolvent estates.	720.105	Application of act.
720.2	Receiver; appointment; marshaling and application of assets.	720.106	Application of act where other provision made.
720.3	Person; definition.	720.107	Construction of act.
UNIFORM ESTATE TAX APPORTIONMENT ACT Act 144 of 1963		720.108	Uniform simultaneous death act; short title.
720.11	Uniform estate tax apportionment act; definitions.	BUSINESS OF DECEDENT Act 305 of 1941	
720.12	Apportionment of estate tax; values; wills.	720.151	Fiduciary to continue business of decedent; definitions.
720.13	Apportionment of estate tax; determination by probate court; interest, penalties.	720.152	Fiduciary to continue business of decedent; authority under will.
720.14	Apportionment of estate tax; responsibility of fiduciary.	720.153	Partnership business; continuation agreement.
720.15	Apportionment of estate tax; allowances for exemptions and deductions.	720.154	Discontinuance upon objection of creditor.
720.16	Apportionment of estate tax; temporary interest in property or fund.	720.155	Surviving partners; right to refuse to continue.
720.17	Apportionment of estate tax; collection of apportioned share by fiduciary.	720.156	Certificate of doing business; liability of fiduciary and estate.
720.18	Apportionment of estate tax; collection of apportioned share by non-resident fiduciary.	720.157	Priority of business creditors over decedent's creditors.
720.19	Construction of act.	720.158	Heirs and next of kin; exemption from liability.
720.20	Uniform estate tax apportionment act; short title.	720.159	Actions by business creditors; satisfaction of judgments.
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SETTLEMENT OF CONTEST OF PROBATE; UNCERTAINTY Act 207 of 1917		720.161	Corporate fiduciary; right to continue business as partner.
720.51	Settlement of contest of probate of certain wills; terms approval by circuit court.	720.162	Act supplemental; repeal.
720.52	Settlement of contest of probate of certain wills; petition, hearing; notice; service, publication.	720.164	Saving clause.
720.53	Settlement of contest of probate of certain wills; duty of clerk to enroll and file petition and orders.	PUBLIC ADMINISTRATORS Act 194 of 1947	
UNITED STATES SAVINGS BONDS Act 178 of 1945		720.201	State public administrator; appointment, term, salary, expenses.
720.81	Rights of payees in non-transferable United States savings bonds.	720.202	State public administrator; appointment of county public administrator; term; compensation, fees and expenses.
DELIVERY OF INTANGIBLE PERSONALTY TO DOMICILIARY REPRESENTATIVE Act 242 of 1968		720.203	State public administrator; administration of estates, conditions.
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720.101	Uniform simultaneous death act; insufficient evidence of priority of death; property, disposition.	720.206	State or county public administrator; powers and authority.
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		720.212	County public administrator; petition to

- remove on failure to render final account; proof of mailing; notice of hearing; release of sureties.
- 720.213 County public administrator; accounting and petition for compensation; proof of mailing; approval.
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- 720.215 County public administrator; vacancy due to death or incapacity, filling.
- 720.216 County public administrator; appointment as successor fiduciary; allowance of fees.
- 720.217 County public administrator; report by fiduciary as to facts causing delay and preventing closing of estate.
- 720.218 State or county public administrator; property turned over to board of escheats.
- 720.219 State or county public administrator; interest in estate property prohibited.
- 720.220 State or county public administrator; continuation after discovery of heir; expenses; receipts turned over to state treasurer.
- 720.221 State or county public administrator; access to property, papers and records.
- 720.222 Retroactive construction of act.
- 720.223 Repeal; saving clause.

VALIDATION OF SALES

Act 229 of 1911

- 720.251 Validation of real estate sales.

STERILIZATION OF MENTAL DEFECTIVES

Act 281 of 1929

- 720.301 Sterilization of mental defectives; statement of policy.
- 720.302 Sterilization of mental defectives; definitions.
- 720.303 Sterilization of mentally defective persons; jurisdiction of probate courts.
- 720.304 Sterilization of mentally defective persons; inmates of state institutions; examinations; record; proceedings in probate court; consent.
- 720.305 Sterilization of mentally defective persons; petitioners; hearing, notices.
- 720.306 Sterilization of mentally defective persons; examinations, certificate; testimony; court determination.
- 720.307 Sterilization of mentally defective persons; jury trial; counsel.
- 720.308 Sterilization of mentally defective persons; order for admittance to hospital, expense of operation, payment.
- 720.309 Sterilization of mentally defective persons; appeal from order; time for operation.
- 720.310 Sterilization of mentally defective persons; liability of surgeon.

MILK AND CREAM, CLAIMS

Act 206 of 1935

- 720.401 Milk and cream claims; definitions.
- 720.402 Preferred claims against estates; debts to producer of milk and cream.

MISSING PERSONS

Act 44 of 1947

- 720.501 Missing persons; finding of presumed death; prima facie evidence.
- 720.502 Missing, interned or captive persons; report, prima facie evidence.
- 720.503 Findings, reports and records; signature of federal officer deemed evidence of authority; certified copy.

DESTRUCTION OF RECORDS

Act 29 of 1957

- 720.551 Destruction of records by probate court; historical commission.
Mothers' pensions.
Hospitalization of adults.
Hospitalization of crippled or afflicted children.

JUVENILES, INTER-INSTITUTIONAL TRANSFERS

Act 84 of 1949

- 720.601 Transfer of juveniles from one state institution or agency to another.
- 720.602 Transfer of juveniles; written request.
- 720.603 Transfer of juveniles; receiving, training.
- 720.604 Transfer of juveniles; parole and discharge.
- 720.605 Transfer of juveniles; terms not affected by transfer.
- 720.606 Transfer of juveniles; return to original institution.
- 720.607 Transfer of juveniles; mittimus, processes and orders to accompany.
- 720.608 Transfer of juveniles; expenses, payment.

REGIONAL DETENTION HOMES FOR MINORS

Act 214 of 1963

- 720.651 Regional detention homes for minors; construction by county or counties.
- 720.652 State social welfare department; survey, contents.
- 720.653 Board of trustees; powers.
- 720.654 Referendum.
- 720.655 Taxes for construction and operation.
- 720.656 Capital outlay and construction costs; apportionment.
- 720.657 Basic operating costs; other operation expenses.
- 720.658 Board of trustees; contracts with non-participating counties, per diem.
- 720.659 State social welfare department; supervision, rules, standards, orders, visitation, inspection, records.
- 720.660 Repeal.

Act 12, 1941, p. 11; Imd. Eff. Mar. 6.

AN ACT to make all debts for labor preferred claims against the estates of debtors becoming insolvent, and give the same precedence over all debts not a lien on such estates prior to the performance of such labor.

The People of the State of Michigan enact:

720.1 Labor claims; preference against insolvent estates.

Sec. 1. All debts which shall be owing for labor by any person at the time he shall be found insolvent in any insolvency proceedings, voluntary or involuntary, shall be preferred claims against the estate of such insolvent debtor and have precedence in the payment thereof over all debts owing by such insolvent debtor at the time of becoming insolvent, which shall not have become a lien on such estate, or some portion thereof, prior to the performance of the labor for which such debt for labor shall be owing.

HISTORY: CL 1948, 720.1.

720.2 Receiver; appointment; marshaling and application of assets.

Sec. 2. Any person having a preferred claim hereunder, the amount whereof shall be \$100.00 or more, or any 2 or more persons having such claims, the aggregate amount whereof shall be \$100.00 or more, and who may join for the purpose, may proceed in chancery for the appointment of a receiver, and the marshaling of assets, and the application thereof to the payment of the claim or claims involved, pro rata or otherwise, in case of any fraud affecting such claim or claims, or the recovery, satisfaction or payment thereof, or if a common law or other assignment for the benefit of creditors shall have been made by the defendants or any of them.

HISTORY: CL 1948, 720.2.

720.3 Person; definition.

Sec. 3. The term "person" as used here shall be deemed to include an individual, partnership, association and corporation. The singular shall include the plural.

HISTORY: CL 1948, 720.3.

Act 144, 1963, p. 197; Eff. Sep. 6.

AN ACT to provide for the apportionment of federal estate taxes and additional Michigan inheritance taxes.

The People of the State of Michigan enact:

720.11 Uniform estate tax apportionment act; definitions.

Sec. 1. As used in this act:

(a) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state.

(b) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency.

(c) "Person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, guardian, and trustee.

(d) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) "Tax" means the federal estate tax and the additional inheritance tax provided by section 2b of Act No. 188 of the Public Acts of 1899, being section 205.202b of the Compiled Laws of 1948 and interest and penalties imposed in addition to the tax.

(f) "Fiduciary" means executor, administrator of any description, or trustee.

HISTORY: New 1963, p. 197, Act 144, Eff. Sep. 6.

720.12 Apportionment of estate tax; values; wills.

Sec. 2. Unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment shall be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax shall be used for that purpose. In the event the decedent's will directs a method of apportionment of tax different from the method described in this act, the method described in the will shall control.

HISTORY: New 1963, p. 197, Act 144, Eff. Sep. 6.

720.13 Apportionment of estate tax; determination by probate court; interest, penalties.

Sec. 3. (a) The probate court having jurisdiction over the administration of the estate of a decedent shall determine the apportionment of the tax. If there are no probate proceedings, the probate court of the county wherein the decedent was domiciled at death upon the application of the person required to pay the tax shall determine the apportionment of the tax.

(b) If the probate court finds that it is inequitable to apportion interest and penalties in the manner provided in section 2, because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(c) If the probate court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(d) In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this act, the determination of the probate court in respect thereto shall be prima facie correct.

HISTORY: New 1963, p. 197, Act 144, Eff. Sep. 6.

720.14 Apportionment of estate tax; responsibility of fiduciary.

Sec. 4. (a) The fiduciary or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the fiduciary or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the fiduciary or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the fiduciary or other person required to pay the tax, the fiduciary or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this act.

(b) If property held by the fiduciary is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the probate court having jurisdiction of the administration of the estate.

HISTORY: New 1963, p. 198, Act 144, Eff. Sep. 6.

720.15 Apportionment of estate tax; allowances for exemptions and deductions.

Sec. 5. (a) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(b) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift shall inure to the benefit of the person bearing such relationship or receiving the gift; except that when an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(c) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate shall inure to the proportionate benefit of all persons liable to apportionment.

(d) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof in respect to property or interests includable in the estate shall inure to the benefit of the persons or interests chargeable with the payment thereof to the extent that, or in proportion as the credit reduces the tax.

(e) To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in section 2 hereof, and to that extent no apportionment shall be made against the property. The sentence immediately preceding shall not apply to any case where the result will be to deprive the estate of a deduction otherwise allowable under section 2053 (d) of the internal revenue code of 1954 of the United States, relating to deduction for state death taxes on transfers for public, charitable or religious uses.

HISTORY: New 1963, p. 196, Act 144, Eff. Sep. 6.

720.16 Apportionment of estate tax; temporary interest in property or fund.

Sec. 6. No interest in income and no estate for years or for life or other temporary interest in any property or fund shall be subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder shall be chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6.

720.17 Apportionment of estate tax; collection of apportioned share by fiduciary.

Sec. 7. Neither the fiduciary nor other person required to pay the tax shall be under any duty to institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the 3 months next following final determination of the tax. A fiduciary or other person required to pay the tax who institutes the suit or proceeding within a reasonable time after the 3 months' period shall not be subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectable at a time following the death of the decedent but thereafter became uncollectable. If the fiduciary or other person required to pay the tax cannot collect from any person inter-

ested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate, who are subject to apportionment.

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6.

720.18 Apportionment of estate tax; collection of apportioned share by non-resident fiduciary.

Sec. 8. (a) Subject to the conditions in subsection (b) a fiduciary acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state shall be prima facie correct.

(b) The provisions of subsection (a) shall apply only:

(1) If such other state affords a remedy substantially similar to that afforded in subsection (a); or

(2) With respect to federal estate tax, if apportionment thereof is authorized by congress.

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6;—Am. 1965, p. 436, Act 259, Imd. Eff. Jul. 21.

720.19 Construction of act.

Sec. 9. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6.

720.20 Uniform estate tax apportionment act; short title.

Sec. 10. This act may be cited as the "uniform estate tax apportionment act".

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6.

720.21 Application of act.

Sec. 11. This act, except the provision contained in section 2 where the decedent's will directs a method of apportionment, shall not apply to taxes due on account of the death of a person prior to 6 months after the enactment of this act.

HISTORY: New 1963, p. 199, Act 144, Eff. Sep. 6.

Act 207, 1917, p. 458; Eff. Aug. 10.

AN ACT to authorize the settlement of the contest of the probate of any last will and testament containing a gift, grant, bequest or devise to religious, educational, charitable or benevolent uses, that does not name any person or corporation as donee.

The People of the State of Michigan enact:

720.51 Settlement of contest of probate of certain wills; terms approval by circuit court.

Sec. 1. Whenever the probate of a last will and testament containing a gift, grant, bequest or devise to religious, educational, charitable or benevolent uses, without naming any person or corporation as donee thereof, is contested, the proponents of the last will and testament may settle such contest upon such terms as may be approved by the circuit court for the county wherein the last will and testament was offered for probate, upon petition as provided in section 2; but no settlement shall be approved against the objection of the attorney general, as representative of the people of the

state and of the uncertain and indefinite beneficiaries interested in the charitable provisions, or of any devisee or legatee named in the last will and testament, or of any creditor of the decedent's estate, who may be prejudiced thereby.

HISTORY: CL 1929, 15578;—CL 1948, 720.51;—Am. 1965, p. 13, Act 11, Imd. Eff. Apr. 13.

720.52 Settlement of contest of probate of certain wills; petition, hearing; notice; service, publication.

Sec. 2. Upon petition filed by the proponents of the last will and testament in the circuit court, for the purpose of settlement and approval, the court shall fix a day for the hearing of the petition. Due notice thereof by personal service, by mail or by publication, in time, manner and form as the court may order, shall be given to all persons interested in the last will and testament or in the estate. Personal service or service by certified mail shall be given to the attorney general. The notice shall be published, if publication is ordered, once in each week for 3 successive weeks in some newspaper printed and circulating in the county wherein the court is held, and in case there is no such newspaper, then in some newspaper published in an adjoining county and circulating in the county.

HISTORY: CL 1929, 15579;—CL 1948, 720.52;—Am. 1965, p. 13, Act 11, Imd. Eff. Apr. 13.

720.53 Settlement of contest of probate of certain wills; duty of clerk to enroll and file petition and orders.

Sec. 3. The clerk of the circuit court at once shall enroll the petition and all proceedings had and orders made upon it, and file in the probate court in which the will was offered for probate a certified copy thereof. No act done in conformity with the order shall be drawn in question in any court in this state or elsewhere.

HISTORY: CL 1929, 15580;—CL 1948, 720.53;—Am. 1965, p. 13, Act 11, Imd. Eff. Apr. 13.

Act 178, 1945, p. 248; Imd. Eff. May 16.

AN ACT to provide for the rights of payees in non-transferable United States savings bonds.

The People of the State of Michigan enact:

720.81 Rights of payees in non-transferable United States savings bonds.

Sec. 1. Where any United States savings bond, either heretofore or hereafter issued, is payable to a designated person, whether as owner, co-owner, or beneficiary, and such bond is not transferable, the right of such person to receive payment of such bond according to its terms, and the ownership of the money so received, shall not be defeated or impaired by any statute or rule of law governing the transfer of property by will or gift or an intestacy: Provided, however, That nothing herein contained shall limit Act No. 310 of the Public Acts of 1919.

HISTORY: CL 1948, 720.81.

NOTE: Act 310, 1919, above referred to, is Compilers' § 566.11 et seq.

Act 242, 1968, p. 369; Imd. Eff. Jun. 27.

AN ACT to provide for the delivery of certain intangible personal property to the domiciliary representative of persons not domiciled in Michigan at time of death.

The People of the State of Michigan enact:

720.91 Nonresident decedent; delivery of intangible personalty to domiciliary representative.

Sec. 1. When a demand, savings or time deposit account, securities or other intangible personal property is held by a bank, trust company or trust department of a bank, other than in a safety deposit box, for a person domiciled in another state or country, the account, securities or other intangible personal property together with any additions thereto or earnings or dividends thereon, or any part thereof may be paid or delivered to the special or general administrator or executor appointed in the state or country where the account holder or securities owner or other intangible personal property owner was domiciled at the time of death, if the special or general administrator or executor has furnished the bank, trust company or trust department of a bank with authenticated copies of his letters and of the order of the court which issued the letters to him authorizing him to collect, receive and remove the personal estate, and an affidavit by the special or general administrator or executor that he is the domiciliary representative of the estate of the decedent, that no proceeding is pending in any state with respect to the question of domicile of the decedent, that to his knowledge no proceeding is pending in this state for the appointment of a fiduciary for the estate in this state, and that to the best of his knowledge and belief there are no creditors of the estate in this state. Upon payment or delivery to such representative after receipt of the affidavit and authenticated copies, the bank, trust company or trust department of a bank is released and discharged to the same extent as if the payment or delivery had been made to a legally qualified resident, special or general administrator or executor, and is not required to see to the application or disposition of the property.

HISTORY: New 1968, p. 369, Act 242, Imd. Eff. Jun. 27.

Act 73, 1941, p. 90; Eff. Jan. 10, 1942.

AN ACT providing for the disposition of property where there is no sufficient evidence that persons have died otherwise than simultaneously; to make uniform the law with reference thereto, and to repeal inconsistent laws.

The People of the State of Michigan enact:

720.101 Uniform simultaneous death act; insufficient evidence of priority of death; property, disposition.

Sec. 1. No sufficient evidence of survivorship. Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this act.

HISTORY: CL 1948, 720.101. This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted by the legislatures of the following states: Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, North Dakota, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wisconsin and Wyoming.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

720.102 Uniform simultaneous death act; beneficiaries of another person's disposition of property.

Sec. 2. Beneficiaries of another person's disposition of property. Where 2 or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and

these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

HISTORY: CL 1948, 720.102.

720.103 Uniform simultaneous death act; joint tenants or tenants by the entirety.

Sec. 3. Joint tenants or tenants by the entirety. Where there is no sufficient evidence that 2 joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed 1/2 as if 1 had survived and 1/2 as if the other had survived. If there are more than 2 joint tenants and all of them have so died, the property thus distributed shall be in the proportion that 1 bears to the whole number of joint tenants.

HISTORY: CL 1948, 720.103.

720.104 Uniform simultaneous death act; insurance policies; death of insured and beneficiary.

Sec. 4. Insurance policies. Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

HISTORY: CL 1948, 720.104.

720.105 Application of act.

Sec. 5. Act not retroactive. This act shall not apply to the distribution of the property of a person who has died before it takes effect.

HISTORY: CL 1948, 720.105.

720.106 Application of act where other provision made.

Sec. 6. Act does not apply if decedent provides otherwise. This act shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this act.

HISTORY: CL 1948, 720.106.

720.107 Construction of act.

Sec. 7. Uniformity of interpretation. This act shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.

HISTORY: CL 1948, 720.107.

720.108 Uniform simultaneous death act; short title.

Sec. 8. This act may be cited as the "uniform simultaneous death act."

HISTORY: CL 1948, 720.108.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 305, 1941, p. 528; Eff. Jan. 10, 1942.

AN ACT to provide for the continuance of the business of a decedent by the fiduciary of the decedent's estate; to provide for and define the rights and obligations of the decedent's creditors, surviving partner or partners, the fiduciary, the creditors of the continued business, the heirs, distributees, devisees, legatees and beneficiaries; and to repeal acts and parts of acts which are inconsistent and contrary to the provisions of this act.

The People of the State of Michigan enact:

720.151 Fiduciary to continue business of decedent; definitions.

Sec. 1. Definitions.

As used in this act, unless the context or subject matter otherwise clearly requires:

(1) "Business of the decedent" means every trade, occupation, or business; mercantile, manufacturing, agricultural, or otherwise, or any interest therein, except a profession, which the decedent owned at the time of his death, either alone or together with any other person or persons in partnership or otherwise.

(2) "Fiduciary" means executor, administrator, special administrator, testamentary trustee, and all other duly appointed representatives of a decedent's estate.

(3) "Continue the business of the decedent" means to hold, manage, operate, or participate in the management of the business of the decedent as sole owner or proprietor thereof, or as a partner, including the participation of the fiduciary as a general partner in a new partnership.

(4) "Persons interested in the estate" means every fiduciary, and also every legatee, devisee, beneficiary, heir, distributee and creditor who shall have an actual interest in the decedent's estate.

(5) "Continuation agreement" means a contract between 2 or more partners, whether included in the partnership agreement or otherwise, which authorizes the continuance of the partnership enterprise after the death of a partner.

(6) "Notice" means the notice required generally in proceedings in probate court.

HISTORY: CL 1948, 720.151.

COMPILERS' NOTES: The catchlines following the act section numbers were incorporated as part of the act as enacted.

720.152 Fiduciary to continue business of decedent; authority under will.

Sec. 2. Authority or direction in will.

If by the provisions of the last will and testament of a decedent the fiduciary is either authorized or directed to continue the business of the decedent, the fiduciary may, if authorized, and shall, if directed, continue the business of the decedent for the period, in the manner, and with such assets, as may be provided by the last will and testament of the decedent: Provided, however, That the probate court in which the decedent's estate is being administered may, on the petition of any person interested in the estate and on notice to all persons interested therein, for good cause shown and with the consent of the fiduciary, nevertheless direct the fiduciary to discontinue or dispose of the business or the interest of the decedent's estate therein.

HISTORY: CL 1948, 720.152.

720.153 Partnership business; continuation agreement.

Sec. 3. Continuation agreement.

If a partnership business is to be continued after the death of a partner pursuant to the provisions of a continuation agreement, the fiduciary shall continue the business of the decedent in such partnership for the period, in the manner, and with such assets, as may be provided by such continuation agreement: Provided, however, That the fiduciary and the surviving partner or partners shall not be prohibited from discontinuing the partnership business prior to the time stipulated in the continuation agreement if they shall so mutually agree.

HISTORY: CL 1948, 720.153.

720.154 Discontinuance upon objection of creditor.

Sec. 4. Objections of creditors.

Notwithstanding the provisions hereinbefore made for the continuance of the business of the decedent, the probate court shall upon petition or objection of any creditor of the decedent, made at or prior to the allowance of such creditor's claim against the

estate of the decedent, and on notice to the fiduciary, direct the fiduciary to discontinue the business of the decedent unless the creditor is paid within such reasonable time as may be fixed by order of the probate court.

HISTORY: CL 1948, 720.154.

720.155 Surviving partners; right to refuse to continue.

Sec. 5. Surviving partner or partners.

Nothing herein contained shall affect the right of a surviving partner, or partners, to refuse to continue the business of the decedent if such surviving partner, or partners, is or are, under no contract obligation to continue the business of the decedent.

HISTORY: CL 1948, 720.155.

720.156 Certificate of doing business; liability of fiduciary and estate.

Sec. 6. Certificate of doing business; liability of fiduciary and estate.

(1) Whenever a fiduciary continues the business of a decedent pursuant either to the provisions of the last will and testament of the decedent or the provisions of a continuation agreement, the fiduciary shall file a certificate of doing business under an assumed name or join in the filing of a partnership certificate, as the case may be, pursuant to the provisions of the statutes relative to the filing of assumed name or partnership certificates, as the case may be, which certificate shall set forth, in addition to the other matters required by law, that the fiduciary is conducting the business either alone or as a partner, as the case may be, showing the capacity in which the fiduciary of the decedent's estate is acting.

(2) Whenever a fiduciary continues the business of a decedent pursuant either to the provisions of the last will and testament of the decedent or the provisions of a continuation agreement, the fiduciary shall not be personally liable either as sole owner, holder, operator, manager, partner, or otherwise, for losses to any legatee, devisee, heir, distributee or beneficiary of the decedent or the decedent's estate, nor shall the fiduciary be liable to any creditors of the continued business of the decedent who become such after the filing of the certificate referred to in preceding subparagraph (1), for any claims, demands, or causes of action, either ex delictu or ex contractu, arising out of, or in connection with, the conduct or operation, or the act of any agent, employee, or copartner of such business, but persons who become creditors after the filing of said certificate shall, in so far as the fiduciary or the decedent's estate is concerned, be limited in the payment or satisfaction of their claims to the assets of the business: Provided, however, That nothing herein contained shall relieve the fiduciary from liability for the fiduciary's own willful fraud, gross negligence, or other willful misconduct, nor prevent the fiduciary from assuming personal contractual liability to creditors of the continued business of the decedent; but no fiduciary shall be charged with any such personal contractual liability except upon an express written undertaking signed by such fiduciary: And provided further, That nothing herein contained shall preclude a provision in a last will and testament or in a continuation agreement that all of the assets of the decedent's estate not engaged in the business, or some specified portion thereof, shall be also available for the payment or satisfaction of the claims of creditors of the continued business of the decedent.

HISTORY: CL 1948, 720.156.

720.157 Priority of business creditors over decedent's creditors.

Sec. 7. Rights of decedent's creditors and creditors of the continued business.

Whenever a fiduciary continues the business of a decedent pursuant either to the provisions of the last will and testament of the decedent or the provisions of a continuation agreement and the assets of the decedent's estate prove insufficient to pay all claims, then the claims of unpaid creditors of the decedent shall, in so far as assets en-

gaged in the business are concerned, be postponed in payment to the claims of creditors of the continued business.

HISTORY: CL 1948, 720.157.

720.158 Heirs and next of kin; exemption from liability.

Sec. 8. Exclusion of personal liability of heirs, distributees, devisees, legatees and beneficiaries.

The heirs, distributees, devisees, legatees and beneficiaries of a decedent's estate shall not, by reason of such status, be personally liable for any obligations incurred in, or arising from, the continuation of the business of the decedent by the fiduciary.

HISTORY: CL 1948, 720.158.

720.159 Actions by business creditors; satisfaction of judgments.

Sec. 9. Actions or suits by creditors of the continued business of the decedent against fiduciary; judgments or decrees; and satisfaction thereof.

Actions or suits by creditors of the continued business of the decedent shall be brought against the fiduciary in his representative capacity only, and judgments or decrees against the fiduciary in such actions or suits shall be against the fiduciary in his representative capacity only, and satisfaction of such judgments or decrees shall be had only from such assets of the decedent's estate as are subject to the satisfaction thereof: Provided, however, That whenever a fiduciary has assumed personal liability for a claim, demand, or obligation, or is otherwise personally liable, as hereinbefore provided, then action or suit may be brought, and judgment or decree may be rendered, against the fiduciary personally, and satisfaction thereof may be had as in other cases of liability of the fiduciary in the fiduciary's nonrepresentative capacity.

HISTORY: CL 1948, 720.159.

720.160 Fiduciary; exoneration and reimbursement.

Sec. 10. Exoneration and reimbursement of fiduciary.

Nothing herein contained shall modify or affect the fiduciary's right of exoneration by or reimbursement from the decedent's estate whenever the fiduciary is entitled thereto.

HISTORY: CL 1948, 720.160.

720.161 Corporate fiduciary; right to continue business as partner.

Sec. 11. Corporate fiduciary.

The fact that the fiduciary is a corporation shall not disable such fiduciary from becoming a partner in the continuation of the business of a decedent, pursuant to the provisions of this act.

HISTORY: CL 1948, 720.161.

720.162 Act supplemental; repeal.

Sec. 12. Repeal of inconsistent and contrary acts or parts of acts. This act shall be construed as supplemental to section 36 of chapter 4 of Act No. 288 of the Public Acts of 1939 and not as a repeal thereof. All other acts inconsistent and contrary to the provisions hereof are hereby repealed.

HISTORY: CL 1948, 720.162.

NOTE: Sec. 36, Ch. 4, Act 288, 1939, above referred to, is Compilers' § 704.36.

Sec. 13. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

720.164 Saving clause.

Sec. 14. Saving clause.

This act shall not impair or affect any act done or right accruing, accrued, or acquired, or liability incurred prior to the time this act takes effect, but the same may be

enjoyed, asserted, and enforced in as fully and to the same extent as if this act had not been passed.

HISTORY: CL 1948, 720.164.

Act 194, 1947, p. 270; Imd. Eff. Jun. 12.

AN ACT to provide for the administration of the estates of deceased persons in certain cases; to provide for the appointment of a public administrator for the state; to provide for the appointment of county public administrators; to define and prescribe their powers and duties and to repeal Act No. 15 of the Public Acts of 1923.

The People of the State of Michigan enact:

720.201 State public administrator; appointment, term, salary, expenses.

Sec. 1. There shall be a public administrator for the state of Michigan, to be known in this act as the "state public administrator." The governor shall appoint, upon the recommendation of the attorney general, 1 of the assistants attorney general to act and hold office during the pleasure of the governor as such state public administrator. Such assistant attorney general shall receive no other or further annual salary than that paid to him as an assistant attorney general for services performed while acting as state public administrator. His actual and necessary traveling expenses shall be allowed and paid in the same manner as other accounts of assistants attorney general of like nature are allowed and paid, and the attorney general shall provide him with stationery, supplies and equipment and such legal and clerical assistance as may be required in the maintenance and performance of the duties of his office.

HISTORY: CL 1948, 720.201.

720.202 State public administrator; appointment of county public administrator; term; compensation, fees and expenses.

Sec. 2. The state public administrator, whenever he shall deem it necessary because of the volume or nature of the duties of his office to engage assistance in the performance thereof, may appoint in any county of the state, as county public administrator thereof and therefor, any person suitable and competent to administer estates of deceased persons. Such county public administrator shall hold office during the pleasure of the state public administrator and shall be appointed to act as such county public administrator only in and of the county in which he maintains his legal residence. Such county public administrator shall not receive any salary or other emoluments of office but shall, when appointed fiduciary of any estate by virtue of the provisions of this act, be allowed all necessary expenses incurred in the administration thereof, together with such other fees, compensation and allowances as are authorized by statute and by order of the judge of probate to be paid such fiduciary out of such estate, all such expenses, fees, compensation and allowances to be paid out of the corpus of the estate administered: Provided, however, That in any county of the state in which there is no person both suitable and willing to act as county public administrator in and for said county, the state public administrator may in such case appoint the county public administrator of an adjoining county to act in such county.

HISTORY: CL 1948, 720.202.

720.203 State public administrator; administration of estates, conditions.

Sec. 3. The administration of the estate of a person dying intestate, leaving an estate to be administered in this state, shall be granted to the state public administrator in the following instances:

First, Whenever it appears that the decedent died leaving no known heirs.

Second, Whenever there is no widow, husband or next of kin entitled to a distributive share in the estate of the decedent, resident in this state, unless the widow, husband or next of kin be a resident of the United States or the Dominion of Canada, and shall request that administration be granted to some other person nominated in such request, in which event the judge of probate may appoint the person so nominated, if otherwise competent, suitable and willing to take out letters of administration on such estate.

HISTORY: CL 1948, 720.203.

720.204 State public administrator; filing copy of appointment of county public administrator, letters of administration.

Sec. 4. Whenever the state public administrator shall file with the probate court of any county a copy, certified by said state public administrator, of the appointment of a county public administrator to act in the county in which the certificate is so filed, then letters of administration may, instead of being issued and granted to the state public administrator, be granted and issued to such county public administrator, and he shall be entitled to receive the same at any time that his appointment as such remains in full force and effect.

HISTORY: CL 1948, 720.204.

720.205 State or county public administrator; petition for administration.

Sec. 5. Whenever it shall appear that the deceased died intestate, leaving no known heirs, or whenever it appears that there is no widow, husband or next of kin of said deceased residing within the United States or Dominion of Canada, or whenever it appears that the deceased left a widow, husband, or next of kin entitled to a distributive share in the estate of said deceased resident in the United States or Dominion of Canada, but who has failed or neglected to petition for administration within 30 days after the date of the death of said intestate, petition for the administration of said decedent's estate may be filed by the state public administrator or by a duly appointed and acting county public administrator.

HISTORY: CL 1948, 720.205.

720.206 State or county public administrator; powers and authority.

Sec. 6. The state public administrator and the duly appointed and acting county public administrators shall have all the powers and authority of a fiduciary now or hereafter conferred by law, and shall be subject to the same obligations and liabilities in the administering of estates coming under their control by reason of their appointment as fiduciary under the provisions of this act. It is the intent of this act that all estates coming within the supervision and control of the state public administrator and the control of the duly appointed and acting county public administrators shall be administered in like manner as other estates of decedents are or may be administered, except only as herein provided.

HISTORY: CL 1948, 720.206.

720.207 State or county public administrator; bonds.

Sec. 7. Instead of a separate bond for each estate, the state public administrator shall give a general bond running to the people of the state of Michigan, conditioned for the faithful administration of all estates on which letters of administration may be granted to him, which bond shall be in the penal sum of \$10,000.00 with sufficient surety or sureties to be approved by the governor. Every county public administrator, before letters of administration shall be granted to him in connection with any estate in which he may be called upon to act as fiduciary under the provisions of this act, shall give a bond in each separate estate to the judge of probate with such surety or sureties and in such amount as he shall direct and approve, said bond to embrace and

include the same conditions required of any other fiduciary appointed and acting under the general probate laws of this state.

HISTORY: CL 1948, 720.207.

720.208 State or county public administrator; appointment as special administrator.

Sec. 8. In any estate of any deceased person coming within the purview of this act, when by reason of delay in granting letters of administration, or whenever necessary for the preservation of the assets of such estate, or when for any other cause shown he shall deem it expedient, the judge of probate shall appoint the state public administrator, or a county public administrator, as special administrator of said estate, for the purpose of making any necessary burial arrangements and taking charge of, marshalling and conserving said estate, until an executor or administrator shall be appointed and qualified.

HISTORY: CL 1948, 720.208.

720.209 State public administrator; vacancy, filling; bond of predecessor fiduciary, continuation.

Sec. 9. In case of a vacancy occurring in the office of state public administrator from any cause, it shall be the duty of the governor and the attorney general to fill such vacancy forthwith in the manner as in this act provided for appointment of a state public administrator. Upon qualification for such office the succeeding state public administrator shall be the fiduciary of any unclosed estate to which his predecessor was appointed fiduciary under the provisions of this act, and he shall forthwith notify each probate court having jurisdiction of any such unclosed estate of such appointment, and such successor state public administrator shall be entitled to the possession of all the property, bank accounts, books, papers and records pertaining to any such estate, and shall, under the direction of said probate court, proceed to completion of administration of any such estate. The bond of such predecessor fiduciary may be continued as the bond of the new appointee, with the consent of the surety or sureties thereon, but in the event of a new bond being filed, the surety, if a corporation, shall refund the unearned premium on such cancelled bond.

HISTORY: CL 1948, 720.209.

720.210 County public administrator; vacancy, filling.

Sec. 10. In case of a vacancy occurring in the office of county public administrator in and for any county from any cause, the state public administrator may fill such vacancy forthwith and thereupon notify the probate court of the county in which such vacancy occurred of the fact of such vacancy and the name of the county public administrator so appointed to fill such vacancy.

HISTORY: CL 1948, 720.210.

720.211 County public administrator; termination of appointment; petition to resign trust and for discharge; final accounting.

Sec. 11. Whenever the appointment of any county public administrator shall terminate, other than by reason of death or incapacity, it shall be within the discretion of the state public administrator either to permit such county public administrator whose appointment has terminated to proceed with the administration of any estate in which he has been appointed fiduciary by virtue of the provisions of this act, or to make written request that such county public administrator present to the probate court, within a reasonable length of time, a petition in manner and form as is in the general probate laws of this state provided, praying that he be permitted to resign his trust, together with his final account, praying also that such final account may be judicially settled and that he be discharged in accordance with the provisions of the general probate laws. The said petition, when made pursuant to the written request of the state public

administrator, acting for and in the interests of the people of the state of Michigan, shall constitute sufficient grounds for the entertaining thereof by the judge of probate having jurisdiction of any such estate, and for the granting of the prayer thereof: Provided, That where it appears from such final account that any such estate has been fully administered, upon the allowance thereof by the judge of probate, such fiduciary may be permitted to proceed to close out said estate, to distribute the residue thereof, and to receive his discharge according to law.

HISTORY: CL 1948, 720.211.

720.212 County public administrator; petition to remove on failure to render final account; proof of mailing; notice of hearing; release of sureties.

Sec. 12. Whenever the state public administrator shall request any county public administrator, whose appointment as such has terminated, to present within a reasonable length of time to the probate court the aforesaid petition, praying that he be permitted to resign his trust, together with his final account as in this act provided, and such former county public administrator has failed, neglected or refused to comply with such request, the attorney general or the state public administrator, may thereupon, on behalf of the people of the state of Michigan, petition the probate court for the removal of such former county public administrator as fiduciary of any estate in which he received such appointment by virtue of the provisions of this act. The said petition of the attorney general or the state public administrator shall have attached thereto a true copy of the aforesaid request, together with proof of mailing thereof to the former county public administrator at his last known place of business at least 10 days prior to the date of filing of said petition, and such petition shall thereupon constitute sufficient grounds for the granting of the prayer for the removal of said fiduciary and the entry of an order by the judge of probate directing said fiduciary to render his final account: Provided, That notice of hearing on said petition shall be in manner and form as provided in the general probate laws of this state: Provided further, That the sureties of such fiduciary shall not be released from liability until such fiduciary shall have fully settled and adjusted his accounts as by law required.

HISTORY: CL 1948, 720.212.

720.213 County public administrator; accounting and petition for compensation; proof of mailing; approval.

Sec. 13. Whenever a county public administrator whose appointment has terminated shall present to the probate court the final account as in this act provided, or whenever any county public administrator shall have rendered any account in any estate in which he has been appointed fiduciary under the provisions of this act, he shall, within 24 hours after same is regularly noticed for hearing, mail to the state public administrator a true copy of such account, together with any petition for extra compensation or allowance filed in conjunction with said account, and file proof of mailing thereof with the probate court. The state public administrator upon receipt thereof shall examine such account and may indicate his approval or disapproval thereof to the probate judge having jurisdiction thereof prior to the date of hearing thereon, and may appear in said probate court to contest any or all parts thereof and the attorney general may appear in like manner for the same purpose, and the said judge of probate shall not pass upon said account in the absence of the aforesaid proof of mailing.

HISTORY: CL 1948, 720.213.

720.214 County public administrator; termination of appointment as special administrator; final accounting, filing; general administrator.

Sec. 14. In all estates wherein the county public administrator whose appointment has terminated is acting as special administrator by virtue of the provisions of this act, he shall, upon the request of the state public administrator, forthwith prepare and file

final accounts as such special administrator and notice the same on for hearing as provided in the general probate laws of this state, and shall within 24 hours thereafter transmit a true copy thereof to the state public administrator, filing proof of mailing thereof in the probate court. The state public administrator shall have the same powers and duties in respect to the said accounts of the special administrator as is in this act provided for general administration. In the event that there remains in such estates assets to be administered, the said state public administrator, or any county public administrator specifically designated by him, shall forthwith petition for the appointment of a county public administrator as general administrator of such estates, pursuant to the provisions of this act.

HISTORY: CL 1948, 720.214.

720.215 County public administrator; vacancy due to death or incapacity, filling.

Sec. 15. Whenever a vacancy shall occur in the office of county public administrator because of the death or incapacity of such county public administrator, the state public administrator, or any county public administrator specifically designated by him, shall petition the probate court, pursuant to the provisions of this act, for appointment as special and/or successor general administrator in each estate in which such deceased or incapacitated county public administrator was appointed fiduciary by virtue of the provisions of this act.

HISTORY: CL 1948, 720.215.

720.216 County public administrator; appointment as successor fiduciary; allowance of fees.

Sec. 16. Whenever any county public administrator shall be appointed as a successor fiduciary of any estate pursuant to the provisions of this act, he shall be allowed only a ratable and proportionate fee for this service, the same to be as provided by the general probate laws of this state and as determined by the judge of probate, to the end that the corpus of no estate shall be unjustifiably diminished by reason of the change of fiduciary as herein provided.

HISTORY: CL 1948, 720.216.

720.217 County public administrator; report by fiduciary as to facts causing delay and preventing closing of estate.

Sec. 17. Whenever any county public administrator shall have been appointed fiduciary of any estate by virtue of the provisions of this act, and more than 1 year shall have elapsed since the date of issuance of letters of administration to such fiduciary, and said estate shall not have been closed, the said fiduciary shall in writing inform the state public administrator of the facts and circumstances preventing the closing of such estate.

HISTORY: CL 1948, 720.217.

720.218 State or county public administrator; property turned over to board of escheats.

Sec. 18. Whenever the state public administrator or any county public administrator shall have been appointed fiduciary of any estate, under the provisions of this act, and shall have completely administered such estate and the residue thereof shall have been assigned to the people of the state of Michigan as an escheated estate by the judge of probate having jurisdiction thereof, it shall become the duty of such fiduciary to deliver over all such assigned residue to the state board of escheats, together with a true copy of petition for appointment of administrator and certified copies of final account, order allowing final account and order assigning residue, and the state board of escheats, upon receipt thereof, shall furnish such fiduciary with official receipts for said residue, in duplicate, 1 to be filed with the probate court having jurisdiction of said es-

tate, the other to be retained by said fiduciary. It shall be the further duty of said fiduciary to deliver over to the state board of escheats, together with such residue, any personal effects of the deceased, such as abstracts of title pertaining to real estate which has escheated to the state, unsurrendered insurance policies, receipts, documents, correspondence or other material having probative value, which shall have come into the possession of said fiduciary, and which would tend to prove or refute any future claim of ownership in or to said residue, the same to be safely preserved by the state board of escheats and made part of the records of such estate.

HISTORY: CL 1948, 720.218.

720.219 State or county public administrator; interest in estate property prohibited.

Sec. 19. No state public administrator or county public administrator, when appointed fiduciary of any estate by virtue of the provisions of this act, shall directly or indirectly, in any manner whatsoever, acquire any interest in, or bargain for, any property or any benefits incident to such property, which shall or may come into his possession or under his control as such fiduciary, nor shall he acquire any interest in, or bargain for, any property belonging to any other estate being administered by any county public administrator who has been appointed fiduciary thereof by virtue of the provisions of this act. Further, no such fiduciary shall commingle the funds and property of any such estate with his own or with any other property or funds: Provided, however, That such fiduciary may place on deposit in 1 or more bank accounts such funds as come into his possession as such fiduciary but any interest received on such accounts shall be prorated among each such estate contributing to such common bank account and shall not become the personal property of such fiduciary.

HISTORY: CL 1948, 720.219.

720.220 State or county public administrator; continuation after discovery of heir; expenses; receipts turned over to state treasurer.

Sec. 20. Whenever the state public administrator or a county public administrator shall be appointed fiduciary of any estate under the provisions of this act, and it shall subsequently appear or be discovered that the deceased left surviving a husband, wife, or next of kin entitled to a distributive share in such estate, and such heir or next of kin shall, under the provisions of the general probate laws of this state, be competent and willing to administer such estate, the state public administrator or such county public administrator shall nevertheless continue as fiduciary of such estate. When such fiduciary shall be the state public administrator, the judge of probate, before making the order assigning the residue in any such estate and wherein the residue is not assigned to the state of Michigan as an escheated estate, shall first allow and order paid to the said state public administrator out of the corpus of said estate, all of the expenses incurred by such fiduciary in administering said estate, together with such other fees, compensation and allowances as are authorized by the general probate laws of this state and by order of such probate judge to be paid to such fiduciary out of such estate. All monies so paid to the state public administrator shall be forthwith delivered by him to the state treasurer, who in turn, shall place such money to the credit of the general fund of the state.

HISTORY: CL 1948, 720.220.

720.221 State or county public administrator; access to property, papers and records.

Sec. 21. The state public administrator, or any person specifically designated by him to act in his behalf, shall at all times have access to and the right to inspect any and all property, books, papers and records, in the possession or under the control of any county public administrator or former county public administrator, pertaining to any

and all estates on which letters of administration have been issued to said present or former county public administrator by virtue of the provisions of this act, and may require of any such present or former county public administrator a certified or exemplified copy of any petition, inventory, account, order or pleading, original of which has been filed in the probate court in any estate wherein said present or former county public administrator is or was acting as fiduciary, under the provisions of this act.

HISTORY: CL 1948, 720.221.

720.222 Retroactive construction of act.

Sec. 22. This act, in all of its provisions, is intended to be retroactive, and it shall be construed as applying retrospectively to all persons, property and estates coming within its purview.

HISTORY: CL 1948, 720.222.

720.223 Repeal; saving clause.

Sec. 23. Act No. 15 of the Public Acts of 1923, being sections 15611 to 15623, inclusive, of the Compiled Laws of 1929, is hereby repealed, except that all appointments made thereunder and all letters of administration issued to the state public administrator or to any county public administrator by virtue of said act, shall remain valid and such state public administrator or such county public administrator heretofore appointed as fiduciary of any such estate under the provisions of that act or pursuant to the general probate laws of this state, shall be subject to the provisions of this act. Nothing in this act shall be construed to repeal the provisions of Act. No. 288 of the Public Acts of 1939, and amendments thereto, and any parts of this act inconsistent therewith shall be deemed to modify that act only to that extent.

HISTORY: CL 1948, 720.223.

Act 229, 1911, p. 398; Eff. Aug. 1.

AN ACT declaring valid sales of real estate made by executors, administrators or guardians under license of the probate court pursuant to the provisions of chapter 243 of the Compiled Laws of 1897.

The People of the State of Michigan enact:

720.251 Validation of real estate sales.

Sec. 1. All sales of real estate made by executors, administrators or guardians under license of the probate court pursuant to the provisions of chapter 243 of the Compiled Laws of 1897, are hereby declared to be valid.

HISTORY: CL 1915, 14617;—CL 1929, 15851;—CL 1948, 720.251.

NOTE: Ch. 243 of CL 1897, above referred to, was repealed by Act 314 of 1915 (Jud. Act), see Compilers' § 681.1, but substantially re-enacted in Ch. 59 of that act, being CL 1929, 15800 et seq., superseded by Act 288, 1939, Ch. 9, being Compilers' § 709.1 et seq.

Act 281, 1929, p. 689; Eff. Aug. 28.

AN ACT to prevent the procreation of feeble-minded and insane persons, moral degenerates and sexual perverts; and to authorize and provide for the sterilization of such persons and payment of the expenses thereof. Am. 1962, p. 96, Act 106, Eff. Mar. 28, 1963.

The People of the State of Michigan enact:

720.301 Sterilization of mental defectives; statement of policy.

Sec. 1. It is hereby declared to be the policy of the state to prevent the procreation and increase in number of feeble-minded and insane persons, idiots, imbeciles, moral degenerates and sexual perverts, likely to become a menace to society or wards of the state. The provisions of this act are to be liberally construed to accomplish this purpose.

HISTORY: CL 1929, 6645;—CL 1948, 720.301;—Am. 1962, p. 96, Act 106, Eff. Mar. 28, 1963.
FORMER ACT: Act 285 of 1923. Sec 2 of this act was amended by Act 71 of 1925.

720.302 Sterilization of mental defectives; definitions.

Sec. 2. The words “mentally defective person” or “defective person” in this act shall include all feeble-minded and insane persons, idiots, imbeciles, moral degenerates and sexual perverts. Where such persons are referred to in this act as of the masculine gender, the same shall be deemed to include persons of the feminine gender as well.

HISTORY: CL 1929, 6646;—CL 1948, 720.302;—Am. 1962, p. 96, Act 106, Eff. Mar. 28, 1963.

720.303 Sterilization of mentally defective persons; jurisdiction of probate courts.

Sec. 3. The several probate courts within the state of Michigan shall have power to receive petitions, hold hearings and make orders for the purpose of carrying out the provisions of this act and perform all necessary acts in connection therewith. For that purpose the general provisions of law applicable to the jurisdiction of probate courts and particularly the laws and procedure governing the holding of hearings and making orders of admission of mentally diseased persons to the several hospitals of the state, shall be construed as a part of this act insofar as the same are not inconsistent herewith.

HISTORY: CL 1929, 6647;—CL 1948, 720.303.

PROBATE COURTS: See Compilers' § 701.1 et seq. For procedure relating to admission of mentally diseased persons to state hospital, see Compilers' § 330.18 et seq.

720.304 Sterilization of mentally defective persons; inmates of state institutions; examinations; record; proceedings in probate court; consent.

Sec. 4. Whenever the medical superintendent, warden, or principal officer of the Kalamazoo state hospital for the insane, the Pontiac state hospital for the insane, the Traverse City state hospital for the insane, the Newberry state hospital for the insane and feeble-minded, the Ypsilanti state hospital for the insane, the Ionia state hospital for the criminal insane, the Lapeer state home and training school for feeble-minded, the Coldwater state home and training school for feeble-minded, the Caro state hospital for epileptics, the Neuropsychiatric hospital at Ann Arbor, the state prison of southern Michigan at Jackson, the state house of correction and branch prison at Marquette, the Michigan reformatory at Ionia, or any other hospital, training school, farm colony, prison or public institution maintained and supported in whole or in part by the state of Michigan, shall be of the opinion that any inmate or person under the custodial care of such institution is a mentally defective person who would be likely to procreate children unless closely confined or rendered incapable of procreation; that such children would have a tendency to mental defectiveness and that there is no probability that the condition of said defective person will improve and that it is for the best interest of such person and of society that such mentally defective person should be sexually sterilized, it shall be the duty of such medical superintendent, warden, or principal officer to bring to the attention of the governing board or body of such institution the facts, records, family history, traits, and mental and physical condition of such person so far as the same can be ascertained. It shall be the duty of the

governing board or body of such institution to cause an investigation, and examination to be made to determine whether such mentally defective person would be likely, if allowed to mingle in society, to procreate children having an inherited tendency to feeble-mindedness, insanity, idiocy, imbecility, epilepsy, or sexual degeneracy, and who would be likely to become a social menace or a ward of the state, and whether there is no probability that the condition of such person would improve to such an extent as to avoid such consequences. It shall be the duty of such governing board or body to keep a record with reference to each such person embodying its findings and conclusions in said respects, and either to obtain the consent hereinafter referred to or to file or cause to be filed a petition in the probate court of the county in which such mentally defective person was a resident at the time of commitment or admission, or in the probate court of the county in which such institution may be situated, for the purpose of carrying out the provisions of this act, and to procure an order directing the sterilization of such defective person. Nothing in this act contained shall be considered to require a court order when consent is given as hereinafter referred to. Whenever the defective person is of the age of 16 years or more and not otherwise incapable of giving consent, such operation or treatment may be performed upon obtaining a consent thereto in writing, signed by such defective person, together with a similar consent in writing signed by his or her legal guardian, if any, and also by 1 or more of the following persons, in the order named; husband, wife, father, mother, brother, sister, child or next of kin. If such defective person is in the custodial care of a state institution said written consent shall be filed and kept as a part of the records of such institution; otherwise, the same shall be obtained and kept by the surgeon performing such operation. Upon complying with the foregoing provisions, it shall thereupon be lawful to perform such operation.

HISTORY: CL 1929, 6648;—Am, 1941, p. 135, Act 109, Eff. Jan. 10, 1942;—CL 1948, 720.304.

720.305 Sterilization of mentally defective persons; petitioners; hearing, notices.

Sec. 5. The father, mother, husband, wife, brother, sister, child, or guardian of a mentally defective person, the medical superintendent, director or principal officer of any state institution, the state welfare commission, any sheriff or superintendent of the poor, or supervisor of any township, may petition the probate court of any county in which a mentally defective person resides or in which may be located any state institution having the custodial care of a mentally defective person, for an order directing such treatment or operation of vasectomy, salpingectomy, or other operation or treatment as may be least dangerous to life, to effectively render said defective person incapable of procreation. Upon receiving such petition the court shall fix a day for hearing thereof, which shall be not less than 14 days after the date of filing such petition. Notice of such hearing shall be personally served at least 10 days before the date thereof as follows: (1) Upon such defective person, if above the age of 10 years; (2) Upon the father, mother, husband, wife, brother, sister, child or next of kin who may be of full age, of such defective person, other than the petitioner, if there be any such known to be residing within the county; (3) If such defective person has no father, mother, husband, wife, brother, sister, child or other next of kin who may be of full age, known to be residing within the county, such service shall be made either personally or by registered mail on 1 or more of said relatives who may be residing outside of the county, and within this state, if there be any such known to the petitioner or to said court; (4) Upon the legal guardian of such defective person if a legal guardian has been appointed; if not, the court shall at the time of receiving such petition appoint a guardian ad litem upon whom such notice shall be served and who shall represent said defective person at the hearing; (5) If such defective person shall be residing with or in the custodial care of some person or institution other than the petitioner, such notice

shall also be personally served upon the person, or principal officer of the institution, having the custodial care of such defective person, if within the county of jurisdiction; if without said county, said service shall be made either personally or by registered mail; (6) Upon the prosecuting attorney of the county in which such hearing is to be held; (7) Upon such other persons, if any, as the court may, in its discretion, determine to be proper persons who should have notice of such hearing. Due proof of such service shall be filed with the court at or before such hearing.

HISTORY: CL 1929, 6649;—CL 1948, 720.305.

720.306 Sterilization of mentally defective persons; examinations, certificate; testimony; court determination.

Sec. 6. The court shall appoint 2 reputable physicians who shall make an investigation and examination of the mental and physical condition, and personal and family history of such defective and report the same to the court with the opinion of said physicians as to whether said person is a defective person within the meaning and intent of this act who should be rendered incapable of procreation. The certificates of said physicians shall be filed with said court before an order shall be made for such operation or treatment. The court shall at such hearing take testimony in writing as to the mental and physical condition of such defective person and the history of his case and shall, if no jury is required, determine whether he is a mentally defective person subject to be rendered incapable of procreation in order to prevent the production of children who may be mentally defective or a menace to society or become wards of the state.

HISTORY: CL 1929, 6650;—CL 1948, 720.306.

720.307 Sterilization of mentally defective persons; jury trial; counsel.

Sec. 7. If the court shall deem it necessary or if such defective person or any relative or the legal guardian or guardian ad litem of such person shall so demand, a jury shall be summoned in accordance with the rules and practice of summoning juries in probate court to determine the question of fact as to whether such person is a mentally defective person and should be rendered incapable of procreation under the provisions of this act. Such defective person shall have the right to be represented by counsel at such hearing and to be present in person unless it shall be made to appear to the court by certificate of 2 reputable physicians that his condition is such as to render his removal for that purpose or his appearing at such hearing improper and unsafe.

Whenever any such defective person shall be unable to procure counsel, and the probate judge shall appoint some attorney to represent such defective person at the hearing, the attorney so appointed shall be entitled to receive from the county treasurer on certificate of the probate judge that such services have been duly rendered, such an amount, not in excess of \$25.00, as the probate judge shall in his discretion deem reasonable compensation for the services performed. An attorney shall not, in such case, be compelled to follow a case on appeal, but if he does so, he may recover such additional compensation as shall be fixed by the circuit court to which an appeal is taken. Only 1 attorney in any 1 case shall receive the compensation above contemplated, nor shall he be entitled to this compensation until he files his affidavit in the office of the county clerk of the county in which such trial or proceedings may be had, that he has not, directly or indirectly, received any compensation for such services from any other source.

HISTORY: CL 1929, 6651;—Am. 1941, p. 119, Act. 97, Eff. Jan. 10, 1942;—CL 1948, 720.307.

The enrolled act (1941) was presented to the governor on May 6, 1941, at 9:40 a.m., and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

JURY: See Compilers' § 330.21.

720.308 Sterilization of mentally defective persons; order for admittance to hospital, expense of operation, payment.

Sec. 8. Whenever at such hearing it shall be found by the court or by a jury that such person is a mentally defective person and the court shall find that said defective person would be likely to procreate children unless he be closely confined or rendered incapable of procreation, that such children would have a tendency to mental defectiveness and that there is no probability that the condition of said defective person would improve, and the court shall find that such children might be a menace to society or might become wards of the state, the court shall make an order requiring and specifying that such defective person shall be treated or operated upon by X-rays or by the operation of vasectomy or salpingectomy or other treatment or operation best suited to the condition of such person, and most likely to produce the beneficial results intended by this act and which will effectively render such defective person incapable of procreation. The court may in said order direct that such defective person be admitted at the university hospital at Ann Arbor for such operation or treatment whenever the mental and physical condition of such person is such that he may be admitted and cared for in said hospital; or may direct that such operation or treatment be performed by a reputable surgeon whose duty it shall be to perform such operation or treatment in accordance with said order. The expense of such operation or treatment together with physician's fees and all other expenses incurred in connection with such proceeding shall be a proper charge against the state of Michigan: Provided, That such operations or treatment shall be performed or provided by the regular surgeon of the state institution whenever possible, without fees therefor, and when not so performed, the liability of the state for surgeon's fees shall in no 1 case exceed the sum of \$50.00; that when such person be admitted to the university hospital at Ann Arbor the hospital care shall be paid for at the rates established by the board of regents for such care. The auditor general of the state of Michigan is hereby required to reimburse the county or other claimant for all said expenses upon receipt of a certified copy of such order and a proper certificate of the court that such expenses are reasonable and proper, accompanied by an itemized statement thereof from the treasurer of said county, or other claimant. If on investigation it shall appear that such defective person has means or property sufficient for the payment of such expense or if those persons legally liable for the care and support of such defective person as an indigent person under the laws of this state has sufficient means for that purpose, the court shall require that payment or reimbursement for such expense shall be made by him or them. The provisions of law regarding the care and maintenance of insane persons, as well as indigent persons, are hereby expressly made applicable to the provisions of this section so far as the same are not inconsistent with this act.

HISTORY: CL 1929, 6652;—Am. 1943, p. 388, Act. 235, Eff. July 30;—CL 1948, 720.308.

The enrolled act (1943) was presented to the governor on April 9, 1943, at 3:00 p.m., and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

INSANE PERSONS: See Compilers' § 330.11 et seq.

INDIGENT PERSONS: See Compilers' § 401.1 et seq.

720.309 Sterilization of mentally defective persons; appeal from order; time for operation.

Sec. 9. Said mentally defective person or any one in his behalf shall have the same right of appeal from such order as is provided by statute for appeals from orders of probate court; and any such appeal may be taken in accordance with such statutes and the rules and practice of said court. It shall be unlawful to perform any such treatment or operation during the period of 5 days next following the date of such order unless the court in said order shall find that such operation or treatment is immediately necessary and imperative in order to protect the physical health and well-being of such defective person; nor shall any action be taken to carry out such order during

the pendency of an appeal therefrom or until such appeal, if any, shall be determined or dismissed.

HISTORY: CL 1929, 6653;—CL 1948, 720.309.

APPEAL: From orders of probate courts, see Compilers' § 701.45a et seq.

720.310 Sterilization of mentally defective persons; liability of surgeon.

Sec. 10. No surgeon performing an operation or providing treatment under the provisions of this act shall be held liable either criminally or civilly on account thereof, except only in case of negligence in the performance of such operation.

HISTORY: CL 1929, 6654;—CL 1948, 720.310.

Sec. 11. (This was a severing clause section.)

HISTORY: CL 1929, 6655;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 12. (This was a repeal section.)

HISTORY: CL 1929, 6656;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 285 of 1923.

Act 206, 1935, p. 332; Imd. Eff. Jun. 6.

AN ACT to make all debts for milk and/or cream sold by a producer thereof preferred claims against the estates of debtors and to give the same precedence over all debts except for labor, as provided by law, debts due the United States, the state or any political subdivision thereof, and liens created prior to the effective date of this act.

The People of the State of Michigan enact:

720.401 Milk and cream claims; definitions.

Sec. 1. Definitions as used in this act:

(a) "Person" includes any individual, copartnership or corporation.

(b) "Producer" means any person who produces milk and/or cream for sale in its raw state, or any co-operative association of milk producers organized under the laws of the state of Michigan, which association through contracts with its members has the milk and/or cream of its members consigned to it for sale.

(c) "Debtor" means any person who purchases milk and/or cream direct from a producer, as defined in this act, either for manufacturing purposes or for sale as fluid milk or for both.

HISTORY: CL 1948, 720.401.

720.402 Preferred claims against estates; debts to producer of milk and cream.

Sec. 2. Every producer who furnishes milk and/or cream for any debtor and every bona fide holder of any check, draft or order due for any such milk and/or cream shall have a preferred claim against the estate of such debtor, in the event of the following:

(a) That such debtor has been adjudicated a bankrupt.

(b) That a receiver in equity has been appointed for such debtor.

(c) That the debtor has given a trust mortgage for the benefit of his creditors.

(d) That such debtor, if a corporation or co-partnership, has filed a petition for the dissolution of such corporation or partnership.

Such preferred claim shall have precedence in the payment thereof over all debts owing by such debtor except claims for labor, debts owing the United States, the state, or any subdivision thereof, and liens created prior to the effective date of this act.

HISTORY: CL 1948, 720.402.

Act 44, 1947, p. 50; Eff. Oct. 11.

AN ACT relative to evidence of death or status of missing persons; and to provide for the receipt of such evidence in any court, office, or other place in this state.

The People of the State of Michigan enact:

720.501 Missing persons; finding of presumed death; prima facie evidence.

Sec. 1. A written finding of presumed death, made by the secretary of war, the secretary of the navy, or other officer or employee of the United States authorized to make such finding, pursuant to the federal missing persons act (56 Stat. 143, 1092, and 58 Stat. 679; 50 U.S.C. App. 1001-17), as now or hereafter amended or supplemented, or a duly certified copy of such finding, shall be received in any court, office or other place in this state as prima facie evidence of the death of the person therein found to be dead, and the date, circumstances and place of his disappearance.

HISTORY: CL 1948, 720.501.

PROBATE CODE: See Compilers' § 705.1 et seq.

720.502 Missing, interned or captive persons; report, prima facie evidence.

Sec. 2. An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the act referred to in section 1 or by any other law of the United States to make same, shall be received in any court, office or other place in this state as prima facie evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, as the case may be.

HISTORY: CL 1948, 720.502.

720.503 Findings, reports and records; signature of federal officer deemed evidence of authority; certified copy.

Sec. 3. For the purposes of sections 1 and 2 of this act any finding, report or record, or duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described in said sections, shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify.

HISTORY: CL 1948, 720.503.

Act 29, 1957, p. 34; Eff. Sep. 27.

AN ACT to provide for the disposition of certain files and records in the probate courts of this state.

The People of the State of Michigan enact:

720.551 Destruction of records by probate court; historical commission.

Sec. 1. The probate courts of this state, subject to the provisions of section 5 of Act No. 271 of the Public Acts of 1913, as last amended by Act No. 59 of the Public Acts of 1955, may order the destruction of any of the following files and records when more than 6 years have passed since the last order of the court in the case:

Mothers' pensions.

(a) Proceedings taken for the payment of mothers' pensions pursuant to Act No. 6 of the Public Acts of the Extra Session of 1907, as amended.

Hospitalization of adults.

(b) Proceedings taken for the hospitalization of adults pursuant to Act No. 267 of the Public Acts of 1915, as amended, being sections 404.101 to 404.112 of the Compiled Laws of 1948.

Hospitalization of crippled or afflicted children.

(c) Proceedings taken for the hospitalization of crippled or afflicted children pursuant to Act No. 158 of the Public Acts of 1937, as amended, being sections 722.201 to 722.244 of the Compiled Laws of 1948, or Act No. 283 of the Public Acts of 1939, as amended, being sections 722.301 to 722.325 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 34, Act 29, Eff. Sep. 27.

Act 84, 1949, p. 92; Eff. Sep. 23.

AN ACT to provide for transfers of inmates of certain state institutions and agencies to other state institutions and agencies for the purpose of receiving care and training.

The People of the State of Michigan enact:

720.601 Transfer of juveniles from one state institution or agency to another.

Sec. 1. Any person who has been committed by a judge of probate to an institution or agency of the state of Michigan which is authorized to receive juveniles, under the direction of the department of mental health, department of corrections or the social welfare commission for the purpose of treatment and training or either of them, may be transferred from that institution to any other such institution or agency of the state, whenever it appears to the satisfaction of the superintendent of the institution to which he has been committed that he will substantially benefit from the care and training in such other institution or facility and that the interests of such person and of the state will be best served thereby: Provided, That no such person may be so transferred to any state institution to which the judge of probate may not now make commitments of juveniles.

HISTORY: New 1949, p. 92, Act 84, Eff. Sep. 23.

720.602 Transfer of juveniles; written request.

Sec. 2. Such a transfer may be made only upon a written request by the said superintendent and the approval of the committing judge and of the governing bodies of the institution or agency of the state from which and to which such transfer shall be made, after notice to the parents of the juvenile or to his legal guardian, if he is under guardianship.

HISTORY: New 1949, p. 92, Act 84, Eff. Sep. 23.

720.603 Transfer of juveniles; receiving, training.

Sec. 3. Any institution to which any such person is transferred, as in this act provided, shall and is hereby authorized to receive, train, and otherwise care for such person in the same manner as other persons committed to that institution.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

720.604 Transfer of juveniles; parole and discharge.

Sec. 4. While in such institution, he shall be under the laws and rules appertaining thereto, except that his parole and discharge shall continue to be governed by the laws

and rules appertaining to the institution or agency to which he was originally committed.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

720.605 Transfer of juveniles; terms not affected by transfer.

Sec. 5. The terms of detention or confinement of a person transferred in accordance with the provisions of this act shall not be extended or increased by reason of any such transfer.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

720.606 Transfer of juveniles; return to original institution.

Sec. 6. Whenever, for any reason, it shall be found that it is not in the best interests of any person to remain in an institution to which he shall have been transferred as provided for and permitted by this act, and the governing body of such institution or agency so requests, such person shall, after satisfactory arrangements therefor have been completed, be returned to the institution or agency from which he was transferred.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

720.607 Transfer of juveniles; mittimus, processes and orders to accompany.

Sec. 7. Whenever any person is transferred under the provisions of this act, he shall be accompanied by all mittimuses, processes, orders, supplemental orders, a copy of his medical report, and a written statement covering the history and progress of the person, so far as the same are available or can be ascertained.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

720.608 Transfer of juveniles; expenses, payment.

Sec. 8. All expenses incidental to a transfer under this act shall be borne by the department or agency from which the transfer is made.

HISTORY: New 1949, p. 93, Act 84, Eff. Sep. 23.

Act 214, 1963, p. 309; Imd. Eff. May 17.

AN ACT to authorize the establishment of regional facilities for the diagnosis and custody of delinquent and neglected minors; powers and duties of board of supervisors and department of social welfare; create board of trustees, powers and duties of; to authorize taxation for such facilities; to provide penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

720.651 Regional detention homes for minors; construction by county or counties.

Sec. 1. A county or 2 or more contiguous counties, after approval of the state department of social welfare, may combine together to construct and operate regional facilities for the diagnosis and custody of minors detained under the provisions of sections 14, 15 and 16 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being sections 712A.14, 712A.15 and 712A.16 of the Compiled Laws of 1948.

HISTORY: New 1963, p. 309, Act 214, Imd. Eff. May 17.

720.652 State social welfare department; survey, contents.

Sec. 2. The board of supervisors of any county or any contiguous counties, by resolution, may authorize the judge of probate of the county or of the contiguous counties to request the state department of social welfare to survey the situation and determine

the need for a detention home in the area, or whenever the judge of probate shall be requested, in writing, by 1% but not less than 25 electors of the county to initiate proceedings for the organization of the district for the operation of a regional detention home. In either event the judge of probate shall be authorized to refer the question to the state department of social welfare for its recommendations and approval relative to:

- (1) The size of the district or number of counties to be served;
- (2) The size and type of buildings to be erected; and
- (3) The facilities and operating program to be provided in such home.

HISTORY: New 1963, p. 310, Act 214, Imd. Eff. May 17.

720.653 Board of trustees; powers.

Sec. 3. Any regional facility created under this act shall be governed by a board of trustees which shall be a body corporate with powers to buy, sell and dispose of property, real and personal, to erect and maintain buildings and facilities and to employ all necessary personnel. Any regional facility created under this act shall be governed by a board of trustees consisting of a judge of probate from each of the participating counties and one member appointed by the board of supervisors from each of the participating counties and one member shall be appointed from the electors residing in each of the participating counties by the other members of the board of trustees. The board of trustees shall have the authority and are hereby authorized and empowered to adopt mutually agreeable procedures, rules and regulations as to administration, financial support and other necessary regulations. The board of trustees may accept on behalf of, and for the use of, the body corporate any gifts, grants or bequests given or devised to the facility.

HISTORY: New 1963, p. 310, Act 214, Imd. Eff. May 17.

720.654 Referendum.

Sec. 4. The board of trustees of the recommended district shall have the authority to submit the question to the voters of 1 or more contiguous counties, consisting of the counties comprising the recommended district, at any state general election or county-wide primary election, as to whether the regional juvenile detention home district should be created and the voters of the district shall be given the opportunity to vote "yes" or "no" on the approval of the district.

HISTORY: New 1963, p. 310, Act 214, Imd. Eff. May 17.

720.655 Taxes for construction and operation.

Sec. 5. The board of trustees of the district may levy upon the approval of the electors of the district for the purposes heretofore specified, a tax of not more than 1 mill upon each dollar of the state equalized value of the property in each of the counties comprising the regional juvenile detention home area and, from time to time, may submit to the electors of the district at any state general election or county-wide primary election the question of additional assessment or tax for the operation of such homes.

HISTORY: New 1963, p. 310, Act 214, Imd. Eff. May 17.

720.656 Capital outlay and construction costs; apportionment.

Sec. 6. Capital outlay and construction costs of facilities of such regional facility shall be borne by the counties comprising the region in the following manner:

(a) Fifty percent of the estimated cost shall be borne by apportioning among the participating counties a percentage of the cost according to the proportion of the county's state equalized valuation bears to the total state equalized valuation of the district.

(b) Fifty percent of the estimated cost shall be apportioned among the participating

counties according to the proportion the individual county's school census bears to the total school census of the participating counties.

HISTORY: New 1963, p. 310, Act 214, Imd. Eff. May 17.

720.657 Basic operating costs; other operation expenses.

Sec. 7. Basic operating costs of such regional facilities, consisting of maintenance, repairs and custodial personnel and amortization of the capital investment shall be borne by participating counties in the same manner as provided in section 6 for capital outlay. All remaining operating expenses of such facilities shall be borne by establishing a per diem cost per child which shall be charged to participating counties according to their child day use of the facility.

HISTORY: New 1963, p. 311, Act 214, Imd. Eff. May 17.

720.658 Board of trustees; contracts with nonparticipating counties, per diem.

Sec. 8. The board of trustees of any district is authorized to enter into contracts with nonparticipating counties to provide services for the detention and custody of children committed from such counties at a per diem cost established by the board.

HISTORY: New 1963, p. 311, Act 214, Imd. Eff. May 17.

720.659 State social welfare department; supervision, rules, standards, orders, visitation, inspection, records.

Sec. 9. The state department of social welfare shall supervise and inspect local and regional facilities and places of detention for juveniles for the purpose of obtaining facts in a manner pertaining to the usefulness and proper management of such facilities, and in promoting proper, efficient and humane administration thereof, and shall promulgate rules and standards with relation thereto. Any reasonable order with respect to such facility may be enforced through mandamus or injunction by the circuit court of the county where the facility is located, through proper proceedings instituted by the attorney general on behalf of the department. Any superintendent or employee of any facility subject to inspection under the provisions of this act, who shall refuse to admit any duly authorized representative of the department of social welfare for the purpose of visitation and inspection, or who shall refuse or neglect to furnish the information required by the said department, or its duly authorized representative, shall be guilty of a misdemeanor. The superintendent and staff of each place of detention for juveniles shall keep such records with respect to the operation of such place of detention as shall be prescribed by the department of social welfare.

HISTORY: New 1963, p. 311, Act 214, Imd. Eff. May 17.

720.660 Repeal.

Sec. 10. Section 16a of chapter 12A of Act No. 288 of the Public Acts of 1939, being section 712A.16a of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1963, p. 311, Act 214, Imd. Eff. May 17.

CHAPTER 722. CHILDREN

STATUS AND EMANCIPATION—RIGHTS OF PARENTS

Act 293 of 1968

- 722.1 Status of minors; definitions.
- 722.2 Unemancipated minors; parental rights.
- 722.3 Obligation to support; enforcement.
- 722.4 Emancipation; evidence; revocation; domicile of choice.
- 722.5 Earnings of unemancipated minor.
- 722.6 Obligation to support not affected.

CHILD CUSTODY ACT OF 1970

Act 91 of 1970

- 722.21 Child custody act; short title.
- 722.22 Child custody act; definitions.
- 722.23 Best interests of the child; definition.
- 722.24 Child custody disputes; powers of court.
- 722.25 Child custody disputes; controlling interests, presumption.
- 722.26 Liberal construction of act; application to all child custody disputes; precedence over other actions; venue; habeas corpus.
- 722.27 Child custody disputes; disposition by court, options.
- 722.28 Child custody disputes; appeal, grounds.
- 722.29 Repeal.

CHILD WELFARE AGENCIES AND HOMES

Act 47 of 1944 (1st Ex. Ses.)

- 722.101 Child welfare agencies; definitions.
- 722.102 Child welfare agencies; standards of child care; rules; fire inspection; enforcement.
Educational programs, requirements.
Cooperation with other agencies.
- 722.103 Licenses; application, form; issuance; provisional licenses.
- 722.104 Examination; inspection of buildings; records; reports; children not placed by court or agency; notice of termination of care; records confidential.
- 722.105 Revocation or denial of renewal of license; notice, hearing.
- 722.106 Appeal; transcript, stay of action.
- 722.107 Placement of children in family homes.
- 722.108 Violation of act; penalty.

JUVENILE COURT ORDER VIOLATIONS AND JUVENILE RUNAWAYS

Act 296 of 1968

- 722.151 Aiding or abetting violations by juveniles, or harboring runaways prohibited.
- 722.152 Violation of act; penalty.

CRIPPLED CHILDREN'S ACT

Act 158 of 1937

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- 722.201 Policy of state as to crippled children.

TITLE II. DEFINITION OF CRIPPLED CHILD

- 722.202 Crippled child; definition.

TITLE III. MICHIGAN CRIPPLED CHILDREN COMMISSION

- 722.203 Michigan crippled children commission; members, appointment, vacancies, oath, compensation and expenses; body corporate, powers.
- 722.204 Crippled children commission; powers and duties.
- 722.205 Crippled children commission; program of services, administration.
- 722.206 Crippled children commission; plans; cooperation with federal government.
- 722.207 Crippled children commission; acceptance of gifts; trust fund.
- 722.208 Crippled children commission; books and accounts; report.

TITLE IV. REGISTRATION OF CRIPPLED CHILDREN

- 722.209 Registration of crippled children; forms.
- 722.210 Duties of census enumerators.
- 722.211 Duty of superintendent of public instruction.
- 722.212 Investigation and report.

TITLE V. EXAMINATION AND DIAGNOSIS

- 722.213 Examination and diagnosis; holding of clinics.
- 722.214 Surgeons and specialists; reports.

TITLE VI. TREATMENT

- 722.215 Treatment; investigation; financial and medical reports.
- 722.216 Order of commission; responsibility.
- 722.217 Designation of hospitals.
- 722.218 Hospital reports; progress reports; convalescent rates.
- 722.219 Hospital care and treatment.

TITLE VII. EDUCATION

- 722.220 Education; hospital schools for convalescent crippled children, provision.
- 722.221 Hospital schools for convalescent crippled children; requirements.
- 722.222 Hospital schools for convalescent crippled children; records and reports.

TITLE VIII. ORTHOPEDIC CENTERS

- 722.223 Orthopedic centers; minor orthopedic cases; out-patient and convalescent; follow-up supervision.
- 722.224 Commitment; responsibility.

TITLE IX. CUSTODIAL CASES

- 722.225 Custodial case; definition.
- 722.226 Custodial cases; care and education.

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- 722.227 Finance; expenses of commission.
- 722.228 Expense of clinic.
- 722.229 Cost of investigation and reports.
- 722.230 Hospital accounting; ward cost; professional fees; charging for services; schedule of fees and rates.
- 722.231 Hospital expense, doctor fees and transportation; audit and payment.
- 722.232 Payment by parent or spouse; adjustment of agreement.

- 722.233 Educational program; funds in budget; reimbursement by state.
 722.234 Treatment and educational centers; payment of costs.
 722.235 Custodial care; payment of costs.
 722.236 Payment by state not pauper aid.
 722.237 Appropriations; allocations; emergencies, epidemics.
 722.238 Disposition of income.
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TITLE XI. MISCELLANEOUS

- 722.240 Provisions of act not compulsory.
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AFFLICTED CHILDREN'S ACT

Act 283 of 1939

- 722.301 Policy of state as to afflicted children; commission.
 722.302 Afflicted child; definition.
 722.303 Michigan crippled children commission; powers and duties; director and employees.
 722.304 Michigan crippled children commission; books and accounts; report to governor.
 722.305 Application for treatment, investigation and report; wards of court.
 722.306 Order of commission; responsibility.
 722.307 Approval of hospitals.
 722.308 Admittance to hospital; reports; convalescent rates.
 722.309 Hospital care and treatment; transfer of patients.
 722.310 Boarding homes; convalescent and outpatient service.
 722.311 Expenses of commission and treatment; appropriations.
 722.312 Cost of investigation; claims.
 722.313 Hospital accounting; ward cost; professional fees; schedule of fees and rates.
 722.314 Hospital expenses and doctor fees; audit and payment; billing within 45 days.
 722.315 Communicable diseases; expense recharged to county.
 722.316 Transportation costs; payment by county.
 722.317 Commitment; agreement to pay by parent or spouse; adjustment.
 722.318 Payment by state not pauper aid.
 722.319 Appropriation; reimbursement of general fund.
 722.319a Appropriation; allocations; emergencies; construction of section; excessive hospitalization.
 Excessive hospitalization, surcharge of county.
 722.320 Funds received from federal government and other sources.
 722.321 Act not compulsory upon parents.
 722.322 Acts prohibited; penalty.
 722.325 Afflicted children's act; short title.

TREATMENT AT UNIVERSITY HOSPITAL

Act 138 of 1881

- 722.401 Free care at university hospital; persons eligible.
 722.402 Admissibility; determination, certification.
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 722.404 Case history; submitted to and passed on by hospital.
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CHILDREN'S CLINIC

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- 722.481 Child guidance and community mental health clinic, financing.

CONTRACT POWERS OF COUNTIES

Act 137 of 1921

- 722.501 Care of children; contracts by boards of supervisors, expenses, tax.
 722.502 Approval of contracts.
 722.503 Probate judge; duties.
 722.504 Forfeiture of license; effect on contracts.
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COMMITMENT TO STATE INSTITUTIONS

Act 271 of 1925

- 722.531 Children incapable of adoption; commitment to state institution, expenses of commitment, maintenance.
 722.532 Protection of children's rights; director of social welfare, duties.
 722.533 Protection of children's rights; prosecuting attorney.
 722.534 Protection of children's rights; question of jurisdiction, residence, costs.

SEPARATION OF FATHER AND MOTHER

Act 192 of 1873

- 722.541 Repealed.

PROTECTION OF CHILDREN

Act 260 of 1881

- 722.553 Children in jails; separation from adults.
 722.554 Placing or keeping certain children in county poorhouse unlawful; disposition of children, separation from mother.
 722.557 Apprenticing or disposal of minor; application, examination of home, report, fee.
 722.558 Apprenticing or disposal of minor; contract, subsequent procedure.
 722.559 Apprenticing or disposal of minor; methods; inapplicability to certain state institutions.
 722.561 Ill-treated child; removal from parent.
 722.562 Ill-treated child; definition.
 722.563 Ill-treated child; complaint, examination, writ.
 722.564 Ill-treated child; hearing, jury, forfeiture, disposition of child.
 Appointment of guardian.
 Sending to state public school.
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- 722.571 Intentionally injured children; physicians report; detention.
- 722.572 Report; copies to prosecuting attorney, probate court, county social welfare department and state social services department; reports from other counties; contents.
- 722.572a Investigation; reference to enforcement agencies.
- 722.573 Investigation; immunity from liability, presumption of good faith.
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- 722.575 Violation of act; penalty.

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Act 193 of 1887

- 722.581 Removal of apprenticed child from improper custodian; inapplicability of act to hotel or restaurant keeper.
- 722.582 Removal of apprenticed child from improper custodian; procedure, disposition of child.
- 722.583 Removal of apprenticed child from improper custodian; care of child at institution.

MAINTENANCE OF CHILDREN BORN OUT OF WEDLOCK

R.S. 1846, Ch. 42

- 722.601-722.612 Repealed.

CIGARETTES

Act 31 of 1915

- 722.641 Cigarettes; furnishing to minor, penalty.
- 722.642 Cigarettes; use by minor in public, penalty.
- 722.643 Harboring minors for indulgence in cigarettes; penalty; right of parents.

TOBACCO

Act 77 of 1889

- 722.651 Selling or furnishing tobacco to minors unlawful.
- 722.652 Violation of act; penalty.

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Act 293 of 1917

- 722.701-722.703 Repealed.

PATERNITY ACT

Act 205 of 1956

- 722.711 Paternity act; definitions.
- 722.712 Child born out of wedlock; liability of parents.
- 722.713 Father's agreement for support and education.

722.714

Paternity proceedings.

Same; commencement, statute of limitations.

Same; jurisdiction of circuit court; attorney for complainant; power of circuit court commissioner.

Same; charge.

Same; issuance of warrant, trial, recognizance; friend of the court; summons, warrant.

Same; order of filiation, complaint of father.

Same; minor, guardian ad litem.

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Competency of mother and alleged father; jury demand; exclusion of public; continuance until child is born.

722.716

Blood tests; admission as evidence.

722.717

Order of filiation, contents, notice to state commissioner of health.

722.718

Payments to friend of court or clerk; disbursement.

722.719

Bond; conditions, sureties, default, contempt; lien on real estate; receivers.

722.720

Continuing jurisdiction; custody, support of child.

722.721

Mother's support of child.

722.722

False complaint; penalty.

722.723

Violation of act; sentence, probation; assignment of wages or income.

722.724

Appeal; stay of execution, bond, security for costs.

722.725

Omission of explicit reference to illegitimacy of child in records.

722.726

Application of act.

722.727

Fees; assessment in order of filiation.

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Enforcement remedies.

722.729

Friend of court or county clerk; fees.

722.730

Paternity act; short title.

CURFEW

Act 41 of 1960

722.751

Curfew for children under 12 years old.

722.752

Curfew for children under 16 years old.

722.753

Aiding underage children to violate law; misdemeanor.

722.754

Local regulation as to curfew.

COUNTY REHABILITATION WORK CAMPS

Act 71 of 1965

722.761

County rehabilitation work camps; operation by board of supervisors.

722.762

Agreements with county maintaining work camps.

Act 293, 1968, p. 497; Eff. Nov. 15.

AN ACT to establish the status of minors; to define the rights of parents; and to establish the conditions for emancipation of minors.

The People of the State of Michigan enact:

722.1 Status of minors; definitions.

Sec. 1. As used in this act:

(a) "Minor" means a person under the age of 21 years.

(b) "Parents" means natural parents, if married prior or subsequent to the minor's birth; adopting parents, if the minor has been legally adopted; or the mother, if the minor is illegitimate.

(c) "Emancipation" means termination of the rights of the parents to the custody, control, services and earnings of a minor.

HISTORY: New 1968, p. 497, Act 293, Eff. Nov. 15.

722.2 Unemancipated minors; parental rights.

Sec. 2. Unless otherwise ordered by a court order, the parents of an unemancipated minor are equally entitled to the custody, control, services and earnings of the minor, but if 1 parent provides, to the exclusion of the other parent, for the maintenance and support of the minor, that parent has the paramount right to control the services and earnings of the minor.

HISTORY: New 1968, p. 497, Act 293, Eff. Nov. 15.

722.3 Obligation to support; enforcement.

Sec. 3. (1) The parents are jointly and severally obligated to support a minor unless a court of competent jurisdiction modifies or terminates the obligation; or the minor is emancipated by operation of law except as otherwise ordered by a court of competent jurisdiction.

(2) The duty of support may be enforced by the minor, his guardian, any relative within the third degree or by an authorized government agency. An action for enforcement shall be brought in the circuit court and judgment shall be enforceable in like manner as a child support judgment in a divorce action.

HISTORY: New 1968, p. 496, Act 293, Eff. Nov. 15.

722.4 Emancipation; evidence; revocation; domicile of choice.

Sec. 4. (1) An emancipation occurs by operation of law:

(a) When a minor is validly married.

(b) When a person reaches the age of 21 years.

(c) During the period when the minor is on active duty with the armed forces of the United States.

(d) If a court of competent jurisdiction orders an emancipation in the best interests of the minor.

(2) An emancipation occurs by action of the parents when both parents or a surviving parent or a parent having exclusive rights of custody release their parental rights by written instrument or by conduct which clearly indicates intent to release their rights and such written instrument shall be filed with the county clerk in the county or counties where the parents reside.

(3) Abandonment by the parents is presumptive evidence of emancipation and relinquishment of parental rights.

(4) Emancipation by action of the parents does not occur if the minor is in fact dependent upon his parents for support.

(5) Emancipation by action of the parents or when minor is validly married may be revoked by agreement between the parents or surviving parent and the minor or by a resumption of family relations inconsistent with the prior emancipation.

(6) An emancipated minor may acquire a domicile of his choice.

HISTORY: New 1968, p. 496, Act 293, Eff. Nov. 15.

722.5 Earnings of unemancipated minor.

Sec. 5. The earnings of an employed unemancipated minor may be paid directly to him unless his parents or his guardian give notice to the employer that future payments should be made to the parents or guardian.

HISTORY: New 1968, p. 498, Act 293, Eff. Nov. 15.

722.6 Obligation to support not affected.

Sec. 6. This act does not affect obligations of support imposed under other laws of this state.

HISTORY: New 1968, p. 498, Act 293, Eff. Nov. 15.

Act 91, 1970, p. 266; Eff. Apr. 1, 1971.

AN ACT to declare the inherent rights of minor children; to establish rights and duties to their custody, support and visitation in disputed actions; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

722.21 Child custody act; short title.

Sec. 1. This act shall be known and may be cited as the "child custody act of 1970".

HISTORY: New 1970, p. 266, Act 91, Eff. Apr. 1, 1971.

722.22 Child custody act; definitions.

Sec. 2. As used in this act:

(a) "Child" means minor child and children.

(b) "Agency" means any legally authorized, public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(c) "Third person" means any individual other than a parent.

HISTORY: New 1970, p. 266, Act 91, Eff. Apr. 1, 1971.

722.23 Best interests of the child; definition.

Sec. 3. "Best interests of the child" means the sum total of the following factors to be considered, evaluated and determined by the court:

(a) The love, affection and other emotional ties existing between the competing parties and the child.

(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion or creed, if any.

(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home.

(f) The moral fitness of the competing parties.

(g) The mental and physical health of the competing parties.

(h) The home, school and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.

(j) Any other factor considered by the court to be relevant to a particular child custody dispute.

HISTORY: New 1970, p. 266, Act 91, Eff. Apr. 1, 1971.

722.24 Child custody disputes; powers of court.

Sec. 4. In all actions now pending or hereafter filed in a circuit court involving dispute of custody of a minor child, the court shall declare the inherent rights of the child and establish the rights and duties as to custody, support and visitation of the child in accordance with this act.

HISTORY: New 1970, p. 267, Act 91, Eff. Apr. 1, 1971.

722.25 Child custody disputes; controlling interests, presumption.

Sec. 5. When the dispute is between the parents, between agencies or between third persons, the best interests of the child shall control. When the dispute is between the parent or parents and an agency or a third person, it is presumed that the best interests of the child are served by awarding custody to the parent or parents, unless the contrary is established by clear and convincing evidence.

HISTORY: New 1970, p. 267, Act 91, Eff. Apr. 1, 1971.

722.26 Liberal construction of act; application to all child custody disputes; precedence over other actions; venue; habeas corpus.

Sec. 6. The provisions of this act, being equitable in nature, shall be liberally construed and applied to establish promptly the rights of the child and the rights and duties of the parties involved. This act shall apply to all circuit court child custody disputes and actions, whether original or incidental to other actions. Such disputes and actions shall have precedence for hearing and assignment for trial over other civil actions. When there is no other action or proceeding pending for the resolution of the dispute, it shall be submitted to the circuit court of the county where the child resides or may be found by complaint or complaint and motion for order to show cause. An application for a writ of habeas corpus or for a warrant in its place to obtain custody of a child shall not be granted unless it appears that this act is inadequate and ineffective to resolve the particular child custody dispute.

HISTORY: New 1970, p. 267, Act 91, Eff. Apr. 1, 1971.

722.27 Child custody disputes; disposition by court, options.

Sec. 7. If a child custody dispute has been submitted to a circuit court as an original action under this act or has arisen incidentally from other actions therein or orders or judgments thereof, for the best interests of the child the court may:

(a) Award the custody of the child to any of the parties involved or to others and provide for payment of support for the child, until the child reaches the age of 18 years or in exceptional circumstances, until the child reaches majority. The court may require that support payments shall be made through the friend of the court or clerk of the court.

(b) Provide for reasonable visitation of the child by the parties involved or by others, by general or specific terms and conditions.

(c) Modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches the age of 18 years or in exceptional circumstances, until the child reaches majority. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in such environment for guidance, discipline, the necessities of life and parental

comfort. The age of the child, the physical environment and the inclination of the custodian and the child as to permanency of the relationship shall also be considered.

(d) Utilize the community resources in behavioral sciences and other professions in the investigation and study of custody disputes and consider their recommendations for the resolution of the disputes.

(e) Appoint a guardian ad litem or counsel for the child and assess the costs and reasonable fees against any or all parties involved, totally or partially.

(f) Take any other action considered to be necessary in a particular child custody dispute.

HISTORY: New 1970, p. 267, Act 91, Eff. Apr. 1, 1971.

722.28 Child custody disputes; appeal, grounds.

Sec. 8. To expedite the resolution of a child custody dispute by prompt and final adjudication, all orders and judgments of the circuit court shall be affirmed on appeal unless the trial judge made findings of fact against the great weight of evidence or committed a palpable abuse of discretion or a clear legal error on a major issue.

HISTORY: New 1970, p. 268, Act 91, Eff. Apr. 1, 1971.

722.29 Repeal.

Sec. 9. Act No. 192 of the Public Acts of 1873, being section 722.541 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1970, p. 268, Act 91, Eff. Apr. 1, 1971.

Act 47, 1944 (1st Ex. Ses.), p. 89; Imd. Eff. Mar. 4.

AN ACT to provide for the licensing of child welfare agencies and for the regulation and supervision of the care and placement of minor children in the private homes of persons unrelated to them; and to provide penalties for the violations of the provisions of this act. Am. 1961, p. 258, Act 183, Eff. Sep. 8.

The People of the State of Michigan enact:

722.101 Child welfare agencies; definitions.

Sec. 1. Any agency or institution not a governmental unit having as 1 of its functions:

(1) To receive minor children for care, maintenance, training or supervision, and notwithstanding the fact that the care includes educational instruction, but excluding boarding schools which are deemed agencies or institutions accepting for board, care and instruction of 5 or more children under the age of 16 years; or

(2) To receive minor children for placement in a family home with a view toward adoption or for other foster home care; or

(3) To care for unmarried mothers and their children;
shall be deemed to be a child welfare agency.

Any private home in which 1 or more minor children are given care and supervision, including a home where the child or children work whether or not such child or children receive a consideration for such work, for periods of 4 or more hours a day for 4 or more days a week for 2 or more consecutive weeks, unattended by a parent or legal guardian, except children related to an adult member of the household by blood or marriage, shall be deemed to be a foster home.

"Minor children" for the purposes of this act shall mean children under the age of 17 years.

HISTORY: CL 1948, 722.101;—Am. 1951, p. 129, Act 97, Eff. Sep. 28;—Am. 1961, p. 256, Act 183, Eff. Sep. 8;—Am. 1965, p. 281, Act 179, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: Sections 722.101 to 722.106 are cited in §§ 205.93a and 331.404.

722.102 Child welfare agencies; standards of child care; rules; fire inspection; enforcement.

Sec. 2. (1) The department of social services, hereinafter referred to as the department, shall be responsible for the development of adequate standards of child care, and after consultation with the department of public health and the department of education shall make, prescribe and publish such rules governing child welfare agencies and foster homes, not inconsistent with the provisions of this act, as shall be deemed necessary or advisable to effect such standards, to protect the best interests of minor children, and to carry out the purpose of this act. Every agency or institution, other than a foster home, coming within the provisions of this act, whose building or buildings house minor children shall be inspected relative to their fire safety by the state fire marshal when requested by the department of social services. However, if a municipal fire department provides to the department of social services a statement that it has a municipal code or ordinance which provides for fire safety inspections and fire safety measures which are administered and enforced by a fire prevention and safety department, division or bureau maintained by the municipality and an annual certificate of inspection attesting to the fire safety of the agency or institution, then this shall be considered as complying with the fire safety inspection provision of this act. Any reasonable order of the department fixing minimum standards of care and supervision, personnel, food, sanitation and fire protection, may be enforced through injunction in the circuit court of the county where such a home or agency is located, through proper proceedings instituted by the attorney general on behalf of the department.

Educational programs, requirements.

(2) Such rules as to child welfare agencies or foster homes providing educational programs shall include requirements as prescribed by the superintendent of public instruction with regard to the educational program, qualifications of teachers, conditions under which teachers are employed, and necessary equipment and special services.

Cooperation with other agencies.

(3) In order to improve standards of child care the department shall also cooperate with the governing bodies of child welfare agencies and assist the staffs thereof through advice on progressive methods and procedures and suggestions for the improvement of services.

HISTORY: CL 1948, 722.102;—Am. 1952, p. 246, Act 185, Eff. Sep. 18;—Am. 1961, p. 259, Act 183, Eff. Sep. 8;—Am. 1968, p. 495, Act 290, Eff. Jul. 1.

722.103 Licenses; application, form; issuance; provisional licenses.

Sec. 3. No person, firm, corporation, association or organization may establish or maintain a child welfare agency or foster home unless licensed to do so by the department. Applications for such license shall be made on forms provided by the department and in the manner prescribed. Before issuing such license, the department shall investigate the activities and standards of care of the applicant and if satisfied as to the need for the agency or foster home, its financial stability, the good character and intent of the applicant, and that the equipment of the agency or foster home and its services are conducive to the welfare of children, a license shall be issued. A provisional license may be issued to any agency or foster home whose services are needed but which is temporarily unable to conform to all the rules and regulations of the department as provided in section 2 hereof. All licenses shall be in force for 1 year from the date of issuance unless revoked as authorized by section 5 of this act and shall be reissued annually on application, except that a provisional issuance may be in force for not more than 3 years. Each license shall specify in general terms the kind of child

welfare work the licensee is authorized to undertake, the number of children that can be received or maintained and their ages and sex, and whether authorized to place and supervise children in family boarding or adoptive homes.

HISTORY: CL 1948, 722.103;—Am. 1961, p. 259, Act 183, Eff. Sep. 8.

722.104 Examination; inspection of buildings; records; reports; children not placed by court or agency; notice of termination of care; records confidential.

Sec. 4. The department shall have authority at any time to investigate and examine into the conditions of any home or other place in which a licensee hereunder receives and maintains or places out children, and shall have authority at any time to examine and investigate the books and records of any licensee hereunder; and it shall be the duty of the licensee to admit the members of the department and to furnish all reasonable facilities for thorough examination of its books, records and reports. The department of health may visit any licensee to advise on matters affecting the health of children and to inspect the sanitation of the buildings used for their care. Each licensee shall keep records regarding each child in its control and care as the department may prescribe and shall report to the department, whenever called for, such facts as it may require with reference to the children upon blanks furnished by the department. Foster parents shall inform the department whenever they receive a child not related to them and not placed by the probate court or a licensed child-placing agency and give its name, sex, age, the names and addresses of the parents and the name and address of the person who placed the child in care. They shall also notify the department whenever they terminate care of the child and give the name and address of the person who received the child. All records regarding children and all facts learned about children and their parents or relatives shall be deemed confidential and disclosure of this information shall be properly safeguarded by the agency and the department.

HISTORY: CL 1948, 722.104;—Am. 1951, p. 129, Act 97, Eff. Sep. 28;—Am. 1961, p. 260, Act 183, Eff. Sep. 8.

722.105 Revocation or denial of renewal of license; notice, hearing.

Sec. 5. The department may revoke or refuse to renew any license of a child welfare agency or foster home in case the licensee shall have wilfully and substantially violated any provision of this act or the rules and regulations of the department as provided in section 2 hereof. No license shall be revoked or renewal refused, and no application for a license denied, unless the licensee or applicant shall have been given notice in writing of the grounds of such proposed revocation, denial or refusal. If the revocation, denial or refusal is protested within 30 days of receipt of the notice by a writing addressed to the Michigan social welfare commission, the commission or someone designated by it shall conduct a hearing at which an opportunity is given to the licensee or applicant to present testimony and confront witnesses. Notice of the hearing shall be given to the licensee or applicant by personal service or by delivery to the proper address by certified mail, at least 2 weeks prior to the date thereof. The decision of the commission shall be made at the meeting following the month in which the hearing was held, or sooner, and forwarded to the protesting party by certified mail within 5 days. If notice of the proposed revocation, denial or refusal is not so protested, the license may thereupon be revoked or the application therefor or the renewal thereof refused.

HISTORY: CL 1948, 722.105;—Am. 1961, p. 260, Act 183, Eff. Sep. 8.

722.106 Appeal; transcript, stay of action.

Sec. 6. Any person aggrieved by the decision of the commission following a hearing under section 3 or section 5 of this act may, within 10 days after its receipt, take an appeal or certiorari to the circuit court of the county in which he resides by filing with the clerk of the court an affidavit, setting forth the substance of the proceedings had

before the department and the errors of law or questions of fact upon which he relies, and serving any member of the department with a copy thereof.

The department shall, within 10 days of the service of the copy, file with the clerk of the court a transcript of the proceedings had before it. The circuit court shall thereupon be vested with jurisdiction to hear and determine the questions of law and fact involved, as in certiorari from justices of the peace. If the department prevails, the judgment of the circuit court shall be that the decision of the department be affirmed, and if the licensee or applicant prevails, the judgment of the court shall be that the revocation be set aside or the license issued or renewed, as the case may be. Pending the hearing of the certiorari the action of the department revoking or refusing renewal of a license shall be stayed.

HISTORY: CL 1948, 722.106;—Am. 1961, p. 280, Act 183, Eff. Sep. 8.

722.107 Placement of children in family homes.

Sec. 7. Placement of children in family homes. No person other than the parent or guardian of the person of a child or one related by blood or marriage, and no firm, corporation, association or organization, or agency thereof, other than a licensed child welfare agency or a governmental unit may place any child in the control and care of any person or place such child for adoption.

HISTORY: CL 1948, 722.107.

722.108 Violation of act; penalty.

Sec. 8. Penalty. Any person, or agent, representative or officer of any firm, corporation, association, or organization, who violates any of the provisions of this act shall upon conviction, be deemed guilty of a misdemeanor; and shall be fined not less than \$25.00 nor more than \$100.00 or imprisoned in the county jail not less than 30 days nor more than 90 days, or both such fine and imprisonment in the discretion of the court. Whenever any agent, representative, or officer of any firm, corporation, association, or organization shall be convicted under authority of this act, such conviction shall be sufficient ground for the revocation of the license of any such firm, corporation, association, or organization, and the person so convicted shall not be granted a license or be permitted to be connected directly or indirectly with any licensee for a period of 10 years thereafter.

HISTORY: CL 1948, 722.108.

PENAL CODE: See Compilers' § 750.144.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 300, 1913, CL 1929, 12860-12868; Act 136, 1919, CL 1929, 12869-12876.

Act 296, 1968, p. 500; Eff. Nov. 15.

AN ACT to prohibit the aiding or abetting of violations of juvenile court orders or to harbor juvenile runaways; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

722.151 Aiding or abetting violations by juveniles, or harboring runaways prohibited.

Sec. 1. No person shall knowingly and wilfully aid or abet a child under the age of 17 years to violate an order of a juvenile court or knowingly and wilfully conceal or harbor juvenile runaways who have taken flight from the custody of the court, their parents or legal guardian.

HISTORY: New 1968, p. 500, Act 296, Eff. Nov. 15.

722.152 Violation of act; penalty.

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned not more than 1 year, or both.

HISTORY: New 1968, p. 500, Act 296, Eff. Nov. 15.

Act 158, 1937, p. 246; Imd. Eff. Jul. 8.

AN ACT to declare the policy of the state of Michigan with reference to crippled children; to provide for the appointment of, and to prescribe the powers and duties of the Michigan crippled children commission; to provide for the registration, examination, diagnosis, treatment, follow-up supervision, convalescent and custodial care and education of crippled children; to provide for the establishment, maintenance and conduct of hospital schools for convalescent crippled children; to prescribe the duties of the superintendent of public instruction with reference to the education of convalescent crippled children; and to provide for, and regulate the making of appropriations to carry out the purposes of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1945, p. 256, Act 187, Imd. Eff. May 16.

The People of the State of Michigan enact:

TITLE I. POLICY OF STATE.

722.201 Policy of state as to crippled children.

Sec. 1. Policy of state. It is hereby declared to be the public policy of the state to develop, extend, and improve, especially in rural areas, services for locating children who are suffering from conditions which lead to crippling and for providing medical, surgical, corrective, and other services and care, including after care and custodial care when necessary, and facilities for diagnosis, hospitalization, and special education for crippled children as herein provided; and to prevent, insofar as possible, such crippling conditions. Such policy being based not only on humanitarian but on economic considerations, it shall be carried out not only for the purpose of providing medical and physical care for crippled children, but for the purpose of making them self-sustaining in whole or in part, rather than charges on the public for support.

HISTORY: CL 1948, 722.201.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 722.201 to 722.244 are cited in §§ 16.532, 712A.25, and 720.551.

TITLE II. DEFINITION OF CRIPPLED CHILD.

722.202 Crippled child; definition.

Sec. 2. Definition. For the purposes of this act a crippled child is hereby defined to be one under 21 years of age, married or unmarried, whose activity is or may become so far restricted by defect or deformity of bones or muscles, or the impairment of function thereof, as to reduce his or her normal capacity for education and self-support.

HISTORY: CL 1948, 722.202.

TITLE III. MICHIGAN CRIPPLED CHILDREN COMMISSION.

722.203 Michigan crippled children commission; members, appointment, vacancies, oath, compensation and expenses; body corporate, powers.

Sec. 3. Appointment, vacancies. There shall be appointed by the governor, by and with the advice and consent of the senate, a commission composed of 5 members, to be known as the Michigan crippled children commission, hereinafter referred to as the commission. Two of such members shall be appointed to serve for a period of 1 year, 2 for 2 years and 1 for a period of 3 years, and each year thereafter there shall be ap-

pointed 2 members or 1 member, as the case may be, to serve for the full term of 3 years or until their successors are appointed and qualified. All vacancies shall be filled by appointment by the governor. Each member of the commission shall take and subscribe to the oath of office required by law. Such members shall serve without compensation, but shall be entitled to their actual traveling expenses. Such commission shall be a body corporate and may contract and be contracted with, sue and be sued, and do all things necessary to perform the duties required and to execute the powers vested in the commission by law.

HISTORY: CL 1948, 722.203.

722.204 Crippled children commission; powers and duties.

Sec. 4. Specific powers and duties. The commission shall have power (1) to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it; (2) to make rules governing its procedure; (3) to select a chairman and a vice-chairman who shall serve without compensation, for the term of 1 year, and to employ a director who shall be a regularly qualified and licensed physician of the state of Michigan, a secretary and any other personnel necessary for the carrying out of the provisions of this act, and other necessary and properly qualified office and field employees, who shall serve during the pleasure of the commission, and receive necessary traveling expenses and salaries to be fixed by the commission; and (4) to make and enforce rules and regulations concerning employees serving the commission, the approval of hospitals, convalescent homes and orthopedic centers, the conduct of clinics, the handling of cases, the providing of hospital schools, and in cooperation with the auditor general the fixing of fees and institutional rates, the payment of bills, and the carrying out of all of the provisions of this act imposing duties upon it.

HISTORY: Am. 1943, p. 370, Act 227, Imd. Eff. April 20;—CL 1948, 722.204.

722.205 Crippled children commission; program of services, administration.

Sec. 5. Services for crippled children. The commission is hereby designated as the agency of the state to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it. The purpose of such program shall be to develop, extend and improve services for locating such children, and for providing for medical, surgical, corrective, and other services and care, including after care and custodial care, and for facilities for diagnosis, hospitalization and special education.

HISTORY: CL 1948, 722.205.

722.206 Crippled children commission; plans; cooperation with federal government.

Sec. 6. Plan or plans; cooperation with federal government. The commission is hereby authorized:

(a) To formulate and administer a detailed plan or plans for purposes specified in section 5, and make such rules and regulations as may be necessary or desirable for the administration of such plans and the provisions of this act. Any such plan shall include provisions for

- (1) Financial participation by the state;
- (2) Administration of the plan or plans by the commission, and supervision by the commission of the administration of those services included in the plan or plans which are not administered directly by it;
- (3) Such methods of administration as are necessary for efficient operation of the plan or plans;

- (4) Maintenance of records and preparation of reports of services rendered;
 - (5) Cooperation with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation and special education of physically handicapped children;
 - (6) Carrying out the purposes specified in section 5.
- (b) To expend in accordance with such plan or plans all funds made available to the state by the federal government for such purposes.
- (c) To cooperate with the federal government, under part 2, title 5 of the federal social security act, through its appropriate agency or instrumentality, in developing, extending, and improving such services, and in the administration of such plan or plans.

HISTORY: CL 1948, 722.208.

722.207 Crippled children commission; acceptance of gifts; trust fund.

Sec. 7. Bequests; trust fund. The said commission shall have power and authority to receive and hold the title to property, both real and personal, by gift, devise, bequest and conveyance, to be used by said commission for the purpose of carrying out the provisions of this act, and all property so accepted shall be held and used as a trust fund for the purposes for which received.

HISTORY: CL 1948, 722.207.

722.208 Crippled children commission; books and accounts; report.

Sec. 8. Books and accounts; report. The books and accounts of the commission shall be open at all times for examination. The commission shall make a biennial report to the governor and the state administrative board showing the amount of money received and expended and a detailed statement of its activities for said period, and a copy of such report shall be furnished each member of the legislature at its first session following the filing of such report with the governor.

HISTORY: CL 1948, 722.208.

TITLE IV. REGISTRATION OF CRIPPLED CHILDREN.

722.209 Registration of crippled children; forms.

Sec. 9. Forms. The forms prepared by the superintendent of public instruction for the enumeration of children of school age in this state, as provided by law, shall contain space for the special enumeration of crippled children as defined in this act. On supplementary blanks to be printed and furnished by the commission, shall be shown such information as shall be required by the commission for such children from birth to 21 years of age.

HISTORY: CL 1948, 722.209.

722.210 Duties of census enumerators.

Sec. 10. Duties of census enumerators. Each school census enumerator shall register in the space and on the blanks prescribed by section 9 every crippled child as herein defined within his school district or subdivision thereof, and make report thereof to the superintendent of public instruction.

HISTORY: CL 1948, 722.210.

722.211 Duty of superintendent of public instruction.

Sec. 11. Duty of superintendent of public instruction. The superintendent of public instruction shall forthwith forward to the secretary of the commission the supplementary reports as herein required.

HISTORY: CL 1948, 722.211.

722.212 Investigation and report.

Sec. 12. Investigation and report. It shall be the duty of the commission, upon receipt of the completed supplementary school census reports, to cause to be investigated in collaboration with local authorities the needs of such children and to arrange for their proper care and education, as provided for in this act.

HISTORY: CL 1948, 722.212.

TITLE V. EXAMINATION AND DIAGNOSIS.

722.213 Examination and diagnosis; holding of clinics.

Sec. 13. Holding of clinics. It shall be the duty of the commission to hold diagnostic clinics for crippled children in such places and at such times as circumstances and conditions may warrant. Preparations for, and the organization and administration of, such clinics shall be under the direction of the commission, which shall make suitable rules for their conduct.

HISTORY: CL 1948, 722.213.

722.214 Surgeons and specialists; reports.

Sec. 14. Surgeons and specialists; reports. The orthopedic surgeons and other necessary medical specialists who are to examine children at clinics shall be chosen by the commission in cooperation with the local county medical societies. It shall take detailed stenographic reports of the examining specialists at the clinics, including their recommendations, and prepare special blanks upon which such reports are to be recorded. Copies of such reports shall be furnished to properly interested persons and agencies in the counties where the respective children have their residences, including parents who are able to pay any part of the costs of the treatment recommended.

HISTORY: CL 1948, 722.214.

TITLE VI. TREATMENT.

722.215 Treatment; investigation; financial and medical reports.

Sec. 15. Whenever there is found in any county a crippled child, whose condition can be remedied and whose parents or spouse are unable to provide proper care and treatment, application shall be made to the representative of the commission, or such person or agency as shall be designated by the commission who shall make a financial investigation and secure a certificate showing the physical and mental condition of such child. A copy of the report of such financial investigation and of the report of a duly licensed practitioner of medicine with reference to such child shall be forwarded to the commission.

HISTORY: CL 1948, 722.215;—Am. 1963, p. 138, Act 107, Eff. Sep. 6.

722.216 Order of commission; responsibility.

Sec. 16. Upon the receipt of the medical and financial reports, the commission shall promptly consider the matter and make a determination with reference thereto. If found eligible, the commission shall issue an authorization that such child be conveyed to a hospital in the state which has been approved and designated by the commission for the care of such children. The commission shall be charged with the responsibility for the proper handling of the case, and may transfer such child to some other hospital for treatment better adapted to its needs, or because of lack of room or facilities, or for other adequate reason, the intent of this provision being that it shall be the duty of the commission to secure for each child such care and treatment as the particular necessities of the case may require.

HISTORY: CL 1948, 722.216;—Am. 1963, p. 138, Act 107, Eff. Sep. 6.

722.217 Designation of hospitals.

Sec. 17. Designation of hospitals. Any hospital approved by the American college of surgeons may be approved by the commission, if it maintains orthopedic equipment

and convalescent and educational facilities including qualified instructional service and an attending orthopedic surgeon and other specialists approved by the commission.

HISTORY: CL 1948, 722.217.

722.218 Hospital reports; progress reports; convalescent rates.

Sec. 18. Approved hospitals receiving patients under the provisions of this act shall report within 14 days to the commission, on blanks to be provided by the commission for that purpose, the dates of admission to and discharge from such hospital, the name of the approved physician or the surgeon who operated, and such other information as the commission may require, and a copy of such report shall be sent by the commission to any other properly interested person or agency of the county from which such patient was sent. A discharge report giving the date of discharge and such other information as the commission may require must be filed within 30 days from date of discharge. Each approved hospital shall report progress to the commission on the treatment of all crippled children remaining in such hospital in excess of 15 days in the manner required by the commission, but when the progress report submitted by the hospital does not indicate the need for further acute care, the convalescent rates established by the commission shall prevail.

HISTORY: Am. 1943, p. 370, Act 227, Imd. Eff. Apr. 20;—Am. 1945, p. 320, Act 227, Imd. Eff. May 24;—CL 1948, 722.218;—Am. 1954, p. 493, Act 199, Eff. Aug. 13;—Am. 1963, p. 138, Act 107, Eff. Sep. 6.

722.219 Hospital care and treatment.

Sec. 19. Hospital care and treatment. It shall be the duty of the superintendent of such hospital to provide a bed in the hospital to which such child shall be assigned for operation or treatment or both of the deformity or malady in the particular case and the care and treatment of such child. The physician or surgeon approved by the commission shall proceed as promptly as necessary to perform such operation or to bestow such treatment upon such child as in his judgment shall be proper. No compensation shall be charged or allowed to the admitting physician nor to the physician or surgeon at the hospital of the university of Michigan who shall treat such child other than is provided for in this act.

HISTORY: CL 1948, 722.219.

TITLE VII. EDUCATION.

722.220 Education; hospital schools for convalescent crippled children, provision.

Sec. 20. Hospital schools. Hospital schools for educational training for convalescent crippled children shall be provided by the hospital authorities in approved hospitals of the state receiving crippled children for treatment as may in the judgment of the superintendent of public instruction be deemed advisable.

HISTORY: Am. 1945, p. 256, Act 187, Imd. Eff. May 16;—CL 1948, 722.220.

722.221 Hospital schools for convalescent crippled children; requirements.

Sec. 21. Requirements. All courses of study, attendance record systems, the adequacy of methods of instruction, the qualifications of teachers, the conditions under which teachers are employed and the purchase of necessary equipment for the instruction of such children in hospital schools shall comply with the requirements prescribed by the state superintendent of public instruction.

HISTORY: CL 1948, 722.221.

722.222 Hospital schools for convalescent crippled children; records and reports.

Sec. 22. Records; reports. Hospital schools shall keep daily records on the regular child accounting forms used in the public schools in the state, showing all children ac-

tually receiving instruction. Said hospital schools shall transmit such reports to the superintendent of public instruction as he shall request.

HISTORY: Am. 1945, p. 257, Act 187, Imd. Eff. May 16;—CL 1948, 722.222.

TITLE VIII. ORTHOPEDIC CENTERS.

722.223 Orthopedic centers; minor orthopedic cases; out-patient and convalescent; follow-up supervision.

Sec. 23. Minor orthopedic cases; out-patient and convalescent department; follow-up supervision. The commission may from time to time establish treatment and educational centers in various districts of the state, where, in the opinion of the commission it is necessary to give clinical examination, treatment of minor orthopedic conditions, out-patient treatment and education and follow-up supervision, including convalescent periods for patients from approved and designated hospitals provided for in section 17 of this act. For this purpose the commission may designate and approve local hospitals and surgeons and convalescent schools for the care and education of such convalescent patients, and those suffering from minor orthopedic maladies, and fix their compensation therefor.

HISTORY: CL 1948, 722.223.

722.224 Commitment; responsibility.

Sec. 24. The commission may authorize the conveying of any such children to any such center, and shall be charged with the responsibility for and the care and treatment of such children to the same extent as provided in section 16.

HISTORY: CL 1948, 722.224;—Am. 1963, p. 139, Act 107, Eff. Sep. 6.

TITLE IX. CUSTODIAL CASES.

722.225 Custodial case; definition.

Sec. 225. Definition. A custodial case shall be deemed to be that of a person, under 21 years of age, who, because of his or her physical handicap, can improve very little or not at all by orthopedic treatment; who needs dependent care, either total or partial; who, under normal conditions, cannot be profitably educated, vocationally trained or placed in remunerative employment; but who may, under proper conditions especially provided, be enabled to contribute to his or her own partial support or well-being.

HISTORY: CL 1948, 722.225.

722.226 Custodial cases; care and education.

Sec. 26. Care and education. The commission shall have power and it shall be its duty to arrange for the care and education of crippled children requiring custodial care, for whom no other provision is made: Provided, That such persons committed before attaining the age of 21, shall continue thereafter to receive such care and education if considered by the commission necessary and proper. Custodial care shall be given by the commission on the order of the probate court in family homes or private or public institutions which are suitable and licensed by the state under Act No. 136 of the Public Acts of 1919 and Act No. 300 of the Public Acts of 1913, as amended, respectively.

HISTORY: CL 1948, 722.226.

NOTE: The acts above referred to were repealed and superseded by Act 47, 1st Ex. Ses., 1944, being Compilers' § 722.101 et seq.

TITLE X. FINANCE.

722.227 Finance; expenses of commission.

Sec. 27. Expenses of commission. The expenses of the commission in carrying out the provisions of this act shall be paid pursuant to appropriations made from time to time out of the general fund: Provided, however, That if any funds are made available

to the commission by gift or grant, they shall be expended in accordance with the provisions of such gift or grant.

HISTORY: CL 1948, 722.227.

722.228 Expense of clinic.

Sec. 28. Expense of clinics. The per diem compensation of orthopedic surgeons and medical specialists in diagnostic clinics shall be fixed by the commission in cooperation with the auditor general and paid in addition to necessary traveling expenses. The commission may also incur and pay any other incidental expense for service in connection with the holding of such clinics.

HISTORY: CL 1948, 722.228.

722.229 Cost of investigation and reports.

Sec. 29. Cost of investigations and reports. The costs of the investigational and medical reports required by section 15 of this act shall be paid by the state according to such schedule of fees and expenses as shall be adopted by the commission.

HISTORY: CL 1948, 722.229.

722.230 Hospital accounting; ward cost; professional fees; charging for services; schedule of fees and rates.

Sec. 30. The superintendent of the approved hospital shall keep a correct account of all hospital, boarding or convalescent homes services, including all ordinary care and such other necessities furnished to said child in accordance with the hospital, convalescent or boarding home rates as fixed by the commission.

The hospitals' financial records shall be open to audit by any person designated by the commission. The commission shall pay for the day of admission but not for the day of discharge.

Each hospital shall be paid not in excess of \$25.00 or 90% whichever is greater of their adjusted ward cost for each day of acute care rendered under this act. The commission shall use the adjusted ward cost as determined for the previous fiscal year in accordance with the principles of the official accounting and statistics handbook of the American hospital association. No hospital shall be paid more per patient day than is charged private patients for ward care. No hospital shall be paid more for patient day than is charged for the ward care of patients whose care is paid for out of county funds. Effective July 1, 1964, professional fees shall not exceed 80% of "The Michigan uniform fee schedule for governmental welfare agencies, effective July 1, 1959". Said superintendent and physician shall make and file with the commission affidavits containing itemized statements of such services rendered. No compensation shall be charged or allowed to the admitting physician of any hospital; or to any physician, surgeon or nurse who shall attend or treat any such child at the hospital of the university of Michigan, other than the salary or compensation paid to such person by that hospital. The university hospital may charge for the service of its resident staff if such child has medical or surgical insurance coverage, said charge to be against the medical service or insurance company providing that service. Any physician or surgeon except residents treating any such child at any hospital other than the hospital of the university of Michigan shall bill the commission for compensation as fixed by the commission and be paid by a separate warrant drawn to his order and forwarded to him at his professional address. This affidavit and statement shall in all instances be furnished not later than 45 days after the release or discharge of a child from the hospital. The commission shall fix schedules of compensation to be paid to any hospital, physician or sur-

geon for the clinical examination, treatment and outpatient care of a crippled child. The schedules of fees and rates herein provided for shall be established and published by the commission at such times as the commission may deem necessary.

HISTORY: Am. 1943, p. 370, Act 227, Imd. Eff. April 20;—Am. 1945, p. 320, Act 227, Imd. Eff. May 24;—Am. 1947, p. 376, Act 248, Eff. Oct. 11;—CL 1948, 722.230;—Am. 1949, p. 336, Act 254, Imd. Eff. Jun. 7;—Am. 1951, p. 225, Act 178, Imd. Eff. Jun. 8;—Am. 1954, p. 493, Act 199, Eff. Aug. 13;—Am. 1955, p. 228, Act 158, Imd. Eff. Jun. 7;—Am. 1959, p. 287, Act 190, Imd. Eff. Jul. 22;—Am. 1963, p. 143, Act 109, Eff. Jul. 1;—Am. 1964, p. 262, Act 191, Imd. Eff. May 20;—Am. 1965, p. 382, Act 219, Imd. Eff. Jul. 16.

722.231 Hospital expense, doctor fees and transportation; audit and payment.

Sec. 31. Upon filing the affidavit with the commission, it shall audit the same according to the rates fixed by section 30 and transmit to the department of administration the affidavit which shall be audited in accordance with the general accounting laws of the state and forwarded to the state treasurer for payment. All expenses incurred in conveying crippled children to and from any such hospital, when fully itemized, audited and approved by the commission, shall be paid out of the general fund of the state. The expense of sending such children home may be paid by the hospital, and, when fully itemized as traveling expense, charged in the regular bill for maintenance with the approval of the commission. The compensation as fixed by the commission in accordance with section 30 shall be paid to the approved physician or surgeon performing services hereunder, by a separate warrant drawn to his order, except at the hospital of the university of Michigan. The warrant of the state treasurer shall be made payable to the particular hospital or physician rendering services hereunder and delivered to it or him in payment of such services.

HISTORY: Am. 1947, p. 377, Act 248, Eff. Oct. 11;—CL 1948, 722.231;—Am. 1963, p. 139, Act 107, Eff. Sep. 6.

722.232 Payment by parent or spouse; adjustment of agreement.

Sec. 32. Such portion of the charges for the care and treatment of the children whose parents or spouses are of sufficient ability to pay shall be paid to the state commissioner of revenue by such persons, in such amount, and at a rate to be determined by agreement with the commission. Upon admission to an institution of such a child, the commission shall furnish the commissioner of revenue such information as may be required to keep a correct account of all moneys due the state from such parent or spouse. Payment of these costs by the parent or spouse shall be made to the commissioner of revenue in accordance with the agreement, and the commissioner of revenue shall duly credit the account and forward the moneys received to the state treasurer, who shall credit these payments to the fund for the cost of the care of crippled children under this act. The state shall be subrogated to the rights of recovery which a parent, husband or guardian may have for the cost of hospitalization, or surgical or medical treatment of a minor child to the extent that the state has expended funds for such care and treatment of the child. The parent, husband or guardian shall execute and deliver an assignment of claim or other papers as necessary to secure the rights to the state. The commissioner of revenue with the written recommendation of the attorney general's department, and, when deemed for the best interests of the state, because of undue hardship to liable persons or other meritorious reason, may adjust any amount due under any agreement to reimburse the state, accept and receipt for any adjusted amount which will be in lieu of actual expenditure incurred on the part of the commission.

HISTORY: Am. 1943, p. 371, Act 227, Imd. Eff. April 20;—CL 1948, 722.232;—Am. 1952, p. 402, Act 245, Eff. Sep. 18;—Am. 1963, p. 139, Act 107, Eff. Sep. 6;—Am. 1969, p. 364, Act 185, Imd. Eff. Aug. 5.

722.233 Educational program; funds in budget; reimbursement by state.

Sec. 33. The hospital authorities conducting educational programs approved by the superintendent of public instruction shall include in their budgets a sufficient fund to provide the instructional program. To reimburse the hospital for such expenditures as are approved, the state treasurer is hereby authorized to pay to the treasurer of the

proper hospital, out of the general fund of the state, on or before the following December fifteenth of each year, upon the warrant of the auditor general, the actual expense incurred for reimbursable items for such educational programs which shall have been conducted in accordance with the regulations of the superintendent of public instruction: Provided, That no hospital may be reimbursed under this act for which financial aid is paid under any other state or federal act: Provided further, That should the legislative appropriation for this purpose be less than the approved claims, the superintendent of public instruction shall make an equal percentage cut in reimbursement to each hospital.

HISTORY: Am. 1945, p. 257, Act 187, Imd. Eff. May 16;—CL 1948, 722.233.

722.234 Treatment and educational centers; payment of costs.

Sec. 34. The accounting of the costs incurred under authorizations pursuant to section 24 and the payment thereof from the general fund through the department of administration, including conveyance costs as provided by law contracted for by the commission, shall be made in the same manner as in the case of authorizations to hospitals under this act.

HISTORY: CL 1948, 722.234;—Am. 1963, p. 139, Act 107, Eff. Sep. 6.

722.235 Custodial care; payment of costs.

Sec. 35. Payments for necessary transportation and for custodial care shall be made in the same manner, and subject to the same limitations, as for other crippled children cared for under this act. Fifty per cent of the costs of care in each case shall be recharged by the state to the county in which the custodial crippled child is domiciled, upon the presentation of bills for such care approved by the commission.

HISTORY: CL 1948, 722.235;—Am. 1963, p. 140, Act 107, Eff. Sep. 6.

722.236 Payment by state not pauper aid.

Sec. 36. Payment by state not pauper aid. Such charges as are paid by the state shall not be deemed to have been paid as state or pauper aid, and no person shall be deemed a pauper in consequence of his inability to pay for the care, treatment and education of a child in said hospital or in an approved hospital school.

HISTORY: CL 1948, 722.236.

722.237 Appropriations; allocations; emergencies, epidemics.

Sec. 37. The cost of carrying out the provisions of this act shall be paid from money appropriated for that purpose by the legislature. Appropriations under this act made for the uses of the commission and to reimburse the general fund for expenditures hereunder shall be separate and apart from the appropriations under any other act. The appropriations for the crippled children commission shall be allotted in accordance with a schedule to be submitted by the commission and recommended for approval by the state budget director to the state administrative board on or before the beginning of each fiscal year. Said schedule shall be based upon the equitable allocation to counties of the appropriations provided herein for the treatment of crippled children, which allocations shall be based solely upon the resources and needs of the respective counties, any other provision to the contrary notwithstanding. Nothing in this section shall prevent a revision of such schedule during the fiscal year when necessary to meet emergency conditions. It is the purpose of this section to so limit the liability of the state that the state will not be required to spend funds beyond the amount of each such appropriation. This section shall be so construed as to effect this purpose and it shall be absolutely binding upon every official or body concerned in the administration of the aforesaid appropriations. In administering the budget the commission shall have the power to surcharge the county for excessive hospitalization of any case, and in its discretion shall return to the county responsible therefor, bills for such excessive hospitalization, who shall order such sums paid from the general funds of the

county, but no county shall be liable for excessive hospitalization in such events as epidemics or emergencies requiring use of the provisions of this act.

HISTORY: Am. 1943, p. 371, Act 227, Imd. Eff. April 20;—CL 1948, 722.237;—Am. 1963, p. 140, Act 107, Eff. Sep. 6.

722.238 Disposition of income.

Sec. 38. Disposition of income. All sums paid to the commission for the training of crippled children shall be paid promptly by the commission into the state treasury to be credited to the hospital bedside education fund to be disbursed for the benefit of pupils in approved hospital schools. All money, securities or like personal property received by said commission by gift, devise, or bequest, shall be paid promptly into the state treasury to be credited to the fund of the state of Michigan, designated by the donor or the commission. The income from all notes, stocks, bonds or other securities shall likewise be paid promptly into the state treasury to be also credited to the fund so designated and to be likewise disbursed. The treasurer of the commission shall give a bond to the state of Michigan in such amount as shall be by the governor from time to time prescribed.

HISTORY: CL 1948, 722.238.

722.239 Funds received from federal government.

Sec. 39. Funds received from federal government. The state treasurer shall (1) receive all funds granted to the state by the federal government under the provisions of section 6 of this act; (2) act as custodian of such funds; (3) keep them in a special fund to be known as "the fund for services for crippled children," or other designation; (4) and disburse the funds upon certification by the treasurer of the commission.

HISTORY: CL 1948, 722.239.

TITLE XI. MISCELLANEOUS.

722.240 Provisions of act not compulsory.

Sec. 40. Provisions of act not compulsory. No official or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them or the person standing in loco parentis or having other custody of such child, and nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

HISTORY: CL 1948, 722.240.

Sec. 41. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 236, 1927, CL 1929, 12896-12909.

Sec. 42. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

722.243 Crippled children's act; short title.

Sec. 43. This act may be known and cited as the "Crippled Children's Act".

History: CL 1948, 722.243.

722.244 Violation of act; penalty.

Sec. 44. Any person found guilty of wilfully making a false statement or of wilfully giving false information for the purpose of securing aid under this act, shall be punished by a fine of not more than 500 dollars or imprisonment in the county jail for not more than 90 days, and any official of any hospital or any physician who shall bill the state for the care of a patient in accordance with the fee schedules established under

this act, and also attempt to force any parent, relative or guardian of such patient to pay an additional sum for such care, and who shall be found guilty thereof, shall be punished in the same manner.

HISTORY: CL 1948, 722.244.

Act 283, 1939, p. 545; Imd. Eff. Jun. 16.

AN ACT to declare the policy of the state of Michigan with reference to afflicted children; to provide for the medical and surgical treatment of children who are afflicted with a curable malady or are pregnant, and whose parents or guardians are unable to provide proper treatment; to prescribe the function of the probate court and the Michigan crippled children commission in such cases; to provide for, and regulate the making of appropriations to carry out the purposes of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

722.301 Policy of state as to afflicted children; commission.

Sec. 1. Policy of state. It is hereby declared to be the public policy of the state to provide medical and surgical treatment for afflicted children as hereafter defined. The authority for the administration of this act is hereby vested in the Michigan crippled children commission, hereinafter known as the commission.

HISTORY: Am. 1943, p. 365, Act 225, Imd. Eff. April 20;—CL 1948, 722.301.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 722.301 to 722.325 are cited in §§ 712A.25 and 720.551.

722.302 Afflicted child; definition.

Sec. 2. Definition. For the purposes of this act, an afflicted child is hereby defined to be any child under 21 years of age, married or unmarried, whose parents or guardians have resided in this state for 1 year, who is afflicted with a physical defect or illness which can be remedied, including acute fracture, or who is pregnant.

HISTORY: CL 1948, 722.302.

722.303 Michigan crippled children commission; powers and duties; director and employees.

Sec. 3. Commission; specific powers and duties. The commission shall have power here conferred (1) to administer this act, as hereinafter provided and to this end may employ a director who shall be a regularly qualified and licensed physician of the state of Michigan, a secretary and any other personnel necessary for the carrying out of the provisions of this act; (2) to adopt, alter, amend and rescind rules and regulations to carry out its provisions; (3) to administer a program of services for the afflicted child as defined in section 2 of this act; (4) to make and enforce rules and regulations concerning employees serving the commission, the approval of hospitals and of treatment and the handling of cases; the approval of convalescent homes, boarding homes, caring for afflicted children as herein defined; (5) the fixing of fees and institutional rates and the approval of bills. The said commission may in its discretion accept from private agencies, groups, associations, or individuals, funds or subscriptions to provide through its appropriate agency or instrumentality in developing, extending, and improving services for afflicted children and the administration thereof.

HISTORY: Am. 1943, p. 366, Act 225, Imd. Eff. April 20;—CL 1948, 722.303.

722.304 Michigan crippled children commission; books and accounts; report to governor.

Sec. 4. Books and accounts; report. The commission shall keep such books and accounts as it deems necessary to adequately record and control its transactions and fur-

nish data necessary for policy determination. The commission shall make a biennial report to the governor and the state administrative board showing the amount of money received and expended and a detailed statement of its activities for said period, and a copy of such report shall be furnished each member of the legislature at its first session following the filing of such report with the governor.

HISTORY: CL 1948, 722.304.

722.305 Application for treatment, investigation and report; wards of court.

Sec. 5. Whenever there is found in any county an afflicted child whose conditions can be remedied and whose parents or spouse are unable to provide proper care and treatment in whole or in part, application for treatment shall be made to the representative of the commission or such person or agency as shall be designated by the commission who shall make an investigation into the financial condition of the family. The report of such investigation together with the written certificate of the physician or surgeon showing the physical and mental condition with reference to the child shall be forwarded to the commission. The commission shall approve or reject the application, and if approved, issue an authorization that the child be conveyed by a person approved by the commission to a hospital in the state selected by the attending physician, and which has been approved and designated by the commission for the care of afflicted children. Application for admitting an afflicted child to an approved hospital as a state charge shall be made not later than 10 days from date of admission. The order shall carry the date of application, and the effective date of the order which in no case shall be earlier than 10 days prior to date of the application. Application may be made by the father, mother, guardian, next of kin, husband or wife, any peace officer, custodian, health officer or publicly employed physician or surgeon, or anyone else whom the commission in its discretion approves. Children who are permanent wards of the juvenile division of the probate court or have been committed to the state department of social welfare, the rights of whose parents have been terminated, shall be eligible for care under this act without further financial investigation.

HISTORY: Am. 1943, p. 366, Act 225, Imd. Eff. April 20;—CL 1948, 722.305;—Am. 1963, p. 141, Act 106, Eff. Sep. 6.

722.306 Order of commission; responsibility.

Sec. 6. Upon the issuance of the authorization the commission shall become charged with the responsibility for the proper handling of the case. The commission may transfer the child to some other hospital for treatment better adapted to its needs, or if the condition of the child becomes such that it classifies as a crippled child, the commission shall transfer the child to a hospital approved for the care of crippled children under the crippled children's act, the intent of this act being that the commission shall secure for each child such care and treatment as the particular necessities of the case, in the opinion of the commission, may require.

HISTORY: Am. 1943, p. 366, Act 225, Imd. Eff. April 20;—CL 1948, 722.306;—Am. 1963, p. 141, Act 106, Eff. Sep. 6.

722.307 Approval of hospitals.

Sec. 7. Designation of hospitals. Any hospital which fulfills the requirements as set forth in the rules and regulations of the Michigan crippled children commission in force pursuant to the provisions of this act may be approved for the care of the afflicted child as herein defined: Provided, however, That the neuropsychiatric institute shall not receive compensation for patients admitted under this act: And provided further, That approval of a hospital under this act shall not include performance of operations for sterilization of mental defectives as provided by Act 281 of the Public Acts of 1929.

HISTORY: Am. 1943, p. 367, Act 225, Imd. Eff. April 20;—Am. 1945, p. 289, Act 218, Imd. Eff. May 18;—CL 1948, 722.307.

NOTE: Act 281, 1929, above referred to, is Compilers' § 720.301 et seq.

CITED IN OTHER SECTIONS: The above section is cited in § 331.652.

722.308 Admittance to hospital; reports; convalescent rates.

Sec. 8. Approved hospitals receiving patients under the provisions of this act shall promptly report to the commission on blanks to be provided by the commission for that purpose, the date and hour of admission to and discharge from such hospital, the name of the physician and/or the surgeon who is in attendance, and such other information as the commission may require. Notification of the admittance of an afflicted child shall be made to the commission by the superintendent of the hospital within 14 days. A discharge report, giving the date of the discharge, and such other information as the commission may require, must be filed within 30 days from date of discharge. No bill for the care of a child shall be approved unless an entrance and discharge report has been filed with the commission. Each approved hospital shall report progress to the commission on the treatment of all afflicted children remaining in such hospital in excess of 15 days in the manner required by the commission: Provided, That when the progress report submitted by the hospital does not indicate the need for further acute care, the convalescent rates established by the commission shall prevail.

HISTORY: Am. 1943, p. 367, Act 225, Imd. Eff. April 20;—Am. 1945, p. 321, Act 228, Imd. Eff. May 24;—CL 1948, 722.308;—Am. 1954, p. 492, Act 198, Eff. Aug. 13.

722.309 Hospital care and treatment; transfer of patients.

Sec. 9. Hospital care and treatment. It shall be the duty of the superintendent of said hospital, upon receiving such child, to provide such child with proper hospital service, either in the in-patient or out-patient service of the hospital. The staff of the hospital shall be responsible for the prompt and proper medical or surgical treatment of the child except where such child is under the care of a private physician or surgeon. No child shall be sent to or received into said hospital unless there is a reasonable chance for him to be benefited by the proposed medical or surgical treatment, and as an aid to the diagnosis, prognosis and treatment of such case, a complete history of each case shall be furnished to the hospital and the commission by the examining physician upon request. Any child who shall be diagnosed after admission as a crippled child as defined by the crippled children's act, or as suffering at admission only from acute pulmonary tuberculosis, or only from any other communicable disease, or only from an incurable mental illness or defect shall be retained in the hospital under this act only for such period as may be necessary to discharge him to his home or to the jurisdiction of some other state act for the care of afflicted children. Appropriate rules and regulations may be adopted to effectuate the transfer of patients pursuant to this section.

HISTORY: CL 1948, 722.309.

722.310 Boarding homes; convalescent and out-patient service.

Sec. 10. Boarding homes; convalescent and out-patient service. An afflicted child who has been assigned to an approved hospital whose treatment can be rendered through the out-patient department of that hospital, may be assigned by the commission to a boarding or convalescent home approved by the state department of public welfare, and supervised by that department, or any other agency approved by the commission, the cost of such convalescent or boarding care and treatment to be billed to the state as provided for in the rules and regulations and in accordance with the rates and fees set by the commission.

HISTORY: CL 1948, 722.310.

722.311 Expenses of commission and treatment; appropriations.

Sec. 11. Expenses of commission. Expenses of the commission in carrying out the provisions of this act shall be paid pursuant to appropriations made by the legislature from time to time out of the general fund of the state. Appropriations for the purposes

of this act made to pay the cost of investigations and treatment and for the use of the commission shall be made to the commission and shall be separate and apart from appropriations to make effective the provisions of any other act.

HISTORY: CL 1948, 722.311.

722.312 Cost of investigation; claims.

Sec. 12. Cost of investigation and report. The cost of the economic and medical investigation by this act shall be paid by the state according to such schedule of fees and expenses as shall be adopted by the commission: Provided, That no person in the employ of the state or any county shall be allowed any compensation or traveling expense other than that provided by law. All claims for compensation shall be itemized for each child and rendered monthly under oath to the commission. When such claims are found to be correct and approved, they shall be paid out of the general fund of the state, appropriated for that purpose.

HISTORY: CL 1948, 722.312.

722.313 Hospital accounting; ward cost; professional fees; schedule of fees and rates.

Sec. 13. The superintendent of the approved hospital shall keep a correct account of all hospital boarding or convalescent home services, including all ordinary care and such other necessities furnished to said child, in accordance with the hospital, convalescent or boarding homes' rates as fixed by the commission.

The hospitals' financial records shall be open to audit by any person designated by the commission. The commission shall pay for the day of admission but not for the day of discharge.

Each hospital shall be paid not in excess of \$25.00 or 90% whichever is greater of their adjusted ward cost for each day of acute care rendered under this act. The commission shall use the adjusted ward cost as determined for the previous fiscal year in accordance with the principles of the official accounting and statistics handbook of the American hospital association. No hospital shall be paid more per patient day than is charged private patients for ward care. No hospital shall be paid more per patient day than is charged for the ward care of patients whose care is paid for out of county funds. Effective July 1, 1964, professional fees shall not exceed 80% of "The Michigan uniform fee schedule for governmental welfare agencies, effective July 1, 1959". Said superintendent and physician shall make and file with the commission affidavits containing itemized statements of such services rendered. No compensation shall be charged or allowed to the admitting physician of any hospital; or to any physician, surgeon or nurse who shall attend or treat any such child at the hospital of the university of Michigan, other than the salary or compensation paid to such person by that hospital. The university hospital may charge for the service of its resident staff if such child has medical or surgical insurance coverage, said charge to be against the medical service or insurance company providing that service. Any physician or surgeon, except residents treating any such child at any hospital other than the hospital of the university of Michigan, shall bill the commission for compensation as fixed by the commission, and paid by a separate warrant drawn to his order. The commission shall fix schedules of compensation to be paid to any hospital, physician or surgeon for the clinical examination, treatment and outpatient care of an afflicted child. The schedules of fees and rates herein provided for shall be established and published by the commission at such time as the commission may deem necessary.

HISTORY: Am. 1943, p. 367, Act 225, Imd. Eff. April 20;—Am. 1945, p. 322, Act 228, Imd. Eff. May 24;—Am. 1947, p. 350, Act 232, Eff. Oct. 11;—CL 1948, 722.313;—Am. 1949, p. 337, Act 255, Imd. Eff. Jun. 7;—Am. 1951, p. 224, Act 177, Imd. Eff. Jun. 8;—Am. 1954, p. 492, Act 198, Eff. Aug. 13;—Am. 1955, p. 222, Act 152, Imd. Eff. Jun. 7;—Am. 1959, p. 263, Act 188, Imd. Eff. Jul. 22;—Am. 1963, p. 230, Act 167, Eff. Jul. 1;—Am. 1964, p. 301, Act 226, Imd. Eff. May 22;—Am. 1965, p. 383, Act 220, Imd. Eff. Jul. 16.

722.314 Hospital expenses and doctor fees; audit and payment; billing within 45 days.

Sec. 14. Upon filing the affidavit with the commission, and following the approval by the commission, it shall be transmitted to the department of administration to be audited in accordance with the general accounting laws of the state and forwarded to the state treasurer for payment. The compensation as provided in section 13 and approved by the commission shall be paid to the physician or surgeon performing the services hereunder by a separate warrant drawn to his order and forwarded to him at his professional address, except at the hospital of the university of Michigan. The warrant of the state treasurer for hospital services shall be made payable to the particular hospital rendering services hereunder and delivered to it in payment of such services. No crippled child as defined by the crippled children's act, or any other child exempted by this act, shall be entitled to care to be paid for by the state under this act. Payment shall be refused on any billing rendered more than 45 days after discharge of the patient from the hospital.

HISTORY: Am. 1947, p. 351, Act 232, Eff. Oct. 11;—CL 1948, 722.314;—Am. 1955, p. 183, Act 118, Eff. Oct. 14;—Am. 1950, p. 264, Act 188, Imd. Eff. Jul. 22;—Am. 1963, p. 141, Act 106, Eff. Sep. 6.

722.315 Communicable diseases; expense recharged to county.

Sec. 15. Communicable diseases. All costs of care for communicable diseases of afflicted children while in approved hospitals under this act shall be paid by the state and recharged to the county from which the child was committed as provided in the laws dealing with the treatment of communicable diseases.

HISTORY: CL 1948, 722.315.

722.316 Transportation costs; payment by county.

Sec. 16. The cost of transportation of the child to and from the hospital shall be paid by the county treasurer of the county in which the child resides out of the general fund of the county upon receipt of the proper certificate of approval thereof from the commission.

HISTORY: Am. 1945, p. 382, Act 228, Imd. Eff. May 24;—CL 1948, 722.316;—Am. 1963, p. 141, Act 106, Eff. Sep. 6.

722.317 Commitment; agreement to pay by parent or spouse; adjustment.

Sec. 17. No child shall be sent to any hospital for medical or surgical treatment under this act until the parents or spouse of the child have entered into an agreement with the state that they will repay, if they have been determined by the commission to be financially able to do so, the state for the actual cost of the medical or surgical treatment on such terms as shall meet the approval of the commission. Upon admission to an institution of a child, the commission shall furnish the state commissioner of revenue such information as may be required to keep a correct account of all moneys due the state from the parents or spouse. Payment of the costs by the parents or spouse shall be made to the commissioner of revenue, in accordance with the agreement, and the commissioner of revenue shall duly credit the account, forward the moneys received to the state treasurer, who shall credit these payments to the fund for the cost of the care of afflicted children under this act. The state shall be subrogated to the rights of recovery which a parent, husband or guardian may have for the cost of hospitalization, or surgical or medical treatment of a minor child to the extent that the state has expended funds for such care and treatment of the child. The parent, husband or guardian shall execute and deliver an assignment of claim or other papers as necessary to secure the rights to the state. The commissioner of revenue with the written recommendation of the attorney general's department and, when deemed for the best interests of the state, because of undue hardship to liable persons or other meritorious reason, may adjust any amount due under any agreement to reimburse the state, accept and receipt for any adjusted amount which will be in lieu of actual expenditure

incurred on the part of the commission. Where the child is found to be emancipated, the signature of the child may be accepted in lieu and stead of the parent or spouse.

HISTORY: Am. 1943, p. 368, Act 225, Imd. Eff. April 20;—CL 1948, 722.317;—Am. 1952, p. 402, Act 244, Eff. Sep. 18;—Am. 1963, p. 141, Act 108, Eff. Sep. 6;—Am. 1970, p. 549, Act 186, Eff. Apr. 1, 1971.

722.318 Payment by state not pauper aid.

Sec. 18. Payment by the state not pauper aid. Such charges as are paid by the state shall not be deemed to have been paid as state or pauper aid, and no person shall be deemed a pauper in consequence of his inability to pay for the care and treatment of a child in an approved hospital under this act.

HISTORY: CL 1948, 722.318.

722.319 Appropriation; reimbursement of general fund.

Sec. 19. Appropriation. The cost of carrying out the provisions of this act shall be paid from money appropriated to the commission for that purpose by the legislature. Appropriations under this act made for the use of the commission and to reimburse the general fund for expenditures hereunder shall be separate and apart from appropriations under any other act.

HISTORY: CL 1948, 722.319.

722.319a Appropriation; allocations; emergencies; construction of section; excessive hospitalization.

Sec. 19a. 1. The appropriations made for any fiscal year for medical treatment of afflicted children or for any other service furnished under this act, shall be allotted in accordance with a schedule to be submitted by the commission and recommended for approval by the state budget director to the state administrative board on or before the beginning of each fiscal year. The schedule shall be based upon the equitable allocation to counties of the appropriation provided for the treatment of afflicted children which allocation shall be based solely upon the resources and needs of the respective counties as determined by the commission. Nothing in this section shall prevent a revision of such schedule during the fiscal year when necessary to meet emergency conditions. It is the purpose of this section to so limit the liability of the state that the state will not be required to spend funds beyond the amount of each appropriation. This section shall be so construed as to effect this purpose and it shall be absolutely binding upon each official or body concerned in the administration of the aforesaid appropriations.

Excessive hospitalization, surcharge of county.

2. In the administration of the afflicted children's act the commission may charge back to the county and to return to each county bills for excessive or unnecessary hospitalization due to neglect of county authorities as in the discretion of the commission shall seem just and shall have authority to surcharge any county which has in the opinion of the commission unnecessarily used an amount in excess of its fair allocation of funds.

HISTORY: Am. 1943, p. 368, Act 225, Imd. Eff. April 20;—CL 1948, 722.319a;—Am. 1963, p. 142, Act 108, Eff. Sep. 6.

722.320 Funds received from federal government and other sources.

Sec. 20. Funds received from federal government and/or other sources. The state treasurer shall (1) receive all funds granted to the state by the federal government and/or other sources for expenditures under the provisions of this act; (2) act as custodian of such funds; (3) keep them in a separate account; (4) and disburse the funds upon certification by the treasurer of the commission.

HISTORY: CL 1948, 722.320.

722.321 Act not compulsory upon parents.

Sec. 21. Provisions of act not compulsory. No official or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child

over the objection of the parents, or either of them or the person standing in loco parentis or having other custody of such child, and nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose except by judicial order.

HISTORY: CL 1948, 722.321.

722.322 Acts prohibited; penalty.

Sec. 22. Any parent or guardian, official of hospital, physician, employe of county or state or any other person found guilty of wilfully making a false statement or of wilfully giving, accepting, or concealing false information for the purpose of securing aid under this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or imprisonment in the county jail for not more than 90 days. Any official of any hospital or any physician who shall bill the state under the provisions of this act for the care of a patient and also attempt to force any parent, relative, or guardian of such patient or the patient to pay an additional sum for such care, and who shall be found guilty thereof, shall be punished in the same manner.

HISTORY: CL 1948, 722.322.

Sec. 23. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 274, 1913, CL 1929, 12886-12895.

Sec. 24. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

722.325 Afflicted children's act; short title.

Sec. 25. This act may be known and cited as the "afflicted children's act".

HISTORY: CL 1948, 722.325.

Act 138, 1881, p. 123; Eff. Sep. 10.

AN ACT to provide for the medical and surgical treatment of dependent children at the hospital of the Michigan university.

The People of the State of Michigan enact:

722.401 Free care at university hospital; persons eligible.

Sec. 1. That any dependent persons who are or who shall hereafter be inmates of the state public school at Coldwater, the Michigan school for the blind, the Michigan school for the deaf, and the Michigan school for the feeble minded and epileptic and those who are not inmates of said institutions, but who, if not affected by disease or requiring surgical treatment, would be entitled by the laws of this state to admission to said institutions, who may be suffering from chronic disease, or who may need surgical treatment for any cause, which is calculated to disable them in whole or in part from self support, shall be entitled to, and shall receive medical and surgical treatment, or either, together with board, lodging, nursing, and other proper care, free of charge, at the hospital established in connection with the Michigan university at Ann Arbor, under the general rules and regulations thereof.

HISTORY: How. 1813;—Am. 1897, p. 308, Act 233, Eff. Aug. 30;—CL 1897, 4559;—CL 1915, 5270;—CL 1929, 12883;—CL 1948, 722.401.

STATE SOCIAL WELFARE DEPARTMENT: See Compilers' § 400.1 et seq.

SCHOOL FOR THE BLIND: See Compilers' § 393.101.

SCHOOL FOR THE DEAF: See Compilers' § 393.51.

INSANE, FEEBLE MINDED AND EPILEPTIC: See Act 151 of 1923, being Compilers' § 330.11 et seq.

COUNTY HOSPITAL: As to accommodation and care of dependent children, see Compilers' § 331.169.

722.402 Admissibility; determination, certification.

Sec. 2. The admissibility of applicants under this act for such gratuitous treatment, if not inmates of said state public school, the Michigan school for the blind, the Michigan school for the deaf and the Michigan home for the feeble minded and epileptic, shall be determined and certified in the same manner as their admissibility is now determined and certified to the said state public school, or the Michigan school for the blind, the Michigan school for the deaf and the Michigan home for the feeble minded and epileptic; and in case of dependent persons who are or may be inmates of the said state public school, the Michigan school for the blind, the Michigan school for the deaf and the Michigan home for the feeble minded and epileptic, it shall be determined and certified by the superintendent thereof.

HISTORY: How. 1814;—Am. 1897, p. 309, Act 233, Eff. Aug. 30;—CL 1897, 4560;—CL 1915, 5271;—CL 1929, 12884;—CL 1948, 722.402.

722.403 Transportation expenses; payment.

Sec. 3. The expenses of conveying said dependent persons, whether inmates of the state public school, the Michigan school for the blind, the Michigan school for the deaf or the Michigan home for the feeble minded and epileptic, or the other class herein named, to and from said hospital, and their board and nursing and other care, in said hospital, shall be paid out of the appropriation provided by this act: Provided, That such transportation expenses shall not include the expenses or services of any person accompanying the person to and from said hospital.

HISTORY: How. 1815;—Am. 1897, p. 309, Act 233, Eff. Aug. 30;—CL 1897, 4561;—CL 1915, 5272;—CL 1929, 12885;—CL 1948, 722.403.

FREE TRANSPORTATION: See Compilers' § 462.5.

722.404 Case history; submitted to and passed on by hospital.

Sec. 4. Before any such dependent child shall be sent to such hospital for treatment a description of the case by the physician of said institution, with his opinion thereon, or if the child is not an inmate of said institution, then a description of the case by the county physician where there is one, and if there is no such county physician, a description of the case by some practicing physician with his opinion thereon, shall be sent to the physician in charge of said hospital: Provided, That no such dependent child shall be sent to or received into said hospital unless, in the judgment of the physician in charge thereof, there is a reasonable chance for him to be benefited by the proposed medical or surgical treatment.

HISTORY: How. 1816;—CL 1897, 4562;—CL 1915, 5273;—CL 1929, 12886;—CL 1948, 722.404.

722.405 Extra compensation prohibited.

Sec. 5. No physician, surgeon, or employe connected with said hospital shall receive any extra compensation by reason of aiding in the medical or surgical treatment, or the board, nursing or other care of said children.

HISTORY: How. 1817;—CL 1897, 4563;—CL 1915, 5274;—CL 1929, 12887;—CL 1948, 722.405.

722.406 Expense of transportation and care; audit, payment.

Sec. 6. The actual expenses for the transporting of dependent persons to and from said hospital, as provided in this act, and the board, nursing and other care for said persons while in said hospital, not exceeding the amount charged other persons, patients in said hospital, shall be audited by the board of state auditors, and paid out of any money in the state treasury not otherwise appropriated. The treasurer of the board of control of the state public school, the Michigan school for the blind, the Michigan school for the deaf, or the Michigan home for the feeble minded and epileptic, shall present all accounts for the transportation of persons to and from said institutions and said hospital, and shall receive payment thereon; the county treasurer of the proper county shall present such accounts and receive payment thereon for persons sent from such county, and the treasurer of said university shall present the accounts

for the board and nursing of said persons, and shall receive pay thereon; all of which accounts shall be verified as required by said board of state auditors.

HISTORY: How. 1818;—Am. 1897, p. 309, Act. 233, Eff. Aug. 30;—CL 1897, 4564;—CL 1915, 5275;—CL 1929, 12888;—CL 1948, 722.406.

Act 13, 1944 (1st Ex. Ses.), p. 25; Imd. Eff. Feb. 19.

AN ACT to authorize county boards of supervisors and local governing bodies to appropriate moneys to child guidance clinics and community mental health clinics providing service for children and/or adults. Am. 1956, p. 179, Act 92, Eff. Aug. 11.

The People of the State of Michigan enact:

722.481 Child guidance and community mental health clinic, financing.

Sec. 1. The board of supervisors of any county or the governing body of any city, village, school district or township in this state may, except as otherwise specifically provided, furnish and appropriate moneys for the operation of child guidance clinics and community mental health clinics providing service for children or adults established by state authority and the governing body of any school district may appropriate money for land and buildings to be used by the clinics although title thereto is not vested in the appropriating body.

HISTORY: CL 1948, 722.481;—Am. 1956, p. 179, Act 92, Eff. Aug. 11;—Am. 1967, p. 72, Act 54, Eff. Nov. 2.

Act 137, 1921, p. 297; Eff. Aug. 18.

AN ACT authorizing and empowering counties of this state to contract with agencies, institutions and hospitals licensed by the state board of corrections and charities for the aid, care, support, maintenance, treatment, cure or relief of children.

The People of the State of Michigan enact:

722.501 Care of children; contracts by boards of supervisors, expenses, tax.

Sec. 1. It shall be lawful for and the several boards of supervisors shall have full power and authority to enter into an agreement or agreements for a period not exceeding 1 year with any agency, institution or hospital, or agencies, institutions or hospitals which have been and are for the current year duly licensed by the state board of corrections and charities to receive aid, care for, support, maintain, treat, cure or relieve in or by such agency, institution or hospital, any poor, sick, distressed, abandoned, needy or crippled child or children resident within said county who may be referred to such agency, institution or hospital by the probate judge of said county in accordance with the provisions of this act, whether such aid, care, support, maintenance, treatment, cure or relief is furnished wholly or in part by such agency, institution or hospital, and the proper charges therefor under said contract or contracts shall be audited and paid from time to time by the board of auditors, or by the board of supervisors of the county in counties not having a board of auditors: Provided, however, That every board of supervisors prior to the making of such contract or contracts shall fix the maximum amount to be expended for the purposes herein set forth during any 1 year, which sum shall be raised, levied and collected as part of the general expense of the county.

HISTORY: CL 1929, 12877;—CL 1948, 722.501.

BOARD OF CORRECTIONS AND CHARITIES: Abolished: powers and duties transferred to the state social welfare department, see Compilers' § 400.19.

722.502 Approval of contracts.

Sec. 2. No contract or agreement entered into under the provisions of this act shall have any binding force until the same shall have been approved by the state board of corrections and charities.

HISTORY: CL 1929, 12878;—CL 1948, 722.502.

BOARD OF CORRECTIONS AND CHARITIES: See note under preceding section.

722.503 Probate judge; duties.

Sec. 3. Whenever a board of supervisors shall have entered into any contract described by the provisions of this act with any such agency, institution or hospital for the care, relief, maintenance, treatment or support of a child or children the probate judge of said county shall have authority and it shall be his duty to refer to the proper agency, institution or hospital with which such contract shall have been made, such poor, sick, distressed, abandoned, needy, or crippled child or children, resident in said county as shall have been provided for by the appropriations made for the purpose in accordance with the provisions of this act.

HISTORY: CL 1929, 12879;—CL 1948, 722.503.

722.504 Forfeiture of license; effect on contracts.

Sec. 4. Should the license of any such agency, institution or hospital with which such contract shall have been made be at any time forfeited for any reason, then any contract or contracts existing and unperformed between such agency, institution or hospital and any board of supervisors shall cease, and be null and void.

HISTORY: CL 1929, 12880;—CL 1948, 722.504.

722.505 Construction of act.

Sec. 5. This act shall not be considered to repeal any of the existing power of the probate court or the judge thereof under the existing law.

HISTORY: CL 1929, 12881;—CL 1948, 722.505.

Act 271, 1925, p. 386; Eff. Aug. 27.

AN ACT to provide for the commitment to state institutions of certain children placed with, released to, or committed to persons, societies, organizations, associations or corporations licensed and approved by the state department of social welfare; to provide for the protection of the rights of children over whom jurisdiction is in doubt because of some question of residence, and providing for the payment of the expense thereof. Am. 1955, p. 280, Act 186, Imd. Eff. Jun. 14.

The People of the State of Michigan enact:

722.531 Children incapable of adoption; commitment to state institution, expenses of commitment, maintenance.

Sec. 1. Whenever it shall be made to appear to the probate court that any child heretofore or hereafter placed with, committed to, or released to any person, society, organization, association or corporation licensed and approved by the state department of social welfare to receive, maintain or place out for adoption minor children or to obtain homes for dependent and neglected children, is, by reason of mental or physical disability or for any other reason, incapable of adoption, such child may be committed to a proper state institution. Such commitment may be made by the probate court for the county in which the home of such person, or the principal office of such society, organization, association or corporation is located, or for the county in which the child was placed with, released to, or committed to such person, society, organization, association or corporation, or for the county in which such child may be, upon

application of the person or the principal officer of the society, organization, association or corporation to which such child has been committed or released. The expense of committing such child to a state institution and any expense chargeable to counties for maintenance in any such state institution, shall be paid by the county where such child was a resident at the time of its placement with, release to, or commitment to such person, society, organization, association or corporation.

HISTORY: CL 1929, 12882;—CL 1948, 722.531;—Am. 1955, p. 280, Act 186, Imd. Eff. Jun. 14.

722.532 Protection of children's rights; director of social welfare, duties.

Sec. 2. Whenever, after a careful investigation and report, it shall appear to the director of the state department of social welfare that any child in Michigan under 17 years of age has no guardian willing and able to take suitable action in behalf of the child or that it appears that such child is being deprived of some service or right generally available to children in Michigan because of the refusal or asserted inability of some administrative or judicial agency or agencies of the state or its political subdivisions to provide or order such service or enforce such right, and it further appears that such refusal or asserted inability exists for the reason of no jurisdiction or power because of some question of residence of the child, it shall be the duty of said director, acting as the agent of the state, to take such action as may be necessary to obtain a final legal determination as to which administrative or judicial agency has the duty of furnishing or ordering the service to or protecting the rights of such child.

HISTORY: Add. 1955, p. 281, Act 186, Imd. Eff. Jun. 14.

722.533 Protection of children's rights; prosecuting attorney.

Sec. 3. It shall be the duty of the prosecuting attorney of the county, in some court of or for which the director, with the advice of the attorney general, determines to begin his action to discharge this service for the state including appeals whenever such may be necessary to reach a final determination.

HISTORY: Add. 1955, p. 281, Act 186, Imd. Eff. Jun. 14.

722.534 Protection of children's rights; question of jurisdiction, residence, costs.

Sec. 4. As it is the intent of the legislature that this duty shall be for the general purpose of clarifying the laws for the protection of children, when a question of jurisdiction based on residence is concerned, all cases arising under this act shall be deemed public cases without assessment of costs against any party.

HISTORY: Add. 1955, p. 281, Act 186, Imd. Eff. Jun. 14.

722.541 Repealed. 1970, p. 268, Act 91, Eff. Apr. 1, 1971.

Section related to right to care and custody of minor children in case of separation of husband and wife.

Act 260, 1881, p. 357; Eff. Sep. 10.

AN ACT to provide for the protection of children.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: How. 1906;—CL 1897, 5553;—CL 1915, 7222;—CL 1929, 12796;—Rep. 1931, p. 742, Act 328, Eff. Sept. 18.

This section provided for penalties for certain exhibition and apprenticing of children. For present law see Compilers' § 750.140.

Sec. 2.

HISTORY: How. 1906;—CL 1897, 5554;—Am. 1906, p. 341, Act 236, Eff. Sept. 16;—Am. 1907, p. 60, Act 55, Eff. Sept. 28;—Am. 1908, p. 368, Act 203, Eff. Sept. 1;—CL 1915, 7223;—CL 1929, 12799;—Rep. 1931, p. 742, Act 328, Eff. Sept. 18.

This section provided penalties for permitting children in prohibited places. For present law, see Compilers' § 750.141.

722.553 Children in jails; separation from adults.

Sec. 3. No child under 16 years of age held for trial, or on conviction in any jail or other place of confinement, shall be placed or allowed to remain in the same cell or room in company with adult prisoners. It shall be the duty of the officer in charge of such place of confinement to secure, as far as the construction of such place will admit, the exclusion of such children from the society of such adult prisoners during their confinement.

HISTORY: How. 2000;—CL 1897, 5555;—CL 1915, 7224;—CL 1929, 12800;—CL 1948, 722.553.

CONFINEMENT OF CHILDREN: For act regulating confinement and trial of children, see Compilers' §§ 712A.16 and 750.139.

722.554 Placing or keeping certain children in county poorhouse unlawful; disposition of children, separation from mother.

Sec. 4. That on and after January first, 1882, it shall not be lawful to place or maintain in any county poorhouse any child who by law is admissible to the state public school. That whenever, after that date, there shall be in any county poorhouse, any such children who cannot be received in said school for the reason there shall be then no room for them, it shall be the duty of the superintendents of the poor of such county, to place and maintain such children, at the expense of such county, in some suitable family or charitable institution until they can be received in said school: Provided, That nothing in this act shall prevent any county from maintaining and educating such children in a building separate from the county poorhouse, devoted to the sole use of children of sound mind and body, and cared for by other than pauper labor: And provided further, That no child under the age of 2 years shall be separated from its mother, if such mother shall be an inmate of such county house: And provided further, That no child under the age of 4 years shall be separated from the mother if such mother shall be an inmate of such county house without the consent of the mother.

HISTORY: How. 2001;—CL 1897, 5556;—CL 1915, 7225;—CL 1929, 12801;—CL 1948, 722.554.

SUPPORT OF THE POOR: General provisions, see Compilers' §§ 400.1 et seq. and 401.1 et seq.

Secs. 5-6.

HISTORY: How. 2002-2003;—CL 1897, 5557-5558;—CL 1915, 7226-7227;—CL 1929, 12802-12803;—Rep. 1931, p. 742, Act 328, Eff. Sept. 18.

These sections provided penalties with respect to obscene or criminal literature. For present law, see Compilers' §§ 750.142-750.143.

722.557 Apprenticing or disposal of minor; application, examination of home, report, fee.

Sec. 7. That any person desiring to have a minor child apprenticed, indentured or otherwise disposed of, to him or her, by any person, asylum, corporation or other institution incorporated under the laws of this state for minor children, or by any private asylum or institution in this state, if any there be, by the officers of such asylum or institution, shall apply in writing to the county agent of the state board of corrections and charities of the county in which the applicant resides, and in case there shall be no such agent in said county, then such application shall be made to 1 of the superintendents of the poor of such county, requesting the officer to whom such application is made to examine and report in writing to the asylum or institution having the custody and control of said child, on the suitability of the home of said applicant for said child. And thereupon it shall be the duty of such agent or superintendent of the poor to make such examinations and report, and cause such report to be filed in the office of the asylum or institution having control of the child, and a copy thereof with the judge of probate of said county, on the payment, by said applicant, to said agent or superintendent of the poor, the sum of 3 dollars for his services under this act. And in no

case shall any child be indentured, apprenticed or otherwise disposed of, to any applicant, by any such asylum or institution, unless there be such examination and report which shall show that the applicant is a person of good moral character, that he is able to support and educate the child, and that his home is a suitable one for the child.

HISTORY: Add. 1887, p. 207, Act 192, Imd. Eff. June 18;—How. 2003a;—Am. 1895, p. 120, Act 33, Imd. Eff. March 26;—CL 1897, 5559;—CL 1915, 7228;—CL 1929, 12804;—CL 1948, 722.557.

BOARD OF CORRECTIONS AND CHARITIES: Abolished; powers and duties transferred to the state social welfare department, see Compilers' § 400.19.

722.558 Apprenticing or disposal of minor; contract, subsequent procedure.

Sec. 8. That on filing said application and certificate approving said applicant, in the office of such asylum or institution and a copy of such certificate with the judge of probate as herein provided, a contract in writing shall be entered into by and between said applicant and the principal officer of such asylum or institution or such officer or agent of such asylum or institution, as the board of trustees thereof shall authorize, in which it shall be mutually agreed that said child shall remain with said applicant until it is 18 or 21 years of age, as may be agreed upon by the contracting parties; which shall provide that the applicant shall support said child, shall treat it as a member of his or her family, that he or she will keep such child in the public schools, or in some equally good private school, for at least 4 months in each year, and that he or she will have such child taught some useful trade or occupation. Whenever any child shall be placed in any family the proper officer of such asylum or institution shall at once notify the county agent of the state board of corrections and charities, in counties where there is such agent, and where there is none, the superintendents of the poor, with whom and where such child is placed. Such agent or superintendents of the poor shall at least once in each year visit such child and carefully investigate its conditions and surroundings and report the same to the officer of the asylum or institution from which such child was received, and also send a duplicate copy of such report to the secretary of the state board of corrections and charities. (Such county agent shall receive as compensation under this act, his proper official expenses together with 3 dollars in full for his services for each case visited, investigated and reported by him, but not exceeding 3 dollars for any 1 day's service, which shall be audited by the board of state auditors on the approval of the secretary of the state board of corrections and charities, and paid from the general fund: Provided, That the sum so allowed for the services of such agent in any county except the county of Wayne shall not in any 1 year exceed the sum of 25 dollars, and that in the county of Wayne the sum so allowed for such services shall not in any 1 year exceed the sum of 50 dollars.) And should the county agent or superintendent of the poor, in counties where there is no county agent, at any time deem that the interests of the child require it he may, with the approval of the judge of probate of the county where the child resides, after due notice of the hearing before said judge, given to the superintendent or other officer of said asylum or institution, cancel the contract of indenture, take possession of the child and return it to the said asylum or institution, or proceed according to law for its admission to the state public school at Coldwater, as may be ordered by said judge. (And in case such proceedings are taken a petition therefor signed by such county agent alone shall be sufficient.)

HISTORY: Add. 1887, p. 207, Act 192, Imd. Eff. June 18;—How. 2003a-1;—Am. 1895, p. 121, Act 33, Imd. Eff. March 26;—Am. 1897, p. 34, Act 33, Eff. Aug. 30;—CL 1897, 5560;—CL 1915, 7228;—CL 1929, 12806;—CL 1948, 722.558.

STATE PUBLIC SCHOOL: Abolished and superseded by the Michigan children's institute, see Compilers' § 400.201 et seq.

722.559 Apprenticing or disposal of minor; methods; inapplicability to certain state institutions.

Sec. 9. It shall be unlawful for any person, or any private or incorporated asylum or institution for minor children, to indenture, apprentice, place by adoption or otherwise dispose of any minor child to any person, except by 1 of the following methods:

First, By officers of state institutions acting under the provisions of law authorizing them to place children in families by indenture, adoption or otherwise;

Second, In accordance with the laws of this state relative to the adoption and change of names of minors, and making them heirs at law of the person or persons adopting them;

Third, In accordance with the laws of this state, relative to masters, apprentices and servants, so far as such law does not conflict with the provisions of this act;

Fourth, By the officers of incorporated asylums or institutions authorized by the laws of this state to receive, care for and dispose of minor children in such manner as may be provided;

Fifth, By the father and mother residing in this state, and if either be dead or of legal incapacity, or has abandoned the child, then by the other, and in case the child be illegitimate, then by its mother, and in case there be no father or mother of legal capacity, then by the guardian of the child, resident of this state and duly appointed under the laws thereof.

In no case shall any minor child be indentured, apprenticed, adopted or otherwise disposed of by any person, by either of the methods herein named, or under any law of the state, except on the written approval of the person or persons taking such child by the county agent of the state board of corrections and charities of the county in which the person applying for the child resides, or by a superintendent of the poor of the county where there is no such agent, in form and manner required by this act, except where such indenture is under the fifth subdivision of this section: Provided, That the provisions of this act shall not apply to any state institution authorized by the laws of this state to indenture, or otherwise place in homes minor children.

HISTORY: Add. 1887, p. 207, Act 192, Imd. Eff. June 18;—How. 2003a-2;—Am. 1895, p. 121, Act 33, Imd. Eff. March 26;—CL 1897, 5561;—CL 1915, 7230;—CL 1929, 12806;—CL 1948, 722.559.

Sec. 10.

HISTORY: Add. 1887, p. 208, Act 192, Imd. Eff. June 18;—How. 2003a-3;—Am. 1895, p. 122, Act 33, Imd. Eff. March 26;—CL 1897, 5562;—CL 1915, 7231;—CL 1929, 12807;—Rep. 1944, 1st Ex. Ses., p. 52, Act 30, Imd. Eff. March 3.

This section provided for placement of children from another state. For present law, see Compilers' § 400.14 subd. C-1.

722.561 Ill-treated child; removal from parent.

Sec. 11. Every child under 16 years of age who is ill-treated within the meaning of this act by his father, mother or guardian, is hereby declared to be under the protection of public authority and may be removed from such parent or guardian, as herein provided.

HISTORY: Add. 1889, p. 219, Act 189, Eff. Oct. 2;—How. 2003a-4;—CL 1897, 5563;—CL 1915, 7232;—CL 1929, 12806;—CL 1948, 722.561.

722.562 Ill-treated child; definition.

Sec. 12. An ill-treated child is hereby declared to be:

First, One whose father, mother, or guardian shall habitually violate or permit such child to violate the provisions of sections 1, 2, 5 and 6 of this act;

Second, One whose father, mother, or guardian habitually causes or permits the health of such child to be injured or his life to be endangered by exposure, want, or other injury to his person, or causes or permits him to engage in any occupation that will be likely to endanger his health or life or deprave his morals;

Third, One whose father, mother, or guardian is an habitual drunkard or a person of notorious and scandalous conduct, or a reputed thief or a prostitute or one who habitually permits him to frequent public places for the purpose of begging or receiving alms, or to frequent the company of or consort with reputed thieves or prostitutes,

with or without such father, mother, or guardian, or by any other act, example, or by vicious training depraves the morals of such child.

HISTORY: Add. 1889, p. 219, Act 189, Eff. Oct. 2;—How. 2003a-5;—CL 1897, 5564;—CL 1915, 7233;—CL 1929, 12809;—CL 1948, 722.562.

722.563 Ill-treated child; complaint, examination, writ.

Sec. 13. Upon complaint made to the judge of probate of the proper county that any child has been ill-treated in either manner stated in this act he shall examine the complainant on oath and shall reduce the complaint to writing and cause the same to be subscribed by the complainant, and if it shall appear that such offense has been committed, the judge of probate shall issue a writ reciting the substance of the complaint and require the officer to whom it is directed to forthwith bring the child so alleged to have been ill-treated and the parent or guardian charged with such ill-treatment, before such judge of probate, to be dealt with according to law; and in the same writ he may require the officer to summon such witnesses as shall be named therein to appear and give evidence on trial.

HISTORY: Add. 1889, p. 220, Act 189, Eff. Oct. 2;—How. 2003a-6;—CL 1897, 5565;—CL 1915, 7234;—CL 1929, 12810;—CL 1948, 722.563.

722.564 Ill-treated child; hearing, jury, forfeiture, disposition of child.

Sec. 14. That on the return of such writ with said child and the accused, the judge of probate shall proceed to hear and determine the cause. If it shall appear by the returns of the officer that the accused cannot be found in the county, the hearing shall proceed without him. If the child shall be without counsel, it shall be the duty of the prosecuting attorney on the request of the judge of probate, to appear in his behalf. If the accused or counsel for the child shall so request, the judge of probate shall order a jury to be summoned to find the facts in the case and the judge of probate may in his discretion order a jury on his own motion. The jury so ordered shall be a jury of 6 persons and shall be summoned and empaneled in accordance with the law relating to juries in courts held by justices of the peace. If on the hearing the judge of probate shall find, or the verdict of the jury shall determine that the allegations in the complaint are true, the judge of probate shall make and enter an order that the accused has forfeited his right to the custody of the child during minority and that the child be disposed of, in the discretion of the judge of probate, by 1 of the following methods:

Appointment of guardian.

First, By the appointment of a respectable and suitable person of sufficient means as guardian of the custody and education of the child, who shall not be required to give bonds as such guardian, unless it shall appear that such child has personal or real property, who shall execute a written agreement in form approved by said judge of probate, and filed in said court, which shall provide for the treatment of the child as a member of the family, and for his proper support and education in the public schools. On complaint thereafter made to the judge of probate that said guardian does not faithfully execute the terms of said contract, the said judge of probate shall cite said guardian to appear before him, and if it is then found that the allegations in the complaint are true, the said judge of probate may cancel the contract and make a new order for the disposition of the child as herein provided;

Sending to state public school.

Second, By sending such child, if over 2 and under 12 years of age and sound in mind and body, to the state public school at Coldwater, to be there received and to be subject to such disposition as the laws regulating that institution provide;

Indenturing by superintendent of poor.

Third, By delivering such child to the superintendents of the poor, if he is under 2 or over 12 years of age, or is not sound in mind and body, to be by them indentured to

some suitable person, according to the provisions of sections 8 and 9 of this act, or to provide for him by the county as for other poor persons.

HISTORY: Add. 1899, p. 220, Act 189, Eff. Oct. 2;—How. 2003a-7;—CL 1897, 5566;—CL 1915, 7235;—CL 1929, 12811;—CL 1948, 722.564.

STATE PUBLIC SCHOOL: Abolished and superseded by the Michigan children's institute, see Compilers' § 400.201 et seq.

SUPPORT OF THE POOR: General provisions, see Compilers' §§ 400.1 et seq. and 401.1 et seq.

SUPERINTENDENT OF POOR: Abolished, powers and duties transferred to county departments of social welfare, see Compilers' § 400.85.

722.565 Custody of child to prevent ill-treatment; order, contract, appeal.

Sec. 15. In all suits or proceedings in chancery and in all habeas corpus proceedings where the custody of any child under 16 years of age is in controversy, if the court or judge shall be satisfied from the evidence that either party to such proceedings would ill-treat such child, within the meaning of this act if placed in his custody, or otherwise would be unsuitable to have such custody, the said judge or court may order that the other party to such proceedings shall have the custody of such child during minority, if it shall appear to the satisfaction of such judge or court that such other party would be a suitable one to have such custody and would not ill-treat such child within the meaning of this act. And if it shall appear to the satisfaction of the judge or court that neither party to such proceedings is a suitable one to have such custody, the judge or court shall order that the parties to such proceedings have forfeited any rights that they may have had to the custody of said child, during minority, and the custody of such child during minority shall, in the discretion of such judge or court, be disposed of by such judge or court by either of the methods provided in section 14 of this act. The contract when made and approved by said judge or court shall be filed in the probate court, and the judge of probate of the probate court where the contract is filed shall have the same authority to cancel such contract and dispose of the child again as provided in said section 14 as in other cases: Provided, That in all cases arising under the provisions of this act, appeal shall be allowed as in other cases triable before said court.

HISTORY: Add. 1899, p. 221, Act 189, Eff. Oct. 2;—How. 2003a-8;—CL 1897, 5567;—CL 1915, 7236;—CL 1929, 12812;—CL 1948, 722.565.

Act 98, 1964, p. 96; Eff. Aug. 28.

AN ACT to require the reporting of certain injuries to certain minors; to provide immunity for certain persons making such reports; to provide rules of evidence in certain cases and to provide a penalty for violation of this act.

The People of the State of Michigan enact:

722.571 Intentionally injured children; physicians report; detention.

Sec. 1. (1) Any licensed physician who provides medical treatment or who makes a medical examination of any child under 17 years of age who has physical injuries which were, or may have been intentionally inflicted upon him by any person responsible for his care, or a registered nurse, social worker or school principal, assistant principal or counselor or any law enforcement officer having reasonable cause to believe that a child under 17 years of age brought to him or coming before him has physical injuries which were, or may have been intentionally inflicted upon him by any person responsible for his care, shall have the child examined by a physician after which he shall immediately cause a report to be made as required by this act. When the attending or examining physician, registered nurse, social worker or school principal, assis-

tant principal or counselor or any law enforcement officer is a member of a hospital, agency or school staff he shall notify the person in charge thereof of his finding and the person in charge shall cause the report to be made.

(2) If the child has been admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, he shall so report to the person in charge. The person in charge may detain the child until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12a of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.14 of the Compiled Laws of 1948, or order the child released to the parent, guardian or custodian.

HISTORY: New 1964, p. 96, Act 98, Eff. Aug. 28;—Am. 1966, p. 96, Act 71, Eff. Mar. 10, 1967;—Am. 1967, p. 316, Act 219, Imd. Eff. Jul. 10;—Am. 1970, p. 355, Act 105, Imd. Eff. Jul. 23.

722.572 Report; copies to prosecuting attorney, probate court, county social welfare department and state social services department; reports from other counties; contents.

Sec. 2. One copy each of the report required by section 1 shall be mailed to the prosecuting attorney, to the probate court, and to the department of social welfare of the county where the physician, nurse, social worker, school administrator or any law enforcement officer believes the injury may have been inflicted. One copy shall be mailed to the Lansing office of the state department of social services, which shall maintain a central filing system in such a manner as will carry out the intent of this act. Upon request from the probate court or the prosecuting attorney of any county, the state department shall furnish copies of reports which originated in other counties of the state. The report shall contain the names and addresses of the child, his parents, his guardian or the person with whom he resides, the child's age and a description of his injuries. The report shall also contain any other information available to the reporting person which might establish the cause of the injuries and the manner in which they were inflicted.

HISTORY: New 1964, p. 96, Act 98, Eff. Aug. 28;—Am. 1966, p. 96, Act 71, Eff. Mar. 10, 1967;—Am. 1967, p. 316, Act 219, Imd. Eff. Jul. 10.

722.572a Investigation; reference to enforcement agencies.

Sec. 2a. The state department of social services shall promptly, in cooperation with the county prosecuting attorney and the probate court, investigate all such reports in an effort to determine if there was intentionally inflicted injury. If the state department finds that there may have been intentionally inflicted injuries by any other person responsible for the care of a child within this state, it shall forthwith refer the cases to the proper law enforcement agencies for such action as may be appropriate under the laws of this state.

HISTORY: Add. 1966, p. 96, Act 71, Eff. Mar. 10, 1967.

722.573 Investigation; immunity from liability, presumption of good faith.

Sec. 3. Any person acting in good faith who makes a report, or, in good faith assists in any other requirement of this act including taking a child to an appropriate medical facility or resource for a physical examination pursuant to the provisions of this act shall be immune from civil or criminal liability which might otherwise be incurred thereby. Any person making or assisting in the making of the report shall be presumed to have acted in good faith. This immunity from civil or criminal liability extends only

to acts done pursuant to the provision of this act and does not extend to negligent acts which cause personal injury or death or to malpractice of a physician which results in personal injury or death.

HISTORY: New 1964, p. 96, Act 98, Eff. Aug. 28;—Am. 1967, p. 316, Act 219, Imd. Eff. Jul. 10.

722.574 Rules of evidence; physician-patient privilege; privilege between spouses.

Sec. 4. Neither the physician-patient privilege nor the privilege between spouses shall prevail in any action, civil or criminal, which is or may have been brought because of any report made pursuant to the provisions of this act.

HISTORY: New 1964, p. 96, Act 98, Eff. Aug. 28.

722.575 Violation of act; penalty.

Sec. 5. Any person who violates the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1964, p. 97, Act 98, Eff. Aug. 28.

Act 193, 1887, p. 208; Imd. Eff. Jun. 18.

AN ACT to protect children and prevent them from being educated in imorality [immorality] and crime.

The People of the State of Michigan enact:

722.581 Removal of apprenticed child from improper custodian; inapplicability of act to hotel or restaurant keeper.

Sec. 1. That if any child under 14 years of age, shall be bound out, apprenticed, or given away by its parents or either of them, and it shall be discovered that the person to whom such child is bound out, apprenticed, or given, shall be the proprietor, keeper or manager of a house of prostitution, saloon or other place where intoxicating liquors or wine is sold, given away, or furnishid [furnished] as a beverage, or if such person shall become of such imoral [immoral] habits and modes of life, or if such person shall as regards such child, violate the provisions of sections 1, 2 or 5 or Act No. 260 of the Session Laws of 1881, or the acts amendatory thereof, or if such person shall by his or her care and education of such child be teaching such child to lead an mimoral [immoral] or criminal life, in every such case such child shall be removed from the care and custody of such person and placed in the custody of its mother, if a suitable person, or in some state institution or put into the custody of some other person, as in this act prescribed: Provided, That the provisions of this section shall not be applicable to the proprietor or keeper of any hotel. Nor shall they apply to the proprietor or keeper of any saloon or restauant [restaurant] whose residence is in a building other than that in which their business is carried on.

HISTORY: How. 2003a-9;—CL 1867, 5568;—CL 1915, 7237;—CL 1929, 12813;—CL 1948, 722.581.

NOTE: Act 260 of 1881, above referred to, is Compilers' §§ 722.553 to 722.565.

722.582 Removal of apprenticed child from improper custodian; procedure, disposition of child.

Sec. 2. If complaint shall be made to the judge of probate of the proper county of any of the facts aforesaid, the judge of probate shall by writ issued under his hand summon and have brought before him such child and the person having the custody of such child, and investigate such facts, and if satisfied that the complaint is true, and that the welfare of such child requires that it should be placed under other care, such judge shall make an order for the removal of such child to his or her home or to another home, and shall declare all contracts and arrangements made with the person having the custody of the child when the complaint was made, at an end, and shall

bind out, indenture, or give for adoption such child to some suitable person or place such child in the state public school, or may return the same to its parents as the judge of probate shall determine.

HISTORY: How. 2003b-;—CL 1897, 5569;—CL 1915, 7238;—CL 1929, 12814;—CL 1948, 722.582.

722.583 Removal of apprenticed child from improper custodian; care of child at institution.

Sec. 3. The institution to which such child shall be committed shall receive such child, and care for and dispose of the same as with other children committed to or taken charge of by the said institution.

HISTORY: How. 2003b-1;—CL 1897, 5570;—CL 1915, 7239;—CL 1929, 12815;—CL 1948, 722.583.

722.601-722.612 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for maintenance of children born out of wedlock and payment of confinement expenses.

Act 31, 1915, p. 42; Eff. Aug. 24.

AN ACT to prohibit the selling, giving, or furnishing of cigarettes to minors, to prohibit the use of cigarettes by minors, and prohibiting the harboring of minors for the purpose of indulging in the use of cigarettes.

The People of the State of Michigan enact:

722.641 Cigarettes; furnishing to minor, penalty.

Sec. 1. Any person within this state who sells, gives to, or in any way furnishes any cigarettes in any form to any person under 21 years of age shall be punished by fine not to exceed 50 dollars or imprisonment in the county jail for not to exceed 30 days for each offense.

HISTORY: CL 1915, 5185;—CL 1929, 12826;—CL 1948, 722.641.

722.642 Cigarettes; use by minor in public, penalty.

Sec. 2. Any person under 21 years of age who shall smoke or use cigarettes in any form, on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business or amusement, may be arrested by any officer of the law, who may be cognizant of such offense; and further, it shall be the duty of such officer upon complaint of any person and upon warrant properly issued to arrest such offenders and take them to the proper court. In case the offender is found guilty the court may impose a penalty in its discretion in the sum of not to exceed 10 dollars or imprisonment in the county jail not to exceed 5 days for each offense.

HISTORY: CL 1915, 5186;—CL 1929, 12827;—CL 1948, 722.642.

722.643 Harboring minors for indulgence in cigarettes; penalty; right of parents.

Sec. 3. Any person who knowingly harbors any person under 21 years of age, or grants to them the privilege of gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes in any form, shall be held under the same penalty as provided for under section 1 of this act: Provided, That no part of this act shall be construed as to interfere with the right of parents or lawful guardians in the rearing and management of their minor children or wards within the bounds of their own private premises.

HISTORY: CL 1915, 5187;—CL 1929, 12828; CL 1948, 722.643.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 5188;—CL 1929, 12829;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 77, 1889, p. 82; Eff. Oct. 2.

AN ACT to prohibit the selling, giving or furnishing tobacco, in any of its forms, to minors, and providing a penalty therefor.

The People of the State of Michigan enact:

722.651 Selling or furnishing tobacco to minors unlawful.

Sec. 1. That it shall not be lawful for any person by himself, his clerk or agent, to sell, give or furnish any cigar, cigarette, cheroot, chewing or smoking tobacco, or tobacco in any form whatsoever, to any minor under 17 years of age, unless upon the written order of the parent or guardian of said minor.

HISTORY: How. 9122c;—CL 1897, 11534;—CL 1915, 15277;—CL 1929, 12824;—CL 1948, 722.651.

722.652 Violation of act; penalty.

Sec. 2. Any person who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than 5 dollars nor more than 50 dollars, or by imprisonment in the county jail for a term of not less than 10 days nor more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: How. 9122d;—CL 1897, 11535;—CL 1915, 15278;—CL 1929, 12825;—CL 1948, 722.652.

722.701-722.703 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections created commission of inquiry to make investigations and submit reports and legislative recommendations relative to child welfare; provided for appointment of commission members and prescribed their duties and powers, and provided for cooperation of state, city and county public relief with commission.

Act 205, 1956, p. 408; Eff. Aug. 11.

AN ACT to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act.

The People of the State of Michigan enact:

722.711 Paternity act; definitions.

Sec. 1. (a) A child born out of wedlock is a child begotten and born to any woman who was unmarried from the conception to the date of birth of the child.

(b) When the word "child" is used in this act it shall refer to a child so born out of wedlock.

(c) When the word "mother" is used in this act it shall refer to the mother of a child so born out of wedlock.

(d) When the word "court" is used in this act it shall refer to the circuit court.

HISTORY: New 1956, p. 408, Act 205, Eff. Aug. 11.

CITED IN OTHER SECTIONS: Sections 722.711 to 722.730 are cited in § 750.199a.

722.712 Child born out of wedlock; liability of parents.

Sec. 2. (a) The parents of a child so born out of wedlock are liable for the necessary support and education of the child. They are also liable for the child's funeral expenses. The father is liable to pay the expenses of the mother's confinement, and is also liable to pay such expenses in connection with her pregnancy as the court in its discretion may deem proper.

(b) If the father dies, an order of filiation or a judicially approved settlement made

prior to his death shall be enforceable against his estate in the same manner and way as a divorce decree.

HISTORY: New 1956, p. 408, Act 205, Eff. Aug. 11.

722.713 Father's agreement for support and education.

Sec. 3. (a) An agreement or compromise made by the mother or child or by some authorized person on their behalf with the father concerning the support and education of the child shall be binding upon the mother and the child only when the court having jurisdiction to compel support and education of the child shall have determined that adequate provision is reasonably secured by payment or otherwise and has approved the agreement or compromise.

(b) The performance of the agreement or compromise, when so approved, shall bar other remedies of the mother or child for the support and education of the child.

HISTORY: New 1956, p. 408, Act 205, Eff. Aug. 11.

722.714 Paternity proceedings.

Sec. 4. (a) A proceeding in accordance with this act shall be brought by the mother, or the father as provided hereafter. Complaints shall be made in the county where the mother and child reside or one of them reside. If both the mother and child reside outside this state, then the complaint shall be made in the county where the putative father resides or is found. The fact that the child was conceived or born outside of the state of Michigan shall not be a bar to entering a complaint against the putative father.

Same; commencement, statute of limitations.

(b) Proceedings in pursuance of this act may be instituted during the pregnancy of the mother or after the birth of the child, but shall not be brought after the lapse of more than 6 years from the birth of the child, unless paternity has been acknowledged by the father in writing in accordance with statutory provisions. If any payment is made for support of the child in the 6-year period, the proceedings may be commenced any time within 6 years from the last of any such payment. If the defendant is outside the state of Michigan during the 6-year period, the time he is so absent shall not be included in the 6-year period.

Same; jurisdiction of circuit court; attorney for complainant; power of circuit court commissioner.

(c) The complaint shall be made to, and for the purpose of this act jurisdiction is conferred upon the circuit court; it shall be reduced to writing and the proceedings shall be conducted by an attorney employed by the complainant. If the bureau of social aid of the county wherein the complainant resides first determines her to be eligible for public assistance or to be without means to employ an attorney, then the prosecuting attorney shall represent her in initiating and conducting the proceedings under this act. The complaint shall be verified by oath or affirmation of complainant. If no circuit judge for the county wherein the complaint is made is present within the county at the time of the filing of the complaint, then any circuit court commissioner within the county shall have authority to issue a warrant or summons, to fix the amount of bond or cash deposit in lieu of bond, to approve sureties, to order commitment to the county jail, and to take written acknowledgments or denials of paternity as in this act provided.

Same; charge.

(d) The complainant shall charge the person named as defendant with being the father of the child and state the time and place, as near as possible, where the complainant was begotten with child.

Same; issuance of warrant, trial, recognizance; friend of the court; summons, warrant.

(e) Upon the filing of the complaint the court shall issue a warrant against the alleged father directed to any peace officer in the state which may be executed in any part of this state. Upon the alleged father being brought before the court by virtue of the warrant, the court thereupon, or as soon thereafter as may be, shall proceed with the trial of the case. If the court shall not then proceed with the trial, it shall require the defendant to enter into a recognizance with 1 or more sufficient sureties satisfactory to the court or deposit cash with the county clerk in lieu of bond in an amount to be determined by the court, upon condition that the defendant appear for trial and answer the complaint in the circuit court and to abide the order of the court thereon, and said court may order said alleged father to be committed to the county jail until he shall furnish such recognizance, and in the event of recognizance being furnished and it is thereafter forfeited, the proceeds collected on said bonds shall be paid to the county social welfare department to be used for the use and benefit of the child born out of wedlock. In counties having a friend of the court, such friend of the court shall exercise those powers and perform those duties imposed by this act upon the county social welfare department. When a warrant is issued under this act, the alleged father shall not be fingerprinted, photographed, or have his name listed on any criminal record. However, a summons instead of a warrant may be issued in the discretion of the court. The summons shall be in such form as the court may determine and shall be personally served as directed by the court; but if the alleged father cannot be personally served with a summons or does not appear for trial after being served with summons, a warrant shall be issued.

Same; order of filiation, complaint of father.

(f) The father or putative father of a child so born out of wedlock under this act may file the complaint in the circuit court of the county in which such child or mother resides or is found, praying for the entry of the order of filiation as provided for in section 7 (a) of this act. The other parent of the child shall be made a party defendant and notified of the hearing on the complaint by summons which shall be in such form as the court shall determine and shall be personally served as directed by the court. The court, following the hearing, shall enter the order of filiation which shall have the same effect, be subject to the same provisions and enforced in the same manner as an order of filiation would be if entered under the provisions of this act on complaint of the mother.

Same; minor, guardian ad litem.

(g) It shall be unnecessary in any proceedings under this act commenced by or against a minor to have a next friend or guardian ad litem appointed for such minor unless the circuit judge shall require it; and such minor shall be entitled to prosecute or defend any proceedings in the same manner and with the same effect as if he or she were of legal age.

HISTORY: New 1956, p. 409, Act 205, Eff. Aug. 11;—Am. 1962, p. 562, Act 238, Eff. Mar. 28, 1963.

722.715 Competency of mother and alleged father; jury demand; exclusion of public; continuance until child is born.

Sec. 5. (a) Both the mother and the alleged father shall be competent to testify, but the alleged father shall not be compelled to testify, and if either gives evidence he or she shall be subject to cross examination. Either party may demand a trial by jury. The court may exclude the general public from the room where proceedings are had, pursuant to this act, admitting only persons directly interested in the case, including the officers of the court, officers or public welfare agents presenting the case, and witnesses.

(b) If the child is not born at the time set for trial, the case, unless the alleged father consents to trial, shall be continued until the child is born, and the alleged father shall remain bound or held until trial.

HISTORY: New 1956, p. 410, Act 205, Eff. Aug. 11;—Am. 1966, p. 170, Act 146, Eff. Mar. 10, 1967.

722.716 Blood tests; admission as evidence.

Sec. 6. (a) In any proceeding under this act before trial, the court, upon application made by or on behalf of the alleged father, shall order that the mother, child and alleged father submit to 1 or more blood tests to determine whether or not the defendant can be excluded as the father of the child. No blood test of any child shall be taken before the child reaches the age of 6 months. Whenever the court orders any blood test to be taken and the mother refuses to submit either herself or the child to the test, such fact shall be disclosed upon the trial unless good cause is shown for not doing so.

(b) Any test shall be made by an expert qualified as an examiner of blood types, who shall be appointed by the court.

(c) The court shall fix the compensation of any expert at a reasonable amount, and may direct the same to be paid by the county, or any other party to the case, or by both in such proportions and at such times as the court prescribes. Prior to the making of the test, the court may order any part or all of the compensation paid in advance.

(d) The result of the tests shall be receivable in evidence in the trial of the case but only in cases where definite exclusion is established. If more than 1 expert is appointed by the court, and if they disagree in their findings or conclusions, neither the findings, conclusions or the results of these tests shall be admissible [sic] as evidence of the paternity or non-paternity of the alleged father.

HISTORY: New 1956, p. 410, Act 205, Eff. Aug. 11.

722.717 Order of filiation, contents, notice to state commissioner of health.

Sec. 7. (a) If the finding of the court or verdict be against the defendant, or if the defendant acknowledges paternity orally to the court or by the filing in the case of his written acknowledgment of paternity, or if he is served with summons or a warrant and a default is duly taken against him, the court shall make an order of filiation declaring paternity and for the support and education of the child.

(b) The order of filiation shall specify the sum to be paid weekly or otherwise, until the child reaches the age of 18. In addition to providing for the support and education, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement; for the funeral expenses if the child has died; for the support of the child prior to the making of the order of filiation; and such expenses in connection with the pregnancy of the mother or of the proceedings as the court deems proper.

(c) When an order of filiation has been made, the clerk of the court shall forthwith transmit to the state commissioner of health on a form prescribed by him a written notification as to the order, together with such other facts as may assist in identifying the birth record of the person whose paternity was in issue. If the order is abrogated by a later judgment or order of the same or a higher court, that fact shall be immediately communicated in writing to the state commissioner of health on a form prescribed by him by the clerk of the court which entered the order.

HISTORY: New 1956, p. 410, Act 205, Eff. Aug. 11;—Am. 1962, p. 563, Act 238, Eff. Mar. 28, 1963.

722.718 Payments to friend of court or clerk; disbursement.

Sec. 8. The court shall require the payment of any sums to be made to the friend of the court or to the clerk of the court, which sums shall be disbursed in accordance with the order of the court.

HISTORY: New 1956, p. 411, Act 205, Eff. Aug. 11.

722.719 Bond; conditions, sureties, default, contempt; lien on real estate; receivers.

Sec. 9. (a) The person so adjudged to be the father of such child may be required to give bond with 1 or more sufficient sureties to the satisfaction of the court, to perform such order and also to indemnify the county, which might be chargeable with the confinement expenses and with the maintenance of the child; the bond shall be filed with the friend of the court or the clerk of the court. If on the trial he shall be adjudged not the father of such child, the court shall dismiss the complaint; and the judgment of the court shall be final.

(b) Whenever default shall be made in the payment of an installment or any part thereof, mentioned in the bond herein provided for, the judge of the court wherein the bond is filed, at the request of the mother or guardian or any other person interested in the support of such child, shall issue a citation to the principal and sureties in the bond requiring them to appear on a day specified in the citation, and show cause, if any they have, why execution shall not issue against them for the amount of the installment due and unpaid on the bond, which citation shall be served by the sheriff of any county in which such principal or sureties reside or may be found. If the amount due on the installment is not paid on or before the time mentioned for showing cause, the judge shall render judgment in favor of complainant against the principal and sureties who have been served with the citation, for the amount unpaid on the installment due on the bond; and execution shall issue from the court against the goods and chattels of the person or persons against whom the judgment shall be rendered for the amount of the judgment and costs to the sheriff of any county in the state where the parties to the judgment, or either of them reside or have property subject to such execution.

(c) The judge, in case of default in the payment, when due, of any installment or any part thereof or in the condition of the bond, may adjudge the reputed father guilty of contempt of court, by reason of the default, and may order him committed to the county jail or other penal institutions in the state of Michigan, where his earnings or a portion thereof, shall be applied to the support of the child, or confinement expenses, but for a period not exceeding 1 year or until the amount of the installment so due, shall be fully paid, but the commitment of the reputed father shall not operate to stay or defeat the obtaining of judgment and the collection thereof by execution. The rendition and the enforcement of decree or judgment shall not be construed to bar or hinder the taking of similar proceedings for subsequent defaults.

(d) If the judge deems it necessary in order to secure the payment or enforcement of such judgment, the same shall be made a lien upon such of the real estate of the defendant as the court shall direct, and a certified copy of the judgment shall be made by the clerk of said court, and filed and recorded in the office of the register of deeds of the county wherein such real estate is located, whereupon the same shall be a lien on said real estate. Execution and other process may also issue for the enforcement of the judgment as in case of other judgments in the court, and the provisions of this section, as far as applicable.

(e) In order to make effective the purpose and intention of the bonds, the court in its discretion may appoint a receiver of the real and personal property belonging to the judgment debtors with such powers not exceeding those customarily exercised by receivers appointed by courts of equity.

HISTORY: New 1956, p. 411, Act 205, Eff. Aug. 11.

722.720 Continuing jurisdiction; custody, support of child.

Sec. 10. Until the judgment of the court has been completely satisfied, the court shall have continuing jurisdiction over proceedings brought under this act to increase

or decrease the amount fixed by the order of filiation and to change the custody of the child.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11.

722.721 Mother's support of child.

Sec. 11. (a) If a mother of a child born out of wedlock possesses property and fails to support and educate her child, the court having jurisdiction, on application of the guardian or next friend of the child, may examine into the matter and after a hearing may make an order charging the mother with the payment of money weekly or otherwise for the support and education of the child.

(b) The court may require the mother to give security, by bond, with sufficient sureties approved by the court for the payment as directed by the order. In case of default under such bond, the same shall be enforced in like manner as is provided in section 9 of this act.

(c) Nothing in this section shall be deemed to relieve the father from liability for support and education of the child in accordance with the provisions of this act.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11.

722.722 False complaint; penalty.

Sec. 12. Any person making a false complaint under this act as to identity of the father, or the aiding or abetting therein, shall be guilty of a misdemeanor.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11.

722.723 Violation of act; sentence, probation; assignment of wages or income.

Sec. 13. Upon violation of any of the terms imposed in accordance with this act, the court may find the violator guilty of contempt of court and may proceed to impose the sentence provided for in section 9, paragraph (c), or place the violator on probation. The court may also order an assignment to the friend of the court of the salary, wages or other income of the person responsible for the payment of support and maintenance, which assignment shall continue until further order of the court. The order of assignment shall be effective 1 week after service upon the employer of a true copy of the order by personal service or by certified mail. Thereafter, the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the friend of the court until further order of the court. The person ordered to pay the support and maintenance shall inform the friend of the court immediately of any change which would affect the assignment or the disbursement thereof. An employer shall not use the assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected. The term employer as used in this section includes the state and any political subdivision thereof.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11;—Am. 1966, p. 135, Act 115, Eff. Jan. 1, 1967.

722.724 Appeal; stay of execution, bond, security for costs.

Sec. 14. An appeal in all cases may be taken by either the complainant or the defendant, a guardian ad litem appointed by the court for the child, the mother or her personal representative, from any final order or judgment of any court having jurisdiction of filiation proceedings.

No appeal, however, shall operate as a stay of execution unless the defendant gives the security provided in section 9 of this act and further security to pay the costs of such appeal.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11.

722.725 Omission of explicit reference to illegitimacy of child in records.

Sec. 15. In all records, certificates or other papers hereafter made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such a child, it shall be sufficient for all purposes to refer to the mother as the parent of the child, and no explicit reference shall be made to illegitimacy.

HISTORY: New 1956, p. 412, Act 205, Eff. Aug. 11.

722.726 Application of act.

Sec. 16. This act applies to all cases arising out of birth out of wedlock commenced under this act takes effect, and such cases shall not thereafter be commenced under chapter 42 of the Revised Statutes of 1846, as amended, being sections 722.601 to 722.612, inclusive, of the Compiled Laws of 1948, which shall, however, apply to and govern all cases commenced thereunder prior to the time this act takes effect.

HISTORY: New 1956, p. 413, Act 205, Eff. Aug. 11.

722.727 Fees; assessment in order of filiation.

Sec. 17. No fees for commencement of suit, filing fee, decree or judgment fee, or stenographer fee shall be required in proceedings under this act, but the court may assess such fees against the father in the order of filiation.

History: New 1956, p. 413, Act 205, Eff. Aug. 11.

722.728 Enforcement remedies.

Sec. 18. In addition to the methods provided under this act for the enforcement of any court order or judgment, whether interlocutory or final, any such order, decree or judgment may be also enforced under the provisions of Act No. 8 of the Public Acts of 1952, as amended, being sections 780.151 to 780.173, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 413, Act 205, Eff. Aug. 11.

722.729 Friend of court or county clerk; fees.

Sec. 19. To reimburse the county for the cost of handling support payments under this act, the court shall order the payment of \$1.50 per month, payable semiannually on January 2 and July 2 thereafter, to the friend of the court or county clerk. The fees shall be paid by the person ordered to pay any support money for a child. The fee shall be computed from the beginning date of the support order and shall continue while the order is operative. The service charge shall be paid 6 months in advance on each of the due dates, except for the first payment, which shall be paid at the same time the support order is filed, and shall cover the period of time from that month until the next calendar due date. Every order or judgment for the payment of support money shall provide for the payment of such fees. Any order or judgment for the payment of support money, entered before the effective date of this 1967 amendatory act, may be amended by the court, upon its own motion, to provide for the payment of the fees, upon proper notice to the person ordered to pay the alimony or support money. All fees paid to the friend of the court or county clerk shall be turned over to the county treasurer and credited to the general fund.

HISTORY: New 1956, p. 413, Act 205, Eff. Aug. 11;—Am. 1959, p. 112, Act 107, Eff. Mar. 19, 1960;—Am. 1967, p. 92, Act 74, Eff. Jan. 1, 1968.

722.730 Paternity act; short title.

Sec. 20. This act shall be known and may be cited as "The paternity act".

HISTORY: New 1956, p. 413, Act 205, Eff. Aug. 11.

Act 41, 1960, p. 32; Eff. Aug. 17.

AN ACT to regulate the hours that children under the age of 16 years may be in or on the public streets, highways, alleys and parks; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

722.751 Curfew for children under 12 years old.

Sec. 1. No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10 o'clock p.m. and 6 o'clock a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

HISTORY: New 1960, p. 32, Act 41, Eff. Aug. 17.

722.752 Curfew for children under 16 years old.

Sec. 2. No minor under the age of 16 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12 o'clock midnight and 6 o'clock a.m., immediately following, except where the minor is accompanied by a parent or guardian, or some adult over the age of 21 years delegated by the parent or guardian to accompany the minor child, or where the minor is upon an errand or other legitimate business directed by his parent or guardian.

HISTORY: New 1960, p. 32, Act 41, Eff. Aug. 17.

722.753 Aiding underage children to violate law; misdemeanor.

Sec. 3. Any person of the age of 16 years or over assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 16 years to violate the provisions of sections 1 and 2 hereof is guilty of a misdemeanor.

HISTORY: New 1960, p. 32, Act 41, Eff. Aug. 17.

722.754 Local regulation as to curfew.

Sec. 4. Nothing in this act shall be deemed to limit any powers now or hereafter possessed by law by any township, charter township, city or village to regulate by ordinance a curfew of minors.

HISTORY: New 1960, p. 33, Act 41, Eff. Aug. 17.

Act 71, 1965, p. 103; Eff. Mar. 31, 1966.

AN ACT authorizing the establishment of county rehabilitation work camps for the custody of juvenile offenders and the powers and duties of the board of supervisors.

The People of the State of Michigan enact:

722.761 County rehabilitation work camps; operation by board of supervisors.

Sec. 1. The board of supervisors of any county may construct, maintain, equip, furnish, appoint the necessary personnel and supervise the operation of county rehabilitation work camps for the purpose of rehabilitating juvenile offenders. County rehabilitation work camps established under this law must meet licensing standards as established by the state department of social welfare.

HISTORY: New 1965, p. 103, Act 71, Eff. Mar. 31, 1966.

722.762 Agreements with county maintaining work camps.

Sec. 2. The board of supervisors of any county not having a county rehabilitation work camp or the legislative body of any municipality either within or without the

county maintaining a county rehabilitation work camp may enter into agreements with a county maintaining such camps.

HISTORY: New 1965, p. 103, Act 71, Eff. Mar. 31, 1966.

722.751 Curfew for children under 12 years old.

Sec. 1. No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10 o'clock p.m. and 6 o'clock a.m. unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

722.752 Curfew for children under 16 years old.

Sec. 2. No minor under the age of 16 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12 o'clock midnight and 6 o'clock a.m. immediately following except where the minor is accompanied by a parent or guardian, or some adult over the age of 21 years delegated by the parent or guardian to accompany the minor child, or where the minor is upon an errand or other legitimate business directed by his parent or guardian.

722.753 Aiding underage children to violate law; misdemeanor.

Sec. 3. Any person of the age of 18 years or over assisting, inducing, abetting, permitting or encouraging any minor under the age of 16 years to violate the provisions of sections 722.751 and 722.752 is guilty of a misdemeanor.

722.754 Local regulation as to curfew.

Sec. 4. Nothing in this act shall be deemed to limit any power now or hereafter possessed by any township, charter township, city or village to regulate by ordinance a curfew of minors.

AN ACT authorizing the establishment of county rehabilitation work camps for the custody of juvenile offenders and the powers and duties of the board of supervisors.

722.761 County rehabilitation work camps; operation by board of supervisors.

Sec. 1. The board of supervisors of any county may, within the limits of the county, establish, maintain, operate, and support one or more county rehabilitation work camps for the purpose of rehabilitating juvenile offenders in violation of the law, under the supervision of the board of supervisors, and may, in connection therewith, establish by the state department of social welfare.

722.762 Agreements with county maintaining work camps.

Sec. 2. The board of supervisors of any county, not having a county rehabilitation work camp or the legislative body of any municipality other than within the county,

CHAPTER 725. MUNICIPAL COURTS OF RECORD

MUNICIPAL COURTS OF RECORD

Act 369 of 1919

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Act 369, 1919, p. 646; Eff. Aug. 14.

AN ACT to supplement existing laws providing for the establishment and maintenance of municipal courts of record and defining the jurisdiction of such courts; to fix the number of judges thereof; to provide a presiding judge; to define the privileges of such presiding judge; to modify the procedure in and extend the jurisdiction of said courts in certain respects, and to confer upon said courts jurisdiction in certain civil causes, and to provide for the exercise thereof, to provide for a referendum, and to provide for the abolishing of any police courts or other courts not of record having exclusive criminal jurisdiction existing in any city in which the provisions of this act become operative, and to provide for a system of civil service in the traffic and ordinance division of said courts. Am. 1933, p. 21, Act 24, Imd. Eff. Mar. 2;—Am. 1945, p. 318, Act 226, Imd. Eff. May 18.

The People of the State of Michigan enact:

725.1 Municipal courts of record; judges, number, qualifications, nominations and election.

Sec. 1. Subject to the provisions hereof, any municipal court of record now existing in any city of the state shall continue in accordance with the laws pertaining thereto. The number of judges of any such court shall be determined on the basis of 1 judge for each 130,000 population or majority fraction thereof, according to the federal census for the year 1960, which number shall be in addition to those provided for in section 8. No person shall be eligible to the office of judge of any such court, who does not possess the qualifications now prescribed by a law for holding such office. Candidates for election for the office of judge of such court shall be nominated and elected in the manner now provided by law therefor. If additional judges are required in any such court by reason of this 1965 amendment, when it becomes effective, candidates for election to the additional judgeships shall be nominated at the first general or special election held in the city in which the court is located, following the adoption of this

1965 amendment by referendum in the city as provided in section 7. When elected the additional judges shall take office as soon as duly qualified and shall hold office for a term equal to the balance of the term of the judges who shall be sitting in the court at the time of the election. After the first term the full term for each additional judgeship shall be 6 years. Nothing in this act shall be construed to affect the tenure of any judge, clerk, deputy, or assistant clerk in said court holding office at the time this act becomes operative in such municipality.

HISTORY: Am. 1925, p. 10, Act 3, Imd. Eff. Mar. 10;—Am. 1929, p. 653, Act 278, Imd. Eff. May 22;—CL 1929, 16518;—CL 1948, 725.1;—Am. 1960, p. 86, Act 90, Eff. Aug. 17;—Am. 1965, p. 713, Act 363, Imd. Eff. Jul. 23.

725.2 Presiding judge; selection, term, powers, assignment of business, temporary vacancy.

Sec. 2. In any such court of record having more than 2 judges, 1 of such judges shall be presiding judge. Such presiding judge shall be chosen by the members of the court at such time and for such term as the members of said court shall determine. No member of the court who has served as presiding judge thereof shall be again eligible to said office until each of the other members have likewise served in that capacity. The presiding judge shall exercise all the powers and privileges possessed by other members of the court and in addition thereto shall be charged with the general supervision and superintendence of the work of the court. He shall preside at all meetings of the judges and shall assign the members of the court to the different divisions thereof and to particular kinds of work in such divisions in accordance with the rules and regulations of the court. It shall be the duty of each member of the court to perform all such duties as may be thus assigned, and neglect or refusal so to do shall be deemed to be misconduct in office. At the time of the selection of the presiding judge, a presiding judge pro tempore shall also be designated who shall act in case of the disability of the presiding judge.

HISTORY: Am. 1923, p. 447, Act 278, Eff. Aug. 30;—CL 1929, 16519;—CL 1948, 725.2

*Amendatory Act 278 of 1923 had a Sec. 2 which read as follows: "This act shall not become operative in any municipality of the state unless and until it is submitted to a vote of the qualified electors voting thereon. It shall be so submitted in accordance with section 7 of said Act No. 369 of the Public Acts of 1919, as aforesaid."

In view of the fact that this amendment has not been adopted in Detroit, the only city in the state in which the original act has been adopted, the section above set forth reads as enacted in the original act. In the 1929 compilation the language of the original section is set forth in the footnote matter. This section as amended by Act 278 of 1923 reads as follows:

"In any such court of record having more than 2 judges, 1 of such judges shall be presiding judge. Such presiding judge, on the adoption of this act, shall be chosen by the members of the court for a period of not less than 1 month, or for 3 months and no longer, as the members of the court may determine. The presiding judge shall not be chosen to succeed himself, but shall be chosen alternately from the members of the court for the period of time for which they may have designated as the term of the presiding judge. The presiding judge shall exercise all the powers and privileges possessed by other members of the court and in addition thereto shall be charged with the general supervision and superintendence of the work of the court. He shall preside at all meetings of the judges and shall assign the members of the court to the different divisions thereof and to particular kinds of work in such divisions in accordance with the rules and regulations of the court. It shall be the duty of each member of the court to perform all such duties as may be thus assigned, and neglect or refusal so to do shall be deemed to be misconduct in office. At the time of the selection of the presiding judge, a presiding judge pro tempore shall also be designated who shall act in case of the disability of the presiding judge."

ASSIGNMENT OF BUSINESS: See Compilers' § 726.2.

725.3 Court may classify work; psychopathic department; expenditures.

Sec. 3. In order to facilitate the work of the court the business thereof shall be classified; and the members of the court or a majority thereof may establish and maintain specialized branches or divisions thereof, as may be deemed expedient and proper. Insofar as possible, [.] the business of the court shall be so arranged that minors shall be kept separate and apart from other offenders. The court shall also have power to make provision for a psychopathic department of the court and have medical and psychopathic investigations and examinations and treatment of persons coming before said court: Provided, however, That no money shall be expended for such purpose in excess of the sums that may be appropriated therefor by the legislative body of the city in which the court is situated.

HISTORY: CL 1929, 16520;—CL 1948, 725.3.

725.4 Clerk, deputy, assistants; appointment, compensation; fees; classified service.

Sec. 4. The court, or a majority of the judges thereof may appoint, subject to the provisions hereof, a clerk and deputy clerk, and such other clerical and stenographic assistants as may be necessary and fix the compensation thereof; but the total amount so expended by the city for the compensation of the clerk, deputy clerk and other assistants shall not exceed the sums appropriated therefor by the legislative body of the city. The board of supervisors of the county may fix an additional and supplemental salary for the clerk, and such additional salary when so fixed shall be in lieu of all fees and commissions payable to or collectible by the clerk for the discharge of any duties of his office and more particularly for the discharge of those duties imposed upon him by virtue of section 18 of chapter 9 of Act No. 175 of the Public Acts of 1927, being section 769.18 of the Compiled Laws of 1948; but all fees or commissions made payable to or that may be charged by him shall be received by him for and on account of the county. All judicial clerks and deputy clerks, excepting the chief clerk, the chief deputy clerk and the employees of the psychiatric clinic, appointed by the court shall immediately after the adoption of this 1965 amendatory act, by any municipality, as provided in section 7, be in the classified service of the municipality and subject to all provisions relative to civil service contained in the charter of the municipality. All employees, excepting the chief clerk, the chief deputy clerk and the employees of the psychiatric clinic, appointed by any such municipal court serving at the time this 1965 amendment becomes effective in any municipality shall be entitled to retain their positions but subject to all appropriate provisions of the charter of the municipality.

HISTORY: CL 1929, 16521;—CL 1948, 725.4;—Am. 1951, p. 116, Act 87, Eff. Sep. 28;—Am. 1964, p. 258, Act 186, Imd. Eff. May 20;—Am. 1965, p. 105, Act 74, Imd. Eff. Jun. 24.

CLERK AND ASSISTANTS: See also Compilers' § 726.7.

725.5 Hours of court; attendance by members; judge not to practice law.

Sec. 5. Sessions of the said court shall be held each secular day from 9:30 a.m. to 12:30 p.m., and from 2 to 4 p.m., and at such other hours as may be fixed by the court. It shall be the duty of members of the court to be in attendance thereat unless excused for cause by the presiding judge; and persistent or repeated absence therefrom without such permission shall be deemed to constitute malfeasance in office. No judge of said court shall engage in private practice; nor shall he be in any way connected with any attorney or firm of attorneys engaged in such practice.

HISTORY: CL 1929, 16522;—CL 1948, 725.5.

725.6 Cash or securities in lieu of bail; disposition, forfeiture, discharge, garnishment.

Sec. 6. Any judge or the chief clerk or deputy clerk of any such court may allow cash bail in cases in which such court has jurisdiction wherein a bond is required to be given by any person. It shall be lawful for the parties from whom any such bond is required, in lieu thereof, to deposit with the clerk of the court, cash, or a certified check on any national or state bank of this country payable to the order of the clerk of the court, or the bonds of any municipality in the United States or securities issued by any state or by the United States government, which bonds or securities are negotiable by delivery. Such money or securities shall be taken and accepted by the said judge, or clerk, and shall be deposited with the chief clerk, who shall give the person so depositing a receipt setting forth the amount of money or the character of the securities and the purpose for which the deposit is made. The clerk shall within 48 hours deposit such cash or other security with the county treasurer and said treasurer shall hold the same in special fund or in a special place of deposit subject to the further order of the court or the judge accepting such security. Any such security so accepted shall be forfeited or discharged in the same manner as bonds are forfeited or discharged. In case

of discharge, an order to that effect shall be entered on the records of the court together with a statement of the amount to be returned to the person, or that the securities deposited by him are to be returned. Upon presentation to him of a copy of such order certified by the clerk of the court, the county treasurer shall pay to the person named in such order or to the order of such person, the amount specified, or shall turn over the securities deposited as the case may be. In case of forfeiture, an order to that effect shall be entered in the records of the court and on presentation to him of a copy of such order duly certified by the chief clerk of such court the said treasurer shall deal with said cash deposit or security in the same manner as the proceeds of a forfeited bond in said court are or may be required by law to be dealt with. In case such cash or security is still in the hands of said clerk at the time the same is declared discharged or forfeited by the court, the clerk shall make the same disposition of such security as the county treasurer would be required to make in similar circumstances. Money or securities deposited hereunder shall not be subject to garnishment.

HISTORY: CL 1929, 16523;—CL 1948, 725.6.

BAIL: See Compilers' § 600.6063. As to cash or securities in lieu of bail, in civil cases, see Compilers' § 600.2631; in criminal cases, see Compilers' § 765.12 et seq.

725.7 Referendum; procedure; submission.

Sec. 7. This act, or any amendment thereto, other than this section shall not become operative in any municipality of this state unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of the electors voting thereon. The legislative body of any city now having a municipal court of record, by a majority vote thereof, shall submit to the qualified electors the question of adopting this act, or any amendment thereto, or the questions may be submitted by initiatory petition in the same manner and with like effect as is or may be provided by law for the proposal and submission of amendments to the charter of such city. All proceedings with reference to the submission of the question shall conform as nearly as may be to the requirements of the state law governing the submission of charter amendments. In any municipality where in the act of which the act is amendatory is now operative, this act shall be submitted to the qualified electors thereof at the next regular or special election held in the municipality. If for any reason this act is not submitted at said election, it may be submitted at any regular or special municipal or primary election held thereafter. If the provisions of this act shall be ratified by a majority of the electors voting thereon, as shown by the certification of the returns by the proper election officials of said city, then the provisions of this act shall become effective immediately following such certification of said returns.

HISTORY: Am. 1925, p. 10, Act 3, Imd. Eff. Mar. 10;—Am. 1929, p. 684, Act 278, Imd. Eff. May 22;—CL 1929, 16524;—Am. 1931, p. 396, Act 227, Imd. Eff. May 29;—Am. 1933, p. 21, Act 24, Imd. Eff. Mar. 2;—Am. 1945, p. 318, Act 226, Imd. Eff. May 18;—CL 1948, 725.7;—Am. 1965, p. 713, Act 363, Imd. Eff. Jul. 23.

REFERENDUM: Detroit (recorder's court) has adopted the original provisions of this act and the amendments contained in Acts 3 and 344 of 1925, Act 99 of 1927, Act 278 of 1929, Act 227, 1931, Act 24, 1933, and Act 226, 1945, but not those contained in Act 364 of 1921 and Act 278 of 1923.

For referendum provisions contained in some of the amendatory acts, see notes under sections of this act. For such provision in the amendatory act of 1929, see Compilers' § 725.17.

725.8 Traffic and ordinance division; judges, number; appointment, nomination, election, term.

Sec. 8. If in any city wherein the provisions of this act, or any amendment thereto, may be or may have been adopted by referendum, there shall be set up a separate traffic and ordinance division. The number of traffic and ordinance division judges in the division shall be determined on the basis of 1 judge for each 550,600 or majority fraction thereof of population according to the latest decennial federal census. If 1 or more additional judges shall be required in any such court by reason of this amendment, when it shall become effective, candidates for election to such additional judgeships shall be nominated at the first general or special primary, and elected at the first general or special election held in such city following the adoption of this amendment

by referendum by said city as provided in section 7 of this act. The nominations and elections shall be made in the same manner as is or may be provided by law for the election of additional judges of the municipal court as provided in section 1 of this act, but under separate ballot designation as candidates, for the offices of judges of said municipal court, traffic and ordinance division. The additional judges of the traffic and ordinance division, after election, shall take office as soon as qualified and shall serve for a term equal to the balance of the remaining term of the judges already sitting in said traffic and ordinance division. After such first term, the term of all judges of such division shall be for 6 years or until their successors shall have been duly elected and qualified.

HISTORY: Am. 1921, p. 659, Act 364, Eff. Aug. 18;—Am. 1925, p. 11, Act 3, Imd. Eff. Mar. 10;—Am. 1929, p. 684, Act 278, Imd. Eff. May 22;—CL 1929, 16525;—CL 1948, 725.8;—Am. 1965, p. 713, Act 363, Imd. Eff. Jul. 23.

REFERENDUM: Since the original act of 1919 is local in character, the amendatory act of 1921 is also a local act requiring a referendum under the constitution, and where no referendum was had it is invalid. *Atty. Gen. v. Lindsay*, 221 Mich. 533, 191 N.W. 826. See also note to preceding section.

725.9 Effect of act on existing courts.

Sec. 9. Nothing in this act shall diminish the powers, duties or jurisdiction of any municipal court of record now existing, or of the members of said court, nor as altering the practice or procedure thereof except as herein otherwise provided, it being the intention that said court shall continue the same except as to the changes herein named.

HISTORY: CL 1929, 16526;—CL 1948, 725.9.

725.10 Police courts; abolition, transfer of powers, duties and jurisdiction.

Sec. 10. Any police court or other court of exclusive criminal jurisdiction and not of record existing in any city by virtue of any local or special acts shall immediately after this act becomes operative in any such city by virtue of the action of its legislative body, as herein provided, be abolished and discontinued, and all the powers, duties and jurisdiction thereof, including the holding of examinations and trials and the taking of bail, shall be exercised and performed by such municipal court of record under the provisions of this act.

HISTORY: CL 1929, 16527;—CL 1948, 725.10.

JURISDICTION: See also Compilers' § 726.11.

DETROIT POLICE COURT: Act 6, 1913, being CL 1929, 16391-16399;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Sec. 10 of Act 161 of 1885 creating this court provided for its jurisdiction as follows: "The police court shall have original and exclusive jurisdiction to hear, try and determine all criminal cases wherein the crime, misdemeanor or offense charged shall have been committed within the corporate limits of the city of Detroit or upon any lands, tenements or hereditaments owned or occupied by, or under the authority of the city of Detroit, within the county of Wayne, and which crime, misdemeanor or offense would be, now or hereafter, cognizable by a justice of the peace if the same had been committed in any other part of this State; to entertain, conduct and dispose of all preliminary examinations into crimes, misdemeanors and offenses which shall have been committed within the corporate limits of the city of Detroit, and which may, now or hereafter, be cognizable by the recorder's court of said city; to hear, try and determine or otherwise lawfully entertain, conduct and dispose of all cases and proceedings arising within the corporate limits of the city of Detroit under the laws of this State relative to disorderly persons, illegitimate children, fugitives from justice from other States and foreign countries, the preservation of the public peace and the prevention of crime: Provided, however, That this act shall not be in any wise construed to interfere with or affect any of the powers of or the authority conferred by law upon the grand jury of the county of Wayne. The police court shall have concurrent jurisdiction with the recorder's court of the city of Detroit to hear, try and determine cases arising under the ordinances of the common council relative to common prostitutes, vagrants, mendicants, street leggars, drunken persons, disorderly persons, disturbances and breaches of the peace, indecent exposure of the person, indecent conduct, indecent exhibitions, and other disorderly conduct, and any person arrested for a breach of any of the ordinances aforesaid, shall be discharged from custody upon entering into a recognizance in a sum not exceeding the penalty provided for the violation of the same, and with sureties satisfactory to the officer taking said recognizance, conditioned for the appearance of such person to answer to any complaint that may be preferred against him or her. Either of said police justices, the clerk of the public court and the clerk of the recorder's court of the city of Detroit shall have power to take said recognizances, and it shall be the duty of the officer having such person in custody to produce him before any of said officers for the purpose of giving such bail when required so to do. All recognizances taken as hereby provided shall be filed as soon as practicable in the office of the clerk of the court before whom such person is brought for trial and said courts shall have full jurisdiction and authority to control and enforce the same."

Sec. 11 provided among other things that the court should "have power to issue all lawful writs and process, and to do all lawful acts which may be necessary and proper to execute and carry into complete effect the powers and jurisdiction given by this act, and especially to issue all writs and process, and to do all acts which justices of the peace, within their respective jurisdictions, may issue and do by the laws of the State, and shall, as far as applicable, be governed by the provisions of law regulating criminal cases and proceedings, before justices of the peace".

GRAND RAPIDS POLICE COURT: Inasmuch as Grand Rapids has not yet adopted the provisions of this act this court still continues. See Act 76 of 1879, being Compilers' § 729.1 et seq.

725.11 Police courts; transfer of undetermined proceedings and records.

Sec. 11. All cases, matters and proceedings pending and undetermined in any such police court or other court of exclusive criminal jurisdiction, not of record, and which is so abolished and discontinued, shall, upon the abolishment of such court as herein provided, stand transferred to the municipal court of record now existing in such city,

and to which the provisions of this act apply, and shall therein be heard, tried and determined, or otherwise lawfully disposed of as though originally commenced in such municipal court of record, and as near as may be according to the law and practice thereof; all records, books, files, bonds, recognizances, and other papers belonging to said court in the office of the clerk, shall be by such clerk promptly delivered to the clerk of such municipal court of record and shall be kept and filed in the office of such court, or where they shall have the same force and effect and be used for the same purpose as though originally filed in said office.

HISTORY: CL 1929, 16528;—CL 1948, 725.11.

725.12 Motion for new trial; time of filing, stay of proceedings; release of defendant, procedure.

Sec. 12. The procedure in all cases where motion is made for a new trial shall be the same as is provided for under the general laws of this state for circuit courts. In cases cognizable by justices of the peace under the state law, motions for new trial shall be filed within 15 days from rendition of judgment and shall be determined within 10 days after said motion shall have been filed. Upon the filing of a motion for new trial in such cases all further proceedings shall be stayed, and the court may order the release of the defendant upon his filing a bond in such amount and in such form as may be fixed and approved by the court. In cases cognizable by justices of the peace under the state law, motions for new trial shall be heard by the presiding judge or shall be assigned by him to some judge other than the one who sat in the trial of such cause. In such cases the defendant shall file with his motion for new trial before the date set for the hearing thereof a complete transcript of the testimony taken upon the original trial of said cause. Motions for new trial in such cases shall not be granted as a matter of right but shall be granted only for good cause shown in the same manner as is provided by law in cases not cognizable by justices of the peace. If the court deny any motion for new trial in such cases he shall forthwith issue a writ of mittimus for the purpose of apprehending said defendant and subjecting him to the original sentence of the court in such case.

HISTORY: Am. 1927, p. 138, Act 99, Imd. Eff. April 30;—CL 1929, 16529;—CL 1948, 725.12.

REFERENDUM: Amending Act 99 of 1927 had a Sec. 2 which read as follows: "This act shall not become operative in any municipality of the state unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of the electors voting thereon in accordance with section seven [7] of act number three hundred hundred sixty-nine [369] of the public acts of nineteen hundred nineteen [1919]." This amendatory act has been adopted in Detroit.

SUPREME COURT: Removal of causes to this court, see Compilers' § 726.24.

725.13 Salary of judge.

Sec. 13. Each judge of said court, including the presiding judge, shall receive an annual salary from the county in which said court is located in the same amount as that paid by the state to circuit judges, and in the same manner as salaries are paid to county officers, and such additional salary as shall be fixed by the common council or other legislative body of the city in which said court shall exist, which salary shall be paid semi-monthly by the treasurer of the city in the same manner as the salaries of city officials in said city are paid.

HISTORY: Am. 1923, p. 447, Act 278, Eff. Aug. 30;—CL 1929, 16530;—CL 1948, 725.13. This section probably supersedes Compilers' § 726.6.

*Amendatory Act 278 of 1923 had a Sec. 2 which read as follows: "This act shall not become operative in any municipality of the state unless and until it is submitted to a vote of the qualified electors voting thereon. It shall be so submitted in accordance with section 7 of said Act 369 of the Public Acts of 1919, as aforesaid."

In 1948 this amendment had not been adopted in Detroit. Thus the law in force there would be the provisions of the original section, which read as follows: "Each judge of said court, including the presiding judge, shall receive an annual salary from the city in which said court is located in the same amount as that paid by the state to circuit judges, and in the same manner as salaries are paid to city officers, and such additional salary as shall be fixed by the common council or other legislative body of the city in which said court shall exist, which salary shall be paid semi-monthly by the treasurer of the city in the same manner as the salaries of city officials in said city are paid."

SALARY: As to amount, see Compilers' § 600.582.

For minimum limit on additional salary, see note on Detroit charter to Compilers' § 726.1.

725.14 Judge may refuse to accept surety.

Sec. 14. Any judge of said court shall have authority in his discretion to refuse to accept as surety upon a bond any person who shall at the time of so offering himself be acting as surety on any other bond pending in said court.

HISTORY: Add. 1921, p. 659, Act 364, Eff. Aug. 18;—CL 1929, 16531;—CL 1948, 725.14.

REFERENDUM: In 1929 this section had not been adopted in Detroit. Since the original act of 1919 is local in character, the amendatory act of 1921 is also a local act requiring a referendum under the constitution, and where no referendum was had it is invalid. *Atty. Gen. v. Land-say*, 221 Mich. 533, 191 N.W. 826.

SURETIES: For a similar provision in the code of Criminal Procedure having a general application, see Compilers' § 765.9.

Sec. 15.

HISTORY: Add. 1921, p. 659, Act 364, Eff. Aug. 18;—CL 1929, 16532;—Rep. 1931, p. 765, Act 330, Eff. June 16, see Compilers' § 725.159.

This section provided for board of jury commissioners. For present law, see Compilers' § 725.101 et seq.

Sec. 14.

HISTORY: Add. 1925, p. 522, Act 344, Eff. Aug. 27;—Rep. 1929, p. 687, Act 278, Imd. Eff. May 22.

For law formerly covered by this section, see Compilers' § 725.16.

Sec. 15.

HISTORY: Add. 1925, p. 522, Act 344, Eff. Aug. 27;—Rep. 1929, p. 687, Act 278, Imd. Eff. May 22.

For law formerly covered by this section, see Compilers' § 725.17.

725.16 Powers of clerk or deputy.

Sec. 16. Any clerk, or deputy clerk of any municipal court of record in any city of the state may, in his own name as clerk or deputy clerk of such court, in any cause cognizable by such court and only when authorized by the court or any judge thereof by an order duly entered in said particular cause, administer to complainants the oath required thereof, attest the administering of said oath on any such complaint, sign and issue warrants based on any such complaints and administer oaths and take and accept sureties upon recognizances in any case where the penal amount thereof shall have been fixed by the court or any judge thereof upon the arraignment of any person upon a warrant or information.

HISTORY: Add. 1929, p. 685, Act 278, Imd. Eff. May 22;—CL 1929, 16533;—CL 1948, 725.16.

725.17 Referendum.

Sec. 17. This act shall not become operative in any municipality of the state unless and until it is submitted to a vote of the qualified electors voting thereon, in accordance with section 7 of said Act No. 369 of the Public Acts of 1919.

HISTORY: Add. 1929, p. 685, Act 278, Imd. Eff. May 22;—CL 1929, 16534;—CL 1948, 725.17.

NOTE: Sec. 7, above referred to, is Compilers' § 725.7.

REFERENDUM: The provisions of amendatory Act 278 of 1929 have been adopted in Detroit.

725.18 Traffic and ordinance division; judges; jurisdiction, quorum, assignment of business; assignment of municipal court judges.

Sec. 18. The judges of the municipal court—traffic and ordinance division hereinbefore constituted shall have original and exclusive jurisdiction of all prosecutions and proceedings in behalf of the people of this state for all crimes, felonies, misdemeanors and offenses committed within the corporate limits of any municipality adopting this act and arising under the Michigan motor vehicle law and all other state laws relating to traffic on the public highways of this state, including the crime of negligent homicide and the crimes of manslaughter and involuntary manslaughter committed in the operation of any motor vehicle, except in cases cognizable by justices of the peace and as to all such cases their said jurisdiction shall be concurrent. The judges of the municipal court—traffic and ordinance division shall also have original and exclusive jurisdiction of all complaints and proceedings in behalf of the people of any municipality adopting this act for violations of all city and village ordinances, rules or regulations of such municipality; and shall have power to issue all lawful writs and process and to do all lawful acts which may be necessary and proper to carry into complete effect the powers and jurisdiction given by this act. Each judge of said court shall have equal and coordinate powers and duties with respect to the business of said court. One judge

shall constitute a quorum for the transaction of said business. Said judges shall have the power and duty to apportion the business of said court between themselves. In the event of their failure so to do, the deputy clerk of said municipal court—traffic and ordinance division, hereinafter provided for, shall have the duty and power to distribute the work of said court between the judges thereof, assigning thereto the cases ready for trial. Except as herein specified, all constitutional, statutory and charter provisions relating to the duties and powers of the municipal court and the judges thereof shall apply to the municipal court—traffic and ordinance division and the judges thereof, with respect to the business of said court. Said judges shall not participate in the organization or operation of the other division of the municipal court or branches thereof; and shall have no other jurisdiction than that provided herein. Upon the filing by the deputy clerk of the municipal court, traffic and ordinance division, with the chief clerk of the municipal court of his certificate of the absence or disability of all of the judges of the said municipal court, traffic and ordinance division, the presiding judge of the municipal court may assign 1 or more judges of the municipal court to duty in the said municipal court, traffic and ordinance division, during the period of the absence or disability of said judges of the municipal court, traffic and ordinance division; said judge or judges of the municipal court so assigned shall have and exercise all the jurisdiction and powers of a judge of the municipal court, traffic and ordinance division, during the period of their service in said municipal court, traffic and ordinance division.

HISTORY: Add. 1929, p. 665, Act 278, Imd. Eff. May 22;—CL 1929, 16535;—Am. 1931, p. 396, Act 227, Imd. Eff. May 29;—CL 1946, 725.18.

ORDINANCE CASES: As to jurisdiction of court, see also *Compilers' § 726.22*.

725.19 Traffic and ordinance division; chief clerk, deputy clerk, referees; appointment, terms, powers and duties, compensation, bonds; employees in classified service.

Sec. 19. The chief clerk of the municipal court shall ex officio be the chief clerk of the municipal court—traffic and ordinance division and be charged with all duties and powers with reference thereto as are given to him by law with reference to the municipal court except as hereinafter stated. The judges of the municipal court—traffic and ordinance division shall have authority to appoint a deputy clerk therefor and to fix his compensation and require bond thereof in such amount as they may deem advisable. Such deputy clerk of the municipal court—traffic and ordinance division shall be charged with the duty and power of keeping proper records of said court separate and distinct from the other division of the municipal court or branches thereof. He shall also be charged with the duty and power of keeping up to date the docket of the said municipal court—traffic and ordinance division and of distributing the work thereof between the judges thereof, assigning to them such cases as are ready for trial, with the approval and consent of said judges except as hereinbefore stated. Such deputy clerk of the municipal court—traffic and ordinance division shall also be charged with such other duties and powers as may be delegated to him by the chief clerk thereof with reference to the business of said court or by the judges of same with reference thereto. All duties and powers so given to such deputy clerk shall be exclusively exercised by him and his assistants hereinafter provided for. The judges of the municipal court—traffic and ordinance division shall have authority to appoint 1 or more referees from the top 4 qualified persons on civil service registers, who shall have authority to administer oaths, examine witnesses and make reports and recommendations to the judges of such municipal court—traffic and ordinance division in such misdemeanor cases under state laws or municipal ordinances as may be referred to them by the judges of said division of said court. The amount of bond required to such referee or referees shall be fixed by the judges of said division of said court. The compensation so

expended for such referee or referees, the deputy clerk, other clerks, clerical and stenographic assistants or other employees shall not exceed the sums appropriated therefor by the legislative body of the municipality wherein such court is constituted. All employees of the municipal court—traffic and ordinance division, except judges and 1 deputy clerk per judge, shall immediately after the adoption of this 1963 amendatory act, by any municipality, as provided in section 7 of this act, be in the classified service of such municipality and subject to all provisions relative to civil service contained in the charter of such municipality. All such employees who shall have served in their positions consecutively for a period of 6 months prior to the adoption of this 1963 amendatory act shall be entitled to retain their positions but subject to all appropriate provisions of the charter of such municipality.

HISTORY: Add. 1929, p. 686, Act 278, Imd. Eff. May 22;—CL 1929, 16536;—Am. 1931, p. 397, Act 227, Imd. Eff. May 29;—Am. 1945, p. 319, Act 226, Imd. Eff. May 18;—CL 1948, 725.19;—Am. 1960, p. 86, Act 90, Eff. Aug. 17;—Am. 1963, p. 256, Act 196, Eff. Sep. 6.

725.20 Traffic and ordinance division; transfer of pending cases.

Sec. 20. All cases, matters and proceedings relating to traffic violations pending and undetermined in the municipal court of any municipality adopting this act, shall upon the establishment of a municipal court—traffic and ordinance division therein, stand transferred to same and shall be heard, tried and determined or otherwise lawfully disposed of by said court, as though originally commenced therein; all records, books, files, bonds, recognizances and other papers in the hands of the clerk of the municipal court relating to traffic violations shall be thereafter held by him as the chief clerk of the municipal court—traffic and ordinance division and shall be kept by the deputy clerk thereof, as hereinbefore provided, in files in the office of the said chief clerk and shall have the same force and effect and be used for the same purpose as though originally filed in the said municipal court—traffic and ordinance division.

HISTORY: Add. 1929, p. 687, Act 278, Imd. Eff. May 22;—CL 1929, 16537;—CL 1948, 725.20.

725.21 Traffic and ordinance division; violation bureau, establishment.

Sec. 21. The judges of the municipal court—traffic and ordinance division shall have authority to establish a violation bureau for the purpose of assisting said court in the disposition of complaints of violation and traffic ordinances, rules and regulations of the municipality in which said court is constituted, and shall have authority to adopt rules and regulations for the operation of said bureau. The director and deputy director of the violation bureau shall be required to post bond in such amounts as said judges may deem advisable.

HISTORY: Add. 1929, p. 687, Act 278, Imd. Eff. May 22;—CL 1929, 16538;—Am. 1945, p. 319, Act 226, Imd. Eff. May 18;—CL 1948, 725.21.

725.22 Traffic and ordinance division; reports.

Sec. 22. The judges of the municipal court—traffic and ordinance division, shall, on or before the thirty-first day of July and the thirty-first day of January of each year, submit to the mayor of the municipality a written report of the work of the court and the violation bureau for the preceding 6 months' period ending June thirtieth and December thirty-first, respectively.

HISTORY: Add. 1929, p. 687, Act 278, Imd. Eff. May 22;—CL 1929, 16539;—CL 1948, 725.22.

725.23 Civil jurisdiction; extent.

Sec. 23. In addition to the jurisdiction already conferred on municipal courts of record existing under the provisions of this act, as amended, such municipal courts of record including the traffic and ordinance division thereof are hereby authorized and empowered to exercise the jurisdiction that is now or may be hereafter granted by law to circuit courts in the trial of all civil transitory actions in which any plaintiff or defendant is a resident of the city wherein such municipal court of record is situated, and in the trial of all civil local actions where the cause of action arises within such city.

This provision shall extend both to law and equity. The civil jurisdiction herein conferred shall be exercised only to the extent and in the manner provided in the following sections of this act.

HISTORY: Add. 1933, p. 22, Act 24, Imd. Eff. March 2;—CL 1948, 725.23.

725.24 Civil jurisdiction; designation of judges; orders, judgments, process.

Sec. 24. In order to carry into effect the provisions of the foregoing section, the judges of such municipal court of record, including the judges of the traffic and ordinance division thereof, each division acting separately, may designate from time to time 1 or more of their number to act thereunder. Such designation shall be subject to the approval of the state presiding circuit judge. The judge or judges so designated and approved shall exercise the jurisdiction conferred under the provisions of section 23 hereof as to such causes as may be transferred to such municipal court of record for trial from the circuit court of the county in which such municipal court is located, in accordance with the rules of said circuit court and in accordance with the provisions of law relating to the trial of such causes in the circuit courts of the state, except as otherwise provided in this act. All orders, judgments, and decrees rendered hereunder shall be treated as the acts of the circuit court and shall be recorded and enforced as such. All process shall issue out of the office of the clerk of the circuit court. Such orders, judgments and decrees shall be reviewed as all other orders, decrees and judgments of the circuit court are reviewed.

HISTORY: Add. 1933, p. 22, Act 24, Imd. Eff. March 2;—CL 1948, 725.24.

725.25 Civil jurisdiction; place of holding court, officers, juries.

Sec. 25. Such judges of municipal courts of record, including the judges of the traffic and ordinance division thereof, when acting with the powers herein conferred, may sit in their respective court rooms, and may be attended by their respective peace officers, jurors, clerks, and stenographers. The regular jury panel of such municipal courts of record shall be qualified to serve with said judges when so acting with the powers herein conferred. It shall be the duty of the county clerk of the county in which such municipal court of record is located, to appoint and deputize a clerk to act in the court room of each municipal court judge when so acting with the powers herein conferred.

HISTORY: Add. 1933, p. 22, Act 24, Imd. Eff. March 2;—CL 1948, 725.25.

Act 83, 1923, p. 109; Eff. Aug. 30.

AN ACT to supplement existing laws relating to the establishment and maintenance of municipal courts of record and to provide a system or method for the selection of juries for the trial of causes therein.

The People of the State of Michigan enact:

725.101 Short title; municipal court jury code.

Sec. 1. This act shall be known and may be cited as the "Municipal Court Jury Code".

HISTORY: Am. 1925, p. 478, Act 315, Imd. Eff. May 26;—CL 1929, 16541,—Am. 1931, p. 757, Act 330, Imd. Eff. June 16;—CL 1948, 725.101.

This act was adopted in Detroit on referendum and became effective there on November 15, 1923. Amendatory Act 330 of 1931 was adopted in Detroit on referendum and became effective there on November 10, 1931.

Section 2 of Act 326, 1968, p. 594 (Approved July 3), Eff. Nov. 15, repealed Act No. 83 of the Public Acts of 1923, as amended, being sections 725.101 to 725.162 of the Compiled Laws of 1948. However, section 2 of Act 354, 1968, p. 686 (Approved Aug. 27), provided that: "Notwithstanding the provisions of Act 326 of the Public Acts of 1968, Act No. 83 of the Public Acts of 1923, as amended, being sections 725.101 to 725.162 of the Compiled Laws of 1948, is not repealed."

This section probably supersedes parts of Compilers' §§ 691.443 and 691.446.

CONSTITUTION: For form of oath, see Const. XI, 1.

725.102 Board of jury commissioners for municipal courts of record; number, appointment, quorum, term, vacancies, oath, assistants, compensation.

Sec. 2. A board of jury commissioners is hereby created for each city in this state having a municipal court of record. Said board shall consist of 3 qualified electors of the city wherein said court is located, who shall be appointed by the governor of the state. Two members of said board shall be a quorum thereof. Each of said commissioners shall hold office for a period of 3 years from and after the date of his appointment and until his successor shall be appointed and assume the duties of his office. Appointments to fill vacancies that may occur shall be made by the governor for the unexpired term. Said commissioners before entering upon the discharge of their duties shall take the oath of office prescribed by the constitution and file the same in the office of the city clerk. Said board shall meet at the office of the board provided for it by the legislative body of the city and may adopt such rules of procedure not inconsistent with the provisions of this act as may be deemed necessary and expedient for the proper conduct of its work: Provided, however, That in cities having a population of 300,000 or more, according to the latest or each succeeding federal decennial census, said board shall elect 1 of its members, president, and shall appoint a stenographer and a secretary and any other necessary help who shall keep a record of its proceedings. Each commissioner, the secretary and stenographer shall receive such compensation as shall be fixed by the legislative body of the city. Such compensation so fixed shall be paid by the city in such manner as may be provided by the charter thereof for the payment of salaries of city officials.

Referendum; form of ballot.

Section 2. The provisions of this amendatory act shall not become operative in any city of this state to which it may apply unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of said electors voting thereon. The legislative body of such city may, by a majority vote thereof, submit the question of adopting the provisions of this act at any general or special municipal election hereafter held in such city; or the question may be submitted by initiatory petition in the same manner and with like effect as it is or may be provided by law for the proposal and submission of amendments of the charter of such city. All proceedings with reference to the submission of the question shall conform as nearly as may be to the requirements of the state law governing the submission of charter amendments; and votes cast on the question shall be counted, canvassed and returned and the result declared in the same manner. Such question shall be submitted in substantially the following form:

“Shall the provisions of Act No. of the Public Acts of 1949 amending Act No. 83 of the Public Acts of 1923, as amended, and providing for a method of selection of juries for municipal courts of record of this city be adopted by this city?

Yes ()

No ().”

HISTORY: CL 1929, 16542;—Am. 1931, p. 757, Act 330, Imd. Eff. Jun. 16, effective in Detroit Nov. 10, 1931;—CL 1946, 725.101;—Am. 1949, p. 201, Act 187, Sep. 23.

CHARTER AMENDMENTS: See Compilers' § 117.21 et seq.

725.103 List of electors; board to secure, expenses.

Sec. 3. On or before the last day of December, 1931, and biennially thereafter, or oftener if deemed necessary by the board, said board shall secure from the city officers having custody of the registration books or cards, a list containing the names and addresses of all electors of the city shown on such registration books or cards or of such electors as the use of a key number hereinafter provided for may designate. All ex-

penses incurred under this section shall be charged to the account of the board but city officers shall cooperate with the board to allow it to compile the necessary lists.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.103.

725.104 Jurors; estimate of number needed, order.

Sec. 4. On or before January 1, 1932, and semi-annually thereafter the judges of each municipal court of record subject to the provisions of this act shall estimate the number of jurors that will be needed in their court for a 6 months period beginning 6 months thereafter. An order shall be entered on the journal of such court and a copy thereof shall be certified by the clerk of such court and delivered to the board. In making such estimate and order the court shall give consideration to the number of slips then in the jury box deposited under the provisions of this act and which may be available for the period for which such order is being made.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.104.

725.105 Key number for determination of number of jurors.

Sec. 5. The board shall add the respective number of jurors estimated to be needed and then shall multiply such total by the whole number 3 or such other number as experience may show to be necessary in order to leave the required number of jurors after the preliminary examination, and other methods for eliminating unfit persons hereinafter provided for, have been followed. It shall then divide the total number of names on the registration lists by such result, and the nearest integral quotient obtained therefrom shall be designated as the key number for such period for which jurors are to be selected.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.105.

725.106 Jurors in circuit court; list, time period.

Sec. 6. The board shall secure from the clerk of the circuit court of the county and preserve, and it shall be the duty of such clerk to provide, a list of all persons who have served as jurors in such court for the preceding 3 years.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.106.

725.107 First jury list; compilation, application of key number.

Sec. 7. The board shall apply the key number uniformly to the names on the registration lists or books in his hands or in the offices of the city officers having custody of such lists or books and compile a list or card index, to be known as the first jury list, which shall include every name and only such names as the application of the key number has designated. In compiling such list the board shall not place thereon the name of any person whom its records show to have served under this or any other act on a panel of jurors in the municipal court of record or circuit court of the county at any time within the preceding 3 years, and when the application of the key number strikes the name of such a person the next following person on such list eligible to serve shall be selected.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.107.

725.108 Questionnaires to persons on first jury list.

Sec. 8. The board shall mail a questionnaire, containing blanks for such information as the board deems advisable and touching on the qualifications of such persons for, and their exemptions from, jury service, to all persons whose names appear on the first jury list. In the case of a claim of exemption the board may require such documentary or other evidence as it deems necessary for the proof of such exemption.

HISTORY: Add. 1931, p. 758, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.108.

725.109 Excusal of persons from service.

Sec. 9. On the basis of answers to such questionnaires the board may then excuse from service all persons on such list who claim exemption and give satisfactory proof of such right or of their unfitness or unsuitability for jury service.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.109.

725.110 Examination of prospective jurors; notice to attend.

Sec. 10. On all other persons on such list, including those from whom replies have not been received, the board shall serve personally or by mail, a notice requiring them to attend before the board at a specified time, not less than 7 days after service of the notice, for the purpose of testifying under oath or affirmation concerning their own qualification or liability, or those of any other persons, to serve as jurors.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.110.

725.111 Examination of prospective jurors; evening sessions.

Sec. 11. The board shall hold such evening sessions as may be necessary for the examination of prospective jurors who are unable to attend at other times.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.111.

725.112 Examination of prospective jurors; procedure.

Sec. 12. A person notified to attend before the board shall attend and testify accordingly and the board shall examine such person as to his qualifications for jury service: Provided, That the board may, in its discretion, dispense with the personal attendance of a person so notified when another person cognizant of the facts is produced and testifies in his stead.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.112.

725.113 Examination of prospective jurors; oath administered by board.

Sec. 13. The board may administer an oath or affirmation in relation to such examination or any matter embraced within the provisions of this act.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.113.

725.114 Examination of prospective jurors; record.

Sec. 14. The board shall keep a record of each person examined which record shall show the qualifications of such person to serve as a juror and whether or not he is a freeholder.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.114.

725.115 Selection of jurors; qualifications.

Sec. 15. The board shall, after such examination, select persons for jury service who are electors in the city in which they reside, who are of good character, of approved integrity, of sound judgment, well informed, conversant with the English language, in possession of their natural faculties, not infirm or decrepit and otherwise free from all legal exceptions; who are judicious and discreet; who shall not have made an application or request of any member or employe of the board that their names be placed on any of the jury lists or on whose behalf any other person shall not have made such application or request; and who have not served on a panel of petit or grand jurors, in any court of record in the county, selected under the provisions of this or any other law during the preceding 3 years. No person shall be so selected who shall not, in the judgment of the board, be competent in every respect to serve as a juror.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.115.

725.116 Report of attempt to influence board.

Sec. 16. It shall be the duty of the board to report to the prosecuting attorney and the municipal court of record the names of any and all persons who in any manner seek by request, hint or suggestion to influence it or its members in the selection of any juror or jurors.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.116.

725.117 Exemption from jury service; certificate.

Sec. 17. All persons shall be exempt from service as jurors, and shall be excused by the board, if such exemption be claimed, who would be exempt under the general law from service as jurors in the circuit courts of this state. Said board, upon request, shall issue to a person entitled to any exemption a certificate of that fact, which shall exempt the person to whom it is granted from jury duty under this act.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.117.

725.118 Excusal from or postponement of jury service.

Sec. 18. All persons may be excused from service as jurors or have their time of service postponed, in the discretion of the board, for such grounds provided by the general law for excuses from service as jurors in the circuit courts of this state.

HISTORY: Add. 1931, p. 759, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.118.

725.119 Postponement of jury service; card placed in jury box.

Sec. 19. When the time to which such service has been postponed arrives a slip for such juror shall be put into the jury box as hereinafter provided for.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.119.

725.120 Review of decision on qualifications and exemptions; record of exemptions, excusals and postponements.

Sec. 20. The board shall decide upon the qualifications and exemptions of prospective jurors except as otherwise expressly provided in this act; but the court shall have power to review and decide upon their qualifications and exemptions upon a written application and satisfactory legal proof at any time after they are notified and attend such court. Said board shall keep a record of all persons exempted or excused or to whom postponed service is granted, and the time and reasons for such action.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.120.

725.121 Neglect of duty by prospective juror; contempt; enforcement of act.

Sec. 21. Any person who shall fail or refuse upon the request of the board to make written answers to all questions pertaining to his qualifications as a juror, or shall fail or refuse to appear before the board at the time and place appointed after he shall have been notified to appear, for any cause except physical disability, or shall refuse to take an oath or affirmation or to answer legal and pertinent questions pertaining to his qualifications to serve as a juror, shall be deemed guilty of contempt and may be punished therefor by the municipal court of record subject to this act. The facts in any such case shall be reported by the board to such municipal court of record. Such court shall have jurisdiction and power to enforce all the provisions of this act including the infliction of penalties for any infraction.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.121.

725.122 Second jury list; compilation, preparation and deposit of slips in jury box.

Sec. 22. The names of those persons on the first jury list whom the board accepts as persons fit for jury service shall be compiled into a list or card index which shall be known as the second jury list. The board shall write the names and addresses of the persons thus selected, and the fact that such persons are freeholders if such be the fact

shown by the records of the board, on separate slips of paper of the same size and appearance, as nearly as may be, shall fold up each of such slips of paper in the same manner so as to conceal the name thereon, and shall deposit at the times hereinafter provided and preserve the same in a box, to be called and labeled the "Jury Box". The form and construction of such jury box shall be approved by the municipal court of record subject to this act, and may from time to time be changed with the approval of such court. The first deposit of slips shall take place on the first Monday in June, 1932, and subsequent deposits shall be made when the supply of slips in the jury box shall become exhausted. The persons whose names are thus deposited in such jury box shall be liable to be drawn for service as jurors until another set of names shall be selected and deposited in such jury box in the manner aforesaid.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.122.

725.123 Drawing of jurors; time, number of slips for first four weeks.

Sec. 23. Not less than 21 days before the opening of any term of court at which jury cases will be tried, or before the time at which a jury will be needed, the presiding judge of each court subject to the provisions of this act shall order the board to draw a sufficient number of jurors for jury service for the first 4 weeks of such term of court. If the number has not been fixed by the court at the time of the drawing, the board shall draw such number of slips from the jury box as it deems necessary for the business of the court for such term, or part thereof, for which jurors are to be drawn.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.123.

725.124 Drawing of jurors; notice of jurors required for subsequent periods.

Sec. 24. Every 4 weeks thereafter, or oftener if provided by court rules, and as long as the need for jurors exists the court shall notify the board of the number of jurors required for a period of service beginning 21 days thereafter.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.124.

725.125 Drawing of jurors; notice; officers absense, penalty; adjournment.

Sec. 25. Two days' notice of the drawing of jurors shall be given the presiding judge and the clerk of the court and at the time appointed such presiding judge, or some other judge of the court designated by him, and such clerk shall attend at the office of the board to witness and assist in the drawing of jurors. If all of said officers be not present at the appointed time the board may adjourn such drawing to some certain hour on another day, of which adjournment it shall forthwith give written notice to said officers, and the officer failing to attend upon the adjourned day himself or by his deputy, as prescribed in this act, shall forfeit the sum of 100 dollars to the state, and the prosecuting attorney is charged with the collection of the same by civil action. In case of the absence of such officers upon the adjourned day, the prosecuting attorney, or 1 of his assistants shall attend the drawing in their stead.

HISTORY: Add. 1931, p. 760, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.125.

725.126 Drawing of jurors; holding in public, time.

Sec. 26. All drawings of jurors shall be public on a day designated by the board, not less than 14 days before the day at which jurors who are drawn shall be liable to appear for service.

HISTORY: Add. 1931, p. 761, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.126.

725.127 Drawing of jurors; procedure, minutes.

Sec. 27. The board shall proceed in such drawing as follows: It shall direct an employe of the board to shake the jury box so as to fairly mix the slips of paper deposited therein without exposing them, and said employe shall then, without seeing the names on the slips, draw from such box publicly and in the presence of the officer or officers

attending, as many slips of paper, 1 at a time, containing the names of jurors written thereon, as may equal the number of jurors that have been ordered by such court, and 1 of the attending officers shall keep a minute of such drawing, in which he shall enter the name on every slip of paper drawn before any other slip be drawn. If, after drawing the whole number required, the name of any person shall appear to have been drawn who according to the provisions of this act is incompetent or incapable of serving as a juror to the knowledge of any member of the board, an entry of such fact shall be made on the minute of the drawing, the slip of paper containing his name shall be destroyed and another name shall then be drawn in the place of that destroyed, and entered on the minute of the drawing, and like proceedings shall be had as often as necessary, until the whole number of jurors shall be drawn. The minutes of such drawing, and a certificate that the requirements of this act were complied with, shall then be signed by the board and the attending officers and filed in the office of the board.

HISTORY: Add. 1931, p. 761, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.127.

725.128 Drawing of jurors; closing and sealing of jury box, delivery of slips to clerk of court.

Sec. 28. When the drawing is finished, the jury box shall be closed and sealed in the presence of the officers. All slips so drawn out of the jury box shall be delivered to the clerk of the court for which jurors are drawn for use during the term of court.

HISTORY: Add. 1931, p. 761, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.128.

725.129 Jury box; custody, opening.

Sec. 29. The jury box shall be in the custody of the board at all times, and shall not be opened nor the seal be broken until another drawing, except in pursuance of law.

HISTORY: Add. 1931, p. 761, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.129.

725.130 Venires to sheriff and notices to jurors.

Sec. 30. The board shall deliver to the sheriff venires containing the names and addresses of the jurors drawn, and specifying when and where the jurors shall appear and commanding the sheriff or any of his deputies to summon the persons named therein to appear in the municipal court of record for which they were drawn. The sheriff shall notify each juror named therein to attend the term or part thereof for which he was drawn, by serving upon him, at least 6 days before the commencement thereof, a notice addressed to him stating that he has been drawn as a juror for, and is required to attend the term, or part thereof, specified in the notice. Such notice may be served personally or by mail, or by leaving it at the juror's residence or his usual place of business with some person of proper age. Before the commencement of a term, or part thereof, the sheriff shall return the venires for that term or part thereof with his return of service thereon, which shall specify the manner in which each person was notified, and such return and service shall be presumptive evidence of the fact of such service.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.130.

725.131 Deputy sheriff to assist board; mailing of notice.

Sec. 31. The sheriff of the county shall assign a deputy sheriff to the office of the board. Said deputy sheriff may mail notices on the sheriff's stationery to persons to appear for jury service.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.131.

725.132 Exemption, excusal or postponement of service of juror for grounds arising after completion of jury list.

Sec. 32. At any time when a new panel of jurors appears at the municipal court of record for service during a regular term of court for the trial of jury cases, any legal grounds for exemptions or excuses from service or reasons for postponing the time of

jury service which have arisen since the names of such persons have been placed on the second jury list may be presented to a member of the board who shall attend court for the purpose of hearing and allowing such applications as are deemed advisable. A record of all action by said member hereunder shall be kept as provided in section 20 hereof.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931.—CL 1948, 725.132.

725.133 Excusal or postponement of service of juror for grounds arising after juror attends court; record.

Sec. 33. A person who attends as a juror may make application to be excused or have his term of service postponed on any ground provided for in this act which has arisen since such juror began to attend court, in open court to the court; or, if he cannot personally attend, he shall make such application by a person capable of making the necessary proof in relation to his claim, and the court may excuse such juror. The court may, in its discretion, postpone the whole or a part of the time of service of a juror only to a later day during the same or a subsequent term of the same jury year or may excuse a juror from such service at that term for not more than 3 days at a time when the exigencies of his business require his temporary excuse. An entry of the action of the court under this section and of the reason therefor shall be made on the records of the court.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931.—CL 1948, 725.133.

725.134 Postponement of service; person deemed drawn.

Sec. 34. The slip containing the name of any person whose time of service is postponed under the provisions of the 2 preceding sections shall not be returned to the jury box but such person shall be deemed to have been drawn for the period of service to which his time of service shall have been postponed.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931.—CL 1948, 725.134.

725.135 Excusal of unqualified juror in court.

Sec. 35. It shall be the duty of each of the judges of courts subject to this act, whenever, he shall find that any person in attendance upon said court as a juror is not possessed of the qualifications prescribed in section 15 hereof, forthwith to excuse such juror from further attendance and service as such juror.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931.—CL 1948, 725.135.

725.136 Term of service of juror.

Sec. 36. The term of service of jurors shall be 4 weeks, unless at the end of such period a juror is serving in connection with an unfinished case, in which case he shall serve only until the case in which he is serving shall have been finished. Once commenced, the term of service shall be continuous except as provided in sections 32, 33, and 40 hereof.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931.—CL 1948, 725.136.

725.137 Additional jurors; summoning, procedure.

Sec. 37. At any time during a term of court, when a sufficient number of jurors shall not have been drawn or summoned or a sufficient number of qualified jurors shall fail to appear, the court may order an additional number of jurors to be drawn by the board for the term, or part thereof, at which the order is made, or for immediate service in the particular case. The order shall specify the number to be drawn, and the time of drawing. The drawing shall be made in the ordinary manner prescribed in this act, except that notice of the drawing need not be given, provided that the required officers are present. The sheriff shall forthwith notify the jurors so drawn, in the same manner as other jurors are notified, to attend the term, or part thereof, at the time

specified in the order, and make due and proper return of the venires with his service thereon. Such return shall be presumptive evidence of the fact of such service.

HISTORY: Add. 1931, p. 762, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.137.

725.138 Talesmen; summoning.

Sec. 38. Where there shall not be jurors enough present to form a panel in any case said court may direct the officer in attendance on said court to summon a sufficient number of persons having the qualifications of jurors to complete the panel from among the bystanders or the neighboring citizens, and such officer shall immediately summon the number so ordered and return their names to said court.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.138.

725.139 Talesmen; not exempt from further duty.

Sec. 39. A talesman called to serve as a juror in a municipal court of record shall not be thereby exempted from further jury duty as provided for by this act.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.139.

725.140 Excessive jurors; discharge or excusal, compensation.

Sec. 40. At any time during a term of court it shall be the duty of the court to order the panel or any part thereof discharged for the balance of its term or excused until a day certain therein if the court deems that an excessive number of jurors is in attendance. Any juror discharged (not excused) under the provisions of this section shall be deemed to have served his 4 weeks' term of service but shall receive compensation only for the time of his actual service on the panel.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.140.

725.141 Postponed service; attendance, record.

Sec. 41. Each juror excused temporarily from service or whose time of service is postponed until a day certain, shall attend at the opening of court on that day, and thereafter until he is discharged, without further notice. If he fails so to attend after such postponed service he is liable to the same punishment, and the same proceedings shall be taken as if he had failed to attend at the time fixed in the original notice given him. The clerk of the court shall enter in a book kept for that purpose, the name of each juror who is so excused or discharged or whose time of service is changed.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.141.

725.142 Postponed service; report by court to board, drawing of jurors.

Sec. 42. The court shall report the names of all jurors excused to a subsequent time to the board and each such name shall be placed upon the list of jurors drawn for such time, as herein provided, and he shall be made 1 of the total number directed to be drawn for that term, and no more names shall be drawn from the jury box than shall be sufficient to make up the number ordered by adding the names of the jurors so excused to the names then drawn.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.142.

725.143 Jurors excused, discharged, not attending, fined; report by clerk to board.

Sec. 43. The clerk of the court shall, within 10 days after the close of each term for which jurors have been drawn, deliver to the board therewith, his certificate specifying distinctly and in detail, as follows:

1. The name and residence of each juror who was excused or discharged by the court, with the reason therefor;
2. The name and residence of each person notified, who did not attend or serve;

3. The name and residence of each person fined and the date and amount of his fine, unless the fine has been remitted.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.143.

725.144 Service in other courts; temporary excusal.

Sec. 44. A person serving as a juror in a court not of record, shall be excused from jury duty in a municipal court of record only during the time of his actual service elsewhere.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.144.

725.145 Jurors; mileage, compensation; increase.

Sec. 45. Jurors shall be paid mileage at the rate of 10 cents per mile for their traveling expenses from their residence to the place of holding court and for returning thereto, and for each day or half day of actual attendance at sessions of the court at the rate of \$8.00 and \$4.00, respectively.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.145;—Am. 1949, p. 55, Act 59, Eff. Sep. 23.

725.145a Jury service; relationship to employment.

Sec. 45a. Any employer or his agent, who threatens to discharge or who discharges or causes to be discharged from employment any person by reason of his being summoned for jury duty, serving on a jury, or for having served on a jury under this act, is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 107, Act 100, Sep. 8.

725.146 Non-attendance of jurors; fines, remission; record.

Sec. 46. When a person, duly drawn and notified to attend a term or part of a term of a court as a juror, fails to attend at the time specified in the notice, or from day to day, the court may, in its discretion, fine him not less than 25 dollars or more than 250 dollars. A fine thus imposed may be wholly or partly remitted by direction of the court in open court, before the end of the same term and upon good cause shown; otherwise it shall not be remitted. Each remission so made by the court, with the reason therefor, shall be entered on the journal of the court.

HISTORY: Add. 1931, p. 763, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.146.

725.147 Contempt for non-attendance of juror.

Sec. 47. When a person duly drawn and notified, fails to attend and serve at a term of court, as required by law, without having been excused, the court, besides imposing a fine as prescribed in the last preceding section, may direct the sheriff to arrest him and bring him before the court; and when he has been so brought in, it may, in its discretion, compel him to serve, or it may punish him as for contempt of court.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.147.

725.148 Contempts of public officers or private persons.

Sec. 48. Any public officer or private person who

1. Gives a false certificate, or makes a false representation or refuses or neglects to give information which he can give, affecting the liability or qualification of any person other than himself to serve as a juror; or

2. Offers, promises, pays or gives money or anything of value to, or who takes money or anything of value from, any person, firm or corporation for the purpose of enabling himself or any other person to evade service or to be discharged, exempted or excused from service as a juror; or

3. Tampers unlawfully in any manner with any jury list, or with the jury box, or with the slips; or

4. Wilfully does or omits to do any act with the design to subvert the purposes of

this act, shall be deemed guilty of contempt and may be punished therefor by the municipal court of record subject to this act.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.148.

725.149 Contempts of members or employes of board of jury commissioners.

Sec. 49. Any member or employe of the board, who

1. Wilfully omits to put on the jury list the name of any person qualified and liable for jury duty; or

2. Wilfully omits to prepare or file a list or a slip as prescribed in this act; or

3. Does or omits to do any act with the design to prevent the name of any person qualified and liable to serve as a juror from being placed in the jury box, or from being drawn from service as a juror; or

4. Wilfully places the name of any person upon any list, or prepares a slip with the name of any person thereon or places a slip in the jury box with the name of a person thereon, who is not qualified as a juror; or

5. Tampers unlawfully in any manner with any jury list, or with the jury box, or with the slips; or

6. Wilfully does or omits to do any act with the design to subvert the purposes of this act, shall be deemed guilty of contempt and may be punished therefor by any municipal court of record subject to this act.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.149.

725.150 Issuance of false certificate of attendance of juror; contempt of clerk.

Sec. 50. Any clerk or deputy clerk of the court who shall wilfully issue any certificate of attendance of a juror, and on which said juror shall receive pay, excepting as provided by this act, shall be deemed guilty of contempt and may be punished therefor by the municipal court of record subject to this act.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.150.

725.151 Perjury.

Sec. 51. Any person who swears falsely in an affidavit, or testifies falsely upon an examination made or prescribed in this act shall be deemed guilty of perjury and punished in the same manner as perjury is punished.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.151.

725.152 Condemnation cases; freeholder jurors.

Sec. 52. The names of persons to serve as jurors in condemnation cases in municipal courts of record subject to this act shall be drawn from the jury box in the manner prescribed in this act for the drawing of jurors, but in such case any slip drawn which does not show that the person is a freeholder shall be returned to the jury box.

HISTORY: Add. 1931, p. 764, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.152.

725.153 Condemnation cases; number of jurors; other regulations.

Sec. 53. The number of jurors to be drawn for such purposes shall be provided for by rules of the municipal courts of record. Such jurors may be excused from service for the same reasons as other jurors under this act, and not otherwise; they shall be subject to the same fines and penalties for non-attendance and otherwise as prescribed in this act for other jurors. The duties and the powers of the courts and clerks of courts, and of the board in regard to such jurors, shall in all respects be the same as in regard to other jurors.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.153.

725.154 New supply of slips in jury box.

Sec. 54. The slips placed in the jury box by the board in June, 1932, and at any time thereafter shall be exhausted before a new supply prepared by the board shall be placed therein, without regard to the time required to exhaust said slips.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.154.

725.155 Rules and regulations; commencement of four week terms of service.

Sec. 55. The judges of any court subject to the provisions of this act shall have the power to establish all rules and regulations, not inconsistent with the provisions of this act, necessary to carry out the provisions of this act and to insure the proper conduct of the work of the commissioner. The judges of any court subject to the provisions of this act shall have the power to provide by rule that the 4 week terms of jury service provided by this act need not commence at the same time for all members of a panel but that half or a quarter of the number of jurors required may be called for a 4 week term every 2 weeks or 1 week, respectively.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.155.

725.156 Jury commissioners; jurors and jury lists under prior acts.

Sec. 56. Jury commissioners holding office when this act becomes effective shall continue to act as provided by present law until July 1, 1932, and the jury lists then on file and in use in such city shall continue to be valid and to be used until such time as the board shall have deposited in the jury box the slips provided for by this act, and jurors for municipal courts of record shall continue to be drawn and summoned, and shall serve as now prescribed by law until jurors drawn under the provisions of this act shall be serving in municipal courts of record, and thereafter all jurors shall be drawn and notified, and shall serve as prescribed in this act: Provided, That nothing in this act shall be construed to affect the terms of office of jury commissioners now holding office.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.156.

725.157 Slips in jury boxes; destruction date.

Sec. 57. On July 1, 1932, all slips in jury boxes used by courts subject to this act and placed therein under the provisions of other acts shall be destroyed as the judges of such courts may direct.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.157.

Sec. 58. (This was a severing clause section.)

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

725.159 Repeal.

Sec. 59. Sections 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 of chapter 12 of Act No. 326 of the Local Acts of 1883, being sections 16322 to 16334, inclusive, of the Compiled Laws of 1929, and section 15 of Act No. 369 of the Public Acts of 1919, being section 16532 of the Compiled Laws of 1929, are hereby repealed when the city of Detroit shall have adopted the provisions of this act and the board shall, as herein provided, have deposited slips in the jury box and such slips shall have been drawn and jurors shall be serving in courts subject to the provisions of this act.

HISTORY: Add. 1931, p. 765, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.159.

725.160 Effective date of repeal.

Sec. 60. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed when any city shall have adopted the provisions of this act and the

board herein provided for shall have deposited slips in the jury box and such slips shall have been drawn and jurors shall be serving in courts subject to the provisions of this act.

HISTORY: Add. 1931, p. 766, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.160.

725.161 Referendum; form.

Sec. 61. The provisions of this act or any amendment thereto shall not become operative in any city of this state to which it may apply unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of said electors voting thereon. The legislative body of such city may, by a majority vote thereof, submit the question of adopting the provisions of this act or any amendment thereto at any general or special municipal election hereafter held in such city; or the question may be submitted by initiatory petition in the same manner and with like effect as it is or may be provided by law for the proposal and submission of amendments of the charter of such city. All proceedings with reference to the submission of the question shall conform as nearly as may be to the requirements of the state law governing the submission of charter amendments; and votes cast on the question shall be counted, canvassed and returned and the result declared in the same manner.

Such question shall be submitted in substantially the following form:

"Shall the provisions of Act No. (here insert number of act) of the Public Acts of amending Act No. 83 of the Public Acts of 1923 be adopted by this city?

Yes ()

No ()."

Section 2. This amendatory act shall not take effect until approved by a majority of the electors voting thereon in any city of the state to which it may apply, at the next regular city election to be held in such city. The question of its approval shall be submitted in substantially the following form:

"Shall Act No. (here insert number of this act) of the Public Acts of 1949, entitled 'An act to amend sections 45 and 61 of Act No. 83 of the Public Acts of 1923, entitled "Municipal court jury code," as added by Act No. 330 of the Public Acts of 1931, being sections 725.145 and 725.161, respectively, of the Compiled Laws of 1948,' be approved and take effect?

Yes ()

No ()."

The result of said vote shall be certified to the secretary of state. If a majority of the electors voting thereon shall vote in favor of the adoption of this amendatory act, it shall be in full force and effect.

HISTORY: Add. 1931, p. 766, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.161;—Am. 1949, p. 55, Act 59, Eff. Sep. 23.

725.162 Adoption of act after 1931.

Sec. 62. If any city should adopt the provisions of this act later than 1931 or establish a municipal court of record and become eligible to adopt this act after such year, the board shall be appointed as soon as practical after the adoption of this act and shall proceed to select jurors for service in the municipal courts of record, and in such case the dates mentioned in this act shall not be deemed mandatory.

HISTORY: Add. 1931, p. 766, Act 330, Imd. Eff. June 16; effective in Detroit Nov. 10, 1931;—CL 1948, 725.162.

Act 221, 1917, p. 473; Eff. Aug. 10.

AN ACT to fix the compensation of stenographers who are officers of courts of record, other than circuit courts, having general criminal jurisdiction.

The People of the State of Michigan enact:

725.201 Stenographers of courts of record other than circuit courts; compensation.

Sec. 1. Stenographers who are officers of courts of record, having general criminal jurisdiction, other than circuit courts, shall receive the same compensation received by circuit court stenographers in the circuits wherein such courts of record are located. Such compensation shall be audited and paid in the same manner and by the same authority as in the case of the compensation now received by such stenographers.

HISTORY: CL 1929, 16543;—CL 1948, 725.201. This section probably supersedes parts of Compilers' §§ 726.47 and 727.26.
COMPENSATION: See Compilers' §§ 600.1114, 600.1123 and 600.1137.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 16544;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 129, 1867, p. 172; Eff. Jun. 27.

AN ACT rendering persons disqualified for sitting as jurors in certain cases.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: Am. 1869, p. 97, Act 48, Eff. July 5;—CL 1871, 6043;—How. 7582;—CL 1897, 346;—Rep. 1915, p. 479, Act 314, Eff. Jan. 1, 1916 (Jud. Act), see Compilers' § 681.1.

This section dealt with jurors in courts of record in Wayne County. For present law see part of Compilers' § 725.101.

725.252 Jurors in justice or police court or coroner's inquest in Wayne county; former service as disqualification or cause of challenge.

Sec. 2. No person shall be qualified to sit as a juror in any justice or police court of Wayne county or on an inquest before any coroner who has already sat as a juror in said justice or police court or on an inquest before said coroner more than 3 times during the calendar year next preceding the time when he is summoned or offered as a juror on said court or on said inquest. And it shall be the duty of justices of the peace and police justices and coroners to enforce and carry out the provisions of this law and to discharge any such juror. It shall be a good cause of challenge over and above all challenges otherwise allowed by law that any person summoned or offered as a juror shall have acted as juror in the same tribunal or court more than 3 times during the prior calendar year.

HISTORY: CL 1871, 6044;—How. 7583;—CL 1897, 347;—CL 1915, 14592;—CL 1929, 16545;—CL 1948, 725.252. This section was expressly excepted from repeal by Act 314 of 1915 (Jud. Act), see Compilers' repealed § 681.1.

JUSTICE COURT: These courts in Detroit have been consolidated into a common pleas court. See Act 260 of 1929, being Compilers' § 728.1 et seq.

POLICE COURT: The jurisdiction, powers and duties of the police court of Detroit are now vested in the recorder's court. See Compilers' § 725.10.

Sec. 3.

HISTORY: Add. 1869, p. 106, Act 62, Eff. July 5;—CL 1871, 6045;—How. 7584;—CL 1897, 348;—Rep. 1915, p. 479, Act 314, Eff. Jan. 1, 1916 (Jud. Act).

725.254 Juror in justice or police court; former service as cause of challenge.

Sec. 4. It shall be a good cause of challenge to any juror in any justice or police court in any city, township or village in this state, in addition to the other causes of challenge allowed by law, that such person has served as a juror in any justice or police court in any such city, township or village in this state 2 times within 1 year previous to such challenge.

HISTORY: Add. 1869, p. 106, Act 62, Eff. July 5;—CL 1871, 6046;—How. 7584a;—CL 1897, 349;—Am. 1907, p. 446, Act 316, Eff. Sept. 28;—CL 1915, 14593;—CL 1929, 16546;—CL 1948, 725.254. This section was expressly excepted from repeal by Act 314 of 1915 (Jud. Act), see Compilers' § 681.1.

This section is superseded, as to civil cases in justice courts, by Compilers' repealed § 670.20 (see § 600.7039), and as to criminal cases, by Compilers' § 774.16, and thus would only seem to be of present value as applied to municipal courts.

SUPERIOR COURT: This section excludes from a jury in the Grand Rapids superior court a person who has served as a talesman in a street opening case in that court. *Williams v. Grand Rapids*, 53 Mich. 271, 18 N.W. 811.

Act 85, 1953, p. 82; Imd. Eff. May 18.

AN ACT to authorize municipal judges in cities to establish violations bureaus for traffic offenses.

The People of the State of Michigan enact:

725.301 Violations bureau for traffic offenses; establishment, personnel, rules and regulations, bonds; appearance before judges, notice.

Sec. 1. The judges of the municipal courts of the state in counties now or hereafter having a population of 100,000 or more according to the latest or each succeeding federal decennial census, shall have authority to establish violations bureaus from the personnel of the court for the purpose of assisting said courts in the disposition of complaints of violations of the traffic ordinances, rules and regulations of the municipalities in which said courts are constituted, and shall have authority to adopt rules and regulations for the operation of said bureaus. The personnel of the court violations bureaus shall be required to post bond in such amount as said judges may deem advisable.

The said municipal judges who hear traffic cases shall designate the specified offenses under the traffic ordinances of their city and the state traffic laws in respect to which forfeitable bonds may be accepted by the traffic violations bureau in satisfaction thereof, and shall specify by suitable schedules the amount of such bonds for first, second, and subsequent offenses, provided such bonds are within the limits of the respective fines declared by such law or ordinance, and shall further specify what number of such offenses shall require appearance before the said municipal judges. In all such cases all notices and papers used in relation thereto shall advise all alleged violators of their right to a trial by jury.

HISTORY: New 1953, p. 82, Act 85, Imd. Eff. May 18;—Am. 1955, p. 109, Act 68, Imd. Eff. May 24.

CHAPTER 726. RECORDER'S COURT (DETROIT)

RECORDER'S COURT OF DETROIT Act 326 (Local Acts) of 1883			
CHAPTER XII.			
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Act 326 (Local Acts), 1883, p. 637; Eff. Jul. 1.

AN ACT to provide a charter for the city of Detroit, and to repeal all acts and parts of acts in conflict therewith.

The People of the State of Michigan enact:

CHAPTER XII.

RECORDER'S COURT.

726.1 Office of recorder and recorder's court of Detroit; continuation.

Sec. 1. The office of recorder and the recorder's court of the city of Detroit shall continue as heretofore created and established, except as herein otherwise provided. The present recorder and associate judge of said court shall respectively continue in office until January ninth, 1894.

HISTORY: Am. 1893, p. 1310, Local Act 408, Imd. Eff. May 27;—CL 1897, 569;—CL 1915, 14633;—CL 1929, 16290;—CL 1948, 726.1. This amendatory act has a section 51 added to Chapter 12, repealing all acts or parts of acts inconsistent with, or contravening the provisions of this act. Because of the importance of the Recorder's Court of the city of Detroit this chapter has been included in this compilation. It was included for the first time in a compilation of the general laws of the state, in the Compiled Laws of 1897. As to the fund provided for the maintenance of the Recorder's Court, see Local Act 362 of 1899.

COURTS OF RECORD: General provisions, see Compilers' §§ 600.1416 and 600.1455.

DETROIT CHARTER OF 1918: In 1948, this was the latest charter of the city of Detroit. It superseded and expressly repealed the prior charter, Local Act 326 of 1883, of which Compilers' Ch. 726 is a part. However, under the terms of Compilers' § 117.28, a section of the Home Rule Act (279 of 1909) under which the 1918 charter was adopted, "all laws creating municipal courts and the proceedings thereof *** shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers." Thus chapter 12 of the former charter would not seem to be repealed as a whole, so it appears in the present compilation.

Provisions of the charter of 1918 relative to the Recorder's Court may be found in title 5, chapter 1, as follows:

"Section 1. The offices of recorder and judge of the recorder's court, police justices and justices of the peace shall continue as heretofore created and established, except that there shall be 6 justices of the peace as herein provided. Such recorder, judges of the recorder's court, po-

lice justices and justices of the peace shall have such qualifications, jurisdiction, term of office, powers, duties and compensation as are authorized and required by the laws of this state, but the time and manner of the respective nominations and elections thereof shall be as in this charter provided.

"Sec. 2. At the biennial spring election in 1923, a recorder and a judge of the recorder's court shall be elected for the term of 6 years beginning on the ninth day of January following their election, and thereafter at every third biennial spring election there shall be elected a recorder and a judge of the recorder's court for the term of 6 years from and after the ninth day of January succeeding their election.

"Sec. 3. The compensation of the recorder and the judges of the recorder's court may be fixed by the common council, to be paid by the city treasurer in a sum not less than 3,500 dollars per annum."

Sec. 1 of Title X of the charter in effect June 27, 1918, purports to repeal Local Act 328 of 1883. But quære whether an act of the legislature may be repealed by the electorate of a municipality?

SUPPLEMENTAL ACTS: See Act 369 of 1919, being Compilers' § 725.1 et seq. which undoubtedly supersedes some of the sections of this act. But see Compilers' § 725.9. This act has been adopted in Detroit under the provisions of Compilers' § 725.7.

See also Act 83 of 1923, being Compilers' § 725.101 and 725.102.

TRAFFIC AND ORDINANCE DIVISION: See Compilers' § 725.18 et seq.

COMMON PLEAS COURT: See Act 280 of 1929, being Compilers' § 728.1 et seq.

726.2 Judges; number, election, apportionment of business.

Sec. 2. On and after January ninth, 1894, there shall be 2 judges of said court, 1 of whom shall be the recorder elected at the election held April third, 1893, who shall have equal and co-ordinate powers and duties. One of said judges shall constitute a quorum for the transaction of business. They shall have the power and it shall be their duty to apportion between themselves the business of the court: Provided, however, That all business pending in said court on the ninth day of January, 1894, shall be apportioned by said judges so that said business shall, as near as may be, be equally divided between them. The said assignment and apportionment of causes and business shall not afterwards be changed except by the order of said judges upon motion made, or for good cause shown: Provided, further, That said judges may sit in place of each other whenever it may be deemed best. Whenever any cause, matter, or proceeding, or any motion, application or other business shall be assigned to either of said judges, a journal entry thereof shall be made by the clerk of the court, and the said judge shall proceed to hear, try and dispose of the business so assigned to him, with the same force and effect as if he were the only judge of said court, and subject to and with the power and authority conferred by all the rules of practice and of law applicable to said court. And thereupon said judge may proceed with the trial or hearing, or other business so assigned to him, in the principal court room, or in a separate room, attended by the clerk or 1 of his deputies, and by 1 or more members of the metropolitan police of said city, by a stenographer, and by jurymen not engaged in the trial of other causes, if it be a cause to be tried by jury, and such judge while so sitting for the transaction of business, shall have the same powers and authority as if he were the only judge of said court, and the proceedings shall be regarded as proceedings of said court had in open court and at a session thereof. No stay of proceedings shall be directed or ordered by either of said judges in any cause or proceeding, except when the order or decree under which the proceedings are sought to be stayed shall have been made by such judge, unless the order staying proceedings be entered in open court when both judges are present; and no order, except orders made in chambers, and then only by the judge making the same, shall be set aside or vacated except in open court; and no judge of said court shall review or revise any order, judgment, sentence or act of any other judge of said court, involving the personal discretion, judgment or opinion of such other judge.

HISTORY: Am. 1893, p. 1310, Local Act 408, Imd. Eff. May 27;—CL 1897, 570;—CL 1915, 14634;—CL 1929, 16291;—CL 1948, 726.2.

JUDGES: See also Compilers' § 725.1. As to presiding judge, see Compilers' § 725.2.

ELECTION: As to the election of recorders and their term of office, see also Local Act 437 of 1901.

726.3 Record of proceedings.

Sec. 3. A record of the proceedings before each of the judges shall be entered in the journal in the usual manner, the same as though the judges were sitting together, a brief memorandum being entered before or opposite each entry of the particular judge before whom the business is transacted, and the said record shall be verified by the signature of the recorder, or in his absence by the judge present at the reading and

correction thereof; and it shall be the duty of both judges to attend at the reading and correction of said record. Whenever the signature of a judge of the court shall be required to any bill of exceptions, case made, order, decree, or other evidence of proceeding, or for the approval or verification of any act, the signature of the judge or judges before whom the proceedings were had shall be deemed sufficient.

HISTORY: Am. 1893, p. 1311, Local Act 408, Imd. Eff. May 27;—CL 1897, 571;—CL 1915, 14635;—CL 1929, 16292;—CL 1948, 726.3.

726.4 Recorder to be judge of court; additional judge; election, term.

Sec. 4. The recorder elected on April third, A.D. 1893, shall be 1 of the judges of the recorder's court of the city of Detroit, and shall hold said office of recorder for the term of 6 years, from and after January ninth, 1894, and until his successor shall be duly elected and qualified. The additional judge provided for by this act shall be elected at the election which shall be held in said city, on the seventh day of November, A.D. 1893, and the person so elected shall take his office on the ninth day of January, 1894, and shall hold the same for the term of 6 years from and after January ninth, 1894, and until his successor shall be duly elected and qualified. Notice of the election of the recorder and additional judge shall be given by the clerk of said city in the manner prescribed by law in the case of the election of city officers, and the provisions of law relative to holding elections of city officers in said city, canvassing the votes and making the returns thereof, so far as applicable, shall apply to such election. One of the judges of the circuit court for the county of Wayne, and 1 of the justices of the supreme court of this state, may act as judge of said recorder's court when requested to do so by said judges, or 1 of them, or when the offices of both judges shall be vacant. On the first Monday in April next preceding the expiration of the terms of office of said recorder and judge, their successors shall be elected in the same manner as that herein prescribed for the election of said judges.

HISTORY: Am. 1887, p. 549, Local Act 456, Imd. Eff. May 6;—Am. 1893, p. 1311, Local Act 408, Imd. Eff. May 27;—CL 1897, 572;—CL 1915, 14636;—CL 1929, 16293;—CL 1948, 726.4.

726.5 Vacancy in office of recorder or judge; filling.

Sec. 5. It shall be the duty of the common council of the city of Detroit, to cause an election to be held to fill any vacancy in the office of recorder or judge of said court, in the same manner as is provided for filling a vacancy in the office of mayor of said city, and whenever the recorder or judge shall tender his resignation to the common council, to take effect at some future day, and the same shall have been accepted, said common council may cause an election to fill the expected vacancy, which may be held between the time of said acceptance of resignation and the day when it is to take effect; Provided, That not less than 10 days notice of such election shall be given; or such expected vacancy may be filled at any regular election occurring within 30 days after such acceptance of resignation, if said common council so order; and such recorder or judge elect shall assume the duties of the office at the time said resignation takes effect, or as soon thereafter as he is elected and qualifies.

HISTORY: Am. 1893, p. 1312, Local Act 408, Imd. Eff. May 27;—CL 1897, 573;—CL 1915, 14637;—CL 1929, 16294;—CL 1948, 726.5.

726.6 Salary of judges.

Sec. 6. Each of said judges shall receive from the treasury of the state of Michigan the same annual salary as may be payable to circuit judges. They shall also each receive from the treasury of the city of Detroit such additional salary as shall be sufficient, with the sum so received from the state, to make the salary of each of said judges 5,000 dollars.

HISTORY: Am. 1893, p. 1312, Local Act 408, Imd. Eff. May 27;—CL 1897, 574;—CL 1915, 14638;—CL 1929, 16295;—CL 1948, 726.6.

SALARY: This section is probably superseded by Compilers' §§ 600.555 and 725.13.

For minimum limit on additional salary, see note on Detroit charter to Compilers' § 726.1.

726.7 Clerk and deputies; appointment, term, compensation, assistants, removal, vacancy.

Sec. 7. There shall be a clerk and 2 deputy clerks of said court, who shall be appointed by the recorder, and a memorandum of such appointments shall be entered upon the records of said court. Such clerk and deputy clerks shall hold their respective offices for the term of 6 years from and after January sixteenth, 1894, and until their successors are duly appointed and qualified. The common council of said city shall have the power, and it shall be their duty whenever the business of the court so requires, to provide by ordinance for additional deputy clerks and assistants. They shall prescribe in said ordinance the terms of office, compensation and amount of bond required of such additional deputy clerks and assistants. The recorder shall appoint the additional clerks and assistants authorized by said ordinance in the same manner as is provided for the appointment of the clerk. The recorder shall have power at any time to remove such clerk, deputy clerks, and assistants for incompetence or serious neglect in the performance of their duties; and in case of such removal, or of a vacancy in the said office by the death of said clerk, deputy clerks or assistants, or otherwise, the said recorder shall fill the unexpired term by a new appointment.

HISTORY: Am. 1887, p. 681, Local Act 513, Imd. Eff. June 16;—Am. 1893, p. 1312, Local Act 408, Imd. Eff. May 27;—CL 1897, 575;—CL 1915, 14639;—CL 1929, 16296;—CL 1948, 726.7.

CLERK AND ASSISTANTS: See also Compilers' § 725.4.

726.8 Clerk and deputies; bonds.

Sec. 8. The clerk and deputy clerks of said court, each, before entering upon the duties of his office, shall give a bond to the people of the state of Michigan, to be approved by the recorder, for the faithful discharge of the duties of said office. The clerk shall give a bond in the sum of 10,000 dollars; deputy clerks each, in the sum of 5,000 dollars. The condition of such bond shall be in substance as follows:

Whereas, The above bounden is the of the recorder's court of the city of Detroit; now, therefore, the condition of the said obligation is such, that if said shall faithfully, truly, and impartially enter and record all orders, decrees, judgments and proceedings of the said court, and faithfully and impartially perform all other duties of his said office, and pay over all moneys that may come into his hands as such, and shall deliver to his successor in office all the books, records, papers, seals and other things belonging to the said office, then the above obligation to be void, otherwise to remain in full effect.

HISTORY: Am. 1893, p. 1312, Local Act 408, Imd. Eff. May 27;—CL 1897, 576;—CL 1915, 14640;—CL 1929, 16297;—CL 1948, 726.8.

BOND: Of clerk under watercraft lien law, see Compilers' § 570.449.

726.9 Clerk; powers and duties; files and papers, period to be kept.

Sec. 9. It shall be the duty of said clerk to keep a true record of the proceedings of said court, in the proper books, to be provided therefor; to enter and record all orders, decrees and judgments, and file and safely keep all books and papers belonging to or pertaining to said court: Provided, That files and papers relating to prosecutions for offenses arising under the charter, or any ordinance or regulation of the common council, other than the books of journal entries, need not be filed and safely kept for a longer period than 6 years from the date of the filing of the complaints thereunder, unless otherwise ordered by the court. He shall sign and seal all writs and process issuing from said court, and shall have power generally to administer oaths and take affidavits and acknowledgments, and to do all acts authorized by law to be done by clerks of circuit courts of this state, so far as the same shall be applicable. He shall receive all fines and costs imposed by said court, and within a reasonable time pay the same to the county treasurer of Wayne county and take a receipt therefor, except such fines

and costs as may be imposed for violations of the city ordinances, which shall be received by the city attorney and by him paid to the city treasurer.

HISTORY: Am. 1887, p. 681, Local Act 513, Imd. Eff. June 16;—Am. 1893, p. 1313, Local Act 406, Imd. Eff. May 27;—CL 1897, 577;—CL 1915, 14641;—CL 1929, 16296;—CL 1948, 726.9;—Am. 1949, p. 694, Local Act 2, Eff. Sep. 23.

POWERS: See also Compilers' § 725.16.

726.10 Deputy clerks; powers, salary.

Sec. 10. The deputy clerks of said court shall have the same powers as are given to the clerk thereof, and they shall each receive such salary, not exceeding 2,000 dollars, and not less than 1,500 dollars, as shall be voted them by the common council of the city of Detroit, which shall be payable out of the treasury of said city.

HISTORY: Am. 1887, p. 681, Local Act 513, Imd. Eff. June 16;—Am. 1893, p. 1313, Local Act 406, Imd. Eff. May 27;—CL 1897, 578;—CL 1915, 14642;—CL 1929, 16299;—CL 1948, 726.10.

726.11 Jurisdiction.

Sec. 11. The said recorder's court shall have original and exclusive jurisdiction of all prosecutions and proceedings in behalf of the people of this state, for crimes, misdemeanors, and offenses arising under the laws of this state, and committed within the corporate limits of the city of Detroit, except in cases cognizable by the police court of the city of Detroit, or by the justices of the peace of said city; and shall have power to issue all lawful writs and process, and to do all lawful acts which may be necessary and proper to carry into complete effect the powers and jurisdiction given by this act, and especially to issue all writs and process, and to do all acts which the circuit courts of this state within their respective jurisdictions, may, in like cases, issue and do by the laws of this state: Provided, That this section shall not be construed to prevent the grand jury for the county of Wayne from inquiring into and presenting indictments, as heretofore, for crimes and offenses committed within the limits of said city.

HISTORY: CL 1897, 579;—CL 1915, 14643;—CL 1929, 16300;—CL 1948, 726.11.

POLICE COURT: Transfer of jurisdiction to recorder's court, see Compilers' § 725.10.

JUSTICES' COURTS: Transfer of jurisdiction to common pleas court, see Compilers' § 728.1.

FEMALE OFFENDERS: See Compilers' § 902.108.

ELECTION OFFENSES: Jurisdiction of recorder's court, see Compilers' § 168.931.

COMPULSORY EDUCATION: Complaint and procedure in recorder's court in case of failure of parent to send child to school, see Compilers' § 340.731.

726.12 Indictments for Detroit offenses to be transmitted to recorder's court.

Sec. 12. All indictments for offenses committed within the limits of the city of Detroit, which may be found and presented to the circuit court for the county of Wayne, by the grand jury of said county, shall be forthwith certified and transmitted by the clerk of said circuit court to said recorder's court, and thereupon said recorder's court shall have as full and complete jurisdiction of said indictments as if the same had been originally presented to said recorder's court, and shall have full power to take all further proceedings thereon.

HISTORY: CL 1897, 580;—CL 1915, 14644;—CL 1929, 16301;—CL 1948, 726.12.

726.13 Criminal prosecutions to be by information.

Sec. 13. Except as provided in the preceding section, prosecutions in the recorder's court for crimes, misdemeanors, and offenses arising under the laws of this state, and within the jurisdiction of said court, shall be by information as provided for in chapter 261 of the Compiled Laws of 1871: Provided, That in all cases where an information shall be filed against any person held for trial before said court, it shall not be necessary that said information be verified by oath.

HISTORY: CL 1897, 581;—CL 1915, 14645;—CL 1929, 16302;—CL 1948, 726.13.

NOTE: Ch. 261 of CL 1871, above referred to, was repealed by Act 175 of 1927 (Code of Criminal Procedure) being Compilers' § 760.1 et seq. and re-enacted or superseded by scattered sections of that act.

726.14 Bail; officers to grant; enforcement or recognizances.

Sec. 14. Said recorder's court, the clerk, and either judge thereof, only, shall have power to let to bail any prisoner or person charged with aailable crime, misdemeanor, or offense, or who is detained as a witness in default of bail, of which the said recorder's court shall for any purpose have jurisdiction; Provided, That in cases where the clerk takes bail, the amount of the recognizance and the number of the sureties required, shall be the same as that fixed by the committing magistrate, or said recorder's court, or either judge thereof. Said recorder's court shall have full jurisdiction and authority to control and enforce all recognizances lawfully taken by said court, or by the judge or clerk thereof, or by any other court, judge, or magistrate, in the course of any prosecution or proceeding pending in said court, or lawfully taken by any court, judge, or magistrate, to compel any person or persons to appear before said recorder's court, and thereto answer and do according to the terms thereof; and whenever defaults shall be made in any such recognizance, such default shall be duly entered of record in said recorder's court, and thereafter said court shall, upon the motion of the prosecuting, or city attorney, summarily enter judgment against all parties liable on said recognizance for the full amount thereof; Provided, however, That any person against whom such judgment may have been entered, shall have the right to apply to the court within 20 days after the rendition of such judgment, for the vacation of the same for good and sufficient cause shown, and said court may in its discretion, vacate such judgment on such terms as it may deem just. Execution shall be awarded and executed upon said judgment, in like manner as is provided in personal actions.

HISTORY: Am. 1893, p. 1313, Local Act 406, Imd. Eff. May 27;—CL 1897, 582;—CL 1915, 14646;—CL 1929, 16303;—CL 1948, 726.14.

BAIL: For a similar provision, see Compilers' § 765.2. Cash or securities in lieu of bail, see Compilers' § 725.6.

726.15 Bail; form of recognizance.

Sec. 15. Any such recognizance as is mentioned in the preceding section may be in the usual form, or may contain a further clause, authorizing said recorder's court, upon default in said recognizance, summarily to enter judgment upon the same, against the several parties liable thereon, for the full amount of such recognizance.

HISTORY: CL 1897, 583;—CL 1915, 14647;—CL 1929, 16304;—CL 1948, 726.15.

726.16 Prosecutor to act for people; accounts.

Sec. 16. The prosecuting attorney for the county of Wayne, or his assistant, shall appear and act for the people of the state of Michigan, in said recorder's court, in all cases arising under the laws of this state, and he shall render to said court in writing, and on oath, at the last term thereof in each year, an annual account of all moneys collected or received by him as the prosecuting officer of said court.

HISTORY: CL 1897, 584;—CL 1915, 14648;—CL 1929, 16305;—CL 1948, 726.16.

726.17 Powers of judges; habeas corpus; acts in vacation.

Sec. 17. The judge of said recorder's court shall possess the same power to grant writs of habeas corpus, returnable before himself, and to adjudicate thereon, and do all acts in vacation touching any suit or proceeding in said court as is now, or may be possessed by the judges of the circuit courts of the state, in matters before said circuit courts.

HISTORY: CL 1897, 585;—CL 1915, 14649;—CL 1929, 16306;—CL 1948, 726.17.

HABEAS CORPUS: And certiorari in criminal cases in Wayne County: power of recorder to grant writ, see Compilers' § 802.102.

726.18 Powers of judges; powers at chambers; exclusion of persons from court room.

Sec. 18. The judges of the recorder's court shall each have all such powers and authority at chambers, touching any suits or proceedings in said recorder's court, as the judges of the circuit courts now or may have in like suits or proceedings before said circuit courts. Whenever it shall appear that upon the trial of any cause, evidence of li-

centious, lascivious, degrading, or peculiarly immoral acts or conduct will probably be given, the judge presiding at such trial may, in his discretion, require and cause every person, except those necessarily in attendance thereof, to retire and absent himself or herself from the court room during such trial, or any portion thereof. And no person under the age of 16 years shall be permitted at any time to remain in the court room during the trial of any cause, or any portion thereof, unless such person is accompanied by 1 of its parents or guardians, or is required by law or the process of the court to be present or in attendance thereon.

HISTORY: Am. 1893, p. 1314, Local Act 406, Imd. Eff. May 27;—CL 1897, 586;—CL 1915, 14650;—CL 1929, 16307;—CL 1948, 726.18.

CONSTITUTIONALITY: The provision of this section providing for the exclusion of the public from trials of offenses against morality, was held unconstitutional in *People v. Yeager*, 113 Mich. 226, 71 N.W. 491.

POLICE COURT: Transfer of powers to recorder's court, see Compilers' § 725.10.

EXCLUSION: See also Compilers' § 600.1420.

726.19 Rules of practice.

Sec. 19. The said recorder's court shall have power to make rules for regulating the practice, and conducting the business thereof, and to alter, amend or repeal the same in its discretion.

HISTORY: CL 1897, 587;—CL 1915, 14651;—CL 1929, 16308;—CL 1948, 726.19.

726.20 Court of record; seal.

Sec. 20. Said recorder's court shall be a court of record, and have a seal, which it shall devise, and a description thereof, attested by the clerk of said court, shall be deposited in the office of the controller.

HISTORY: CL 1897, 588;—CL 1915, 14652;—CL 1929, 16309;—CL 1948, 726.20.

SEAL: See also Compilers' §§ 600.1416 and 600.1455.

726.21 Process; direction to police department or sheriff; style.

Sec. 21. All writs and process, issuing from said recorder's court, on complaints under the city ordinances, or for offenses under this act, shall be directed to the superintendent or any member of the metropolitan police of said city, and may be served and executed by the officers to whom the same are directed, at any place within the limits of this state; and all writs and process for offenses under the general laws of the state, shall be directed to the sheriff of the county of Wayne, or the superintendent or any member of the metropolitan police of said city, and all writs and process shall run "In the name of the people of the state of Michigan," be sealed with the seal of the court, signed by the clerk of said court, dated on the day on which the same may issue, and tested in the name of the recorder of said city.

HISTORY: CL 1897, 589;—CL 1915, 14653;—CL 1929, 16310;—CL 1948, 726.21.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1893, of which the Recorders' Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1915. See note as to this charter to Compilers' § 726.1.

STYLE OF PROCESS: See also Compilers' §§ 600.1414, 600.1905 and GCR 102.

726.22 Ordinance violations; cognizance of court; prosecution.

Sec. 22. Said recorder's court shall have exclusive cognizance of all prosecutions for offenses arising under this act, or any ordinance or regulation of the common council. All such prosecutions shall be commenced by filing with the clerk of said court a complaint, in writing, in the form of an affidavit, duly sworn to before said clerk, and subscribed by the person making the complaint, and having endorsed thereon the proper jurat of said clerk; and it shall be deemed sufficient to set forth, in said complaint, the offense complained of, according to its substance. When a complaint shall be filed as herein provided, a summons shall be issued by the clerk of said court, commanding the respondent in said complaint to appear before said court on a day therein mentioned, to answer to said complaint, and if said respondent shall fail to appear in obedience to said summons, warrants may be issued by the clerk upon the order of said court, for the arrest of said respondent, who shall be committed to the jail of Wayne county to await trial upon said complaint, unless he enter into a recognizance for his appearance

to answer to said complaint, in such sum, and with such sureties as said court may, by a general or special order direct. A warrant may be issued in the first instance, upon the order of said court. The trial shall be had and determined upon said complaint, and upon pleadings, which may be amended, in the same manner as indictments or informations and pleadings under the general laws of the state.

HISTORY: Am. 1893, p. 1314, Local Act 408, Imd. Eff. May 27;—CL 1897, 590;—CL 1915, 14654;—CL 1929, 16311;—CL 1948, 726.22.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

TRAFFIC AND ORDINANCE DIVISION: See Compilers' § 725.18 et seq.

726.23 Terms of court; power of clerk to open and adjourn court.

Sec. 23. There shall be 6 terms of said court, which shall commence on the first Wednesday in January, March, May, July, September and November and may be continued or adjourned from time to time, as long as said court may deem necessary, for the transaction of its business; and whenever, at the close of any term of said court, the trial of a cause shall be in progress, such trial shall continue until the same is determined, and the continuance of such trial shall not be construed as prolonging said term, nor to prevent the commencement of the succeeding term, previously designated as herein required. If, from any cause, the judge of said court shall be unable to hold the same on the first day of a term, or on any other day to which said court is adjourned, the clerk thereof shall have power to open said court and adjourn it from time to time, until the judge shall be able to attend; and in such case all prosecutions, proceedings and matters pending in said court shall stand continued until said judge can hold said court.

HISTORY: Am. 1887, p. 681, Local Act 513, Imd. Eff. June 16;—CL 1897, 591;—CL 1915, 14655;—CL 1929, 16312;—CL 1948, 726.23.

726.24 Review of proceedings.

Sec. 24. All proceedings of the recorder's court at any time before or after final judgment or sentence may be reviewed, in the same manner that like circuit court proceedings may be reviewed, and the court to which the review is taken shall proceed to an adjudication in the same manner as on proceedings from the circuit courts.

HISTORY: CL 1897, 592;—CL 1915, 14656;—CL 1929, 16313;—CL 1948, 726.24;—Am. 1963, 2nd Ex. Ses., p. 105, Local Act 1, Imd. Eff. Dec. 27.

NEW TRIAL: Motion for such trial, see Compilers' § 725.12.

726.25 Fines; report, collection by city attorney.

Sec. 25. It shall be the duty of the city attorney to collect all fines and penalties imposed for offenses under this act or any ordinance or regulation of the common council of said city, which shall be reported in writing by the clerk of said court, at the close of each term thereof, to the board of aldermen, and immediately after their collection or receipt by the city attorney, shall be paid by him to the treasurer of said city.

HISTORY: CL 1897, 593;—CL 1915, 14657;—CL 1929, 16314;—CL 1948, 726.25.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

726.26 Records and papers; inspection by city council or county auditors.

Sec. 26. The common council of said city and the board of auditors of Wayne county, or any committee thereof appointed for the purpose, may at all reasonable times inspect the records and papers of said recorder's court, and the clerk thereof shall give them, when requested, any information within his power or knowledge concerning such records and papers, and concerning all fines and penalties imposed by said court.

HISTORY: CL 1897, 594;—CL 1915, 14658;—CL 1929, 16315;—CL 1948, 726.26.

726.27 Costs and expenses of prosecutions; liability of city and county.

Sec. 27. The city of Detroit shall be liable for all reasonable costs and expenses, and the board of prisoners incurred in prosecutions for offenses and proceedings in said recorder's court, arising under this act, or any ordinance or regulation of the common

council of said city; and the county of Wayne shall be liable for all reasonable costs and expenses, and board of prisoners incurred in prosecutions for offenses and proceedings in said court, arising under the general laws of the state; but if there be a conviction and sentence of confinement in the Detroit house of correction of said city, for any offense now or hereafter punishable by imprisonment in the state prison, the expenses attending the confinement of the prisoner after sentence shall be paid by the state treasurer, quarterly [quarter-yearly] on the certificate of the city controller that such expenses have been incurred.

HISTORY: CL 1897, 595;—CL 1915, 14659;—CL 1929, 16316;—CL 1948, 726.27.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

EXPENSE: See Compilers' § 802.181.

726.28 Imprisonment of certain persons in county jail.

Sec. 28. Any person liable to be imprisoned or confined under this act or any ordinance or regulation of the common council of said city, for failing to enter into any recognizance lawfully required or for disobeying any order of said recorder's court, may be so imprisoned or confined in the jail of Wayne county, and it shall be the duty of the keeper of said jail to receive and safely keep therein all persons thus subject to imprisonment or confinement, until legally discharged therefrom.

HISTORY: CL 1897, 596;—CL 1915, 14660;—CL 1929, 16317;—CL 1948, 726.28.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

726.29 Safe keeping or escape of prisoners; law applicable.

Sec. 29. Any law of this state for the safe keeping of prisoners in a county jail, or for preventing *or for preventing or punishing their escape or the aiding of them to escape, or any other act detrimental to their safe keeping in a county jail, shall apply to any jail, work-house or house of correction established and provided under this act by the city of Detroit for the imprisonment or confinement of offenders in the same manner and to the same effect as to a county jail.

HISTORY: CL 1897, 597;—CL 1915, 14661;—CL 1929, 16318;—CL 1948, 726.29.

*This phrase appears twice in the original act.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

JAILS: See Compilers' § 801.1 et seq.

ESCAPE OF PRISONER: See Compilers' § 750.183 et seq.

726.30 Council to prescribe punishment for certain offenses.

Sec. 30. Punishments not herein prescribed for offenses against this act, and for offenses against the ordinances and regulations of the common council shall be prescribed by said common council.

HISTORY: CL 1897, 598;—CL 1915, 14662;—CL 1929, 16319;—CL 1948, 726.30.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

726.31 Prosecutions governed by general laws.

Sec. 31. In all prosecutions for crimes, misdemeanors, and offenses arising under the laws of this state, said recorder's court shall be governed in the same manner as the circuit courts of the state are, by the general laws thereof, which, so far as the same may apply, are hereby made applicable to said recorder's court, its officers and all proceedings therein, subject to the provisions of this act.

HISTORY: CL 1897, 599;—CL 1915, 14663;—CL 1929, 16320;—CL 1948, 726.31.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

GENERAL LAW: See Act 175 of 1927 (Code of Criminal Procedure), being Compilers' § 760.1 et seq.

726.32 Trial by court unless jury is requested.

Sec. 32. Any person charged with an offense under this act, or any ordinance or regulation of the common council of said city, shall be tried by the court, unless he shall request to be tried by a jury; and if he so request, he shall be entitled to the same right

of challenge, and other rights and benefits extended by law to persons on trial by a jury in criminal cases before said court subject to the provisions of this act.

HISTORY: CL 1897, 600;—CL 1915, 14664;—CL 1929, 16321;—CL 1948, 726.32.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

Secs. 33-45.

HISTORY: Sec. 33 Am. 1887, p. 682, Local Act 513, Imd. Eff. June 16;—CL 1897, 601-613;—CL 1915, 14665-14677;—CL 1929, 16322-16334;—Rep. 1931, p. 765, Act 330, Eff. see Compilers' § 725.159.

These sections provided for the selections of jurors. For present law, see Compilers' § 725.101 et seq.

726.46 Annual report of clerk to board of aldermen.

Sec. 46. The clerk of said court, on the first day of January in each year or as soon thereafter as practicable, shall make to the board of aldermen a report in writing duly certified by him, showing the whole number of prosecutions by information or indictment, which number shall be also classified by the name or description of the offense; the whole number of prosecutions for offenses against this act or the ordinances and regulations of the common council, which shall be also classified in like manner so far as practicable; the whole number of prosecutions, convictions, acquittals, cases dismissed and discontinued, and cases pending; the whole number of sentences passed; the whole number punished by fines and penalties; the whole number punished by imprisonment and confinement, which shall also be classified according to the prison, jail or other place of imprisonment or confinement; and the whole number held to bail for good behavior and to keep the peace; and said report shall be published in such manner as the said board shall direct.

HISTORY: CL 1897, 614;—CL 1915, 14678;—CL 1929, 16335;—CL 1948, 726.46.

COMPILERS' NOTE: "This act," above referred to, is Local Act 326 of 1883, of which the Recorder's Court law comprises only one chapter. This local act in general has been repealed and superseded by the Detroit charter of 1918. See note as to this charter to Compilers' § 726.1.

726.47 Stenographers; appointment, duties, salaries, fees.

Sec. 47. There shall be 2 stenographers of said recorder's court, who shall be appointed by the recorder, and the persons so appointed shall be deemed officers of the court, and it shall be their duty to attend each session thereof, and to take full stenographic notes of the testimony and of the charge of the court in all cases tried in said court, unless otherwise ordered by the judges thereof. And in case a judge shall so order, they shall make without extra compensation a legible transcript of their notes, which shall be filed by the clerk and preserved as part of the files in the cause, subject to the inspection of all parties interested. They shall each receive an annual salary of 2,500 dollars which shall be paid in monthly installments out of the county treasury. Said stenographers shall be entitled, except as herein otherwise provided, to the same fees for making a transcript of the testimony and charge of the court in any case as shall be allowed by law to the stenographer of the circuit court for the county of Wayne for like service.

HISTORY: Am. 1893, p. 1315, Local Act 408, Imd. Eff. May 27;—CL 1897, 615;—Am. 1907, p. 996, Local Act 690, Imd. Eff. June 27;—CL 1915, 14679;—CL 1929, 16336;—CL 1948, 726.47.

SALARY: As to salary, this section is probably superseded by Compilers' § 725.201.

TRANSCRIPTS: Fees, see Compilers' § 600.2543.

726.48 Stenographers; filling of temporary vacancy.

Sec. 48. In case of the sickness or temporary absence of a stenographer, the recorder may appoint some competent person to act in his stead, who, while so acting, shall be paid out of the county treasury such sum as the court shall allow.

HISTORY: Am. 1893, p. 1315, Local Act 408, Imd. Eff. May 27;—CL 1897, 616;—CL 1915, 14680;—CL 1929, 16337;—CL 1948, 726.48.

726.49 Construction of act.

Sec. 49. This act shall not be construed to repeal or in any way affect any of the provisions of Act 479, of the session laws of 1871, entitled "an act to establish a police government for the city of Detroit," relating to attendance by members of the metropolitan police on said court and the service of process issuing therefrom.

HISTORY: CL 1897, 617;—CL 1915, 14681;—CL 1929, 16338;—CL 1948, 726.49.

NOTE: Act 479 of 1871, above referred to, appears in the local acts volume of the laws of 1871, and does not appear in the present compilation.

Sec. 13 of the act as amended by Local Act 416 of 1901 provides in part: "The members of such police force shall also serve and execute all process and subpoenas issued in the recorder's court." Sec. 35 provides in part: "The members of the metropolitan police force shall have the exclusive power, and it shall be their duty, to serve all process within the city of Detroit, issuing from the recorder's court *** whether directed to constables, the sheriff, or otherwise, and shall be detailed by the proper officer to attend, instead of deputy sheriffs or constables, all courts of criminal jurisdiction of said city." However, these sections would seem to be superseded by Sec. 27 of Ch. 21 of Title IV of the Detroit Charter of 1918 which provides in part: "The members of the force shall serve all process within the city issuing from the recorder's court and the police court. Police officers shall be detailed by the proper officers of police to attend all courts of criminal jurisdiction of the city."

Secs. 50-51. (These were repeal sections.)

HISTORY: Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

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SUPERIOR COURT (GRAND RAPIDS)

§ 727.1-727.38

CHAPTER 727. SUPERIOR COURT (GRAND RAPIDS)

SUPERIOR COURT OF GRAND RAPIDS

Act 49 of 1875

727.1-727.38 Repealed.

727.1-727.38 Repealed. 1964, p. 409, Act 262, Imd. Eff. Jun. 3.

Sections provided for "The Superior Court in city of Grand Rapids".

CHAPTER 728. COMMON PLEAS COURT

COMMON PLEAS COURT Act 260 of 1929			
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728.10	Meetings of judges; monthly report.	728.26	Fees of bailiffs; extraordinary expenses; reimbursement.
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728.14	Actions in replevin, attachment and garnishment; disclosure fee.	728.30	Attorney fees; taxable as costs.

Act 260, 1929, p. 622; Eff. Aug. 28.

AN ACT to consolidate into 1 court the courts of justices of the peace in any city having or which may hereafter have, over 250,000 inhabitants; to prescribe the title and define the jurisdiction of and practice in such consolidated court; to provide that said court shall be a court of record and have a seal; to fix the number, the time and mode of election and compensation, and to define the powers and duties of the judges thereof; to provide for the designation of a presiding judge of such court and to prescribe his powers and duties; to authorize such court to make and enforce rules governing the practice and procedure therein; to provide for a clerk of such court and to prescribe his compensation, powers and duties; to provide for a review of judgments rendered by such court and the taking and filing of transcripts of such judgments; to provide for the service of process issued from such courts and to provide for the designation of the bailiffs of the city in which said court is situated; to prescribe their qualifications, duties, powers and compensation; to provide for their regulation, suspension or removal for misconduct; to provide for summary relief against seizure of exempt property; to provide for the setting aside of default judgments in cases where lack of personal service of process is claimed; to provide for the issuance of orders staying garnishment on judgment pending hearing on motion for leave to make partial payments and for barring the taking of transcripts of judgments pending such hearing or thereafter during compliance with terms of stay orders; and to repeal all acts or parts of acts inconsistent herewith. Am. 1935, p. 438, Act 254, Imd. Eff. Jun. 8;—Am. 1939, p. 310, Act 158, Imd. Eff. Jun. 1;—Am. 1941, p. 166, Act 129, Imd. Eff. May 26.

The People of the State of Michigan enact:

728.1 Common pleas court; creation; court of record; jurisdiction.

Sec. 1. In any city which has a population of over 250,000 inhabitants the several courts of the justices of the peace of such city, as established and operated under the provisions of any general statute, local or special act, or the provisions of the charter of any such city, are consolidated into 1 court, which shall be known as the common pleas court of such city, and shall be a court of record with a seal, and which shall have and exercise jurisdiction in all suits and proceedings, both civil and criminal, to the same extent as was had and exercised by the justices of the peace of such city immediately prior to the consolidation of the courts pursuant to the provisions of this act. The common pleas court shall have and exercise concurrent jurisdiction with the circuit court of the county in which the common pleas court is located in all civil actions, including actions of libel and slander, now cognizable in the circuit court wherein the debt or damages do not exceed \$10,000.00, except actions against municipal corporations, and where the value as set forth in the affidavit for a writ of replevin or in the affidavit for the writ of attachment does not exceed \$10,000.00. The common pleas court of such city shall also have and exercise jurisdiction in all suits and proceedings against life insurance companies, cooperative and mutual benefit associations, fraternal beneficiary societies, and municipal corporations, where, by their charter, it is provided that in the operation of a public utility same shall be operated as if privately owned, wherein the debt or damages do not exceed \$10,000.00. The common pleas court shall have exclusive jurisdiction in all civil actions, including libel and slander, wherein it shall otherwise have jurisdiction and wherein the debt or damages do not exceed \$5,000.00. Whenever any city attains a population of over 250,000 inhabitants, the secretary of state shall certify that fact, at the request of any inhabitant of such city, and after the lapse of 90 days from the date of any such certificate, the provisions of this act shall become applicable to the courts of justices of the peace in any such city.

HISTORY: CL 1929, 16369;—Am. 1935, p. 438, Act 254, Imd. Eff. June 8;—Am. 1939, p. 311, Act 158, Imd. Eff. June 1;—Am. 1941, p. 607, Act 350, Imd. Eff. June 18;—Am. 1943, p. 145, Act 107, Eff. July 30;—Am. 1947, p. 389, Act 259, Eff. Oct. 11;—CL 1948, 728.1;—Am. 1949, p. 155, Act 149, Eff. Sep. 23;—Am. 1952, p. 371, Act 226, Eff. Sep. 18;—Am. 1965, p. 789, Act 392, Imd. Eff. Oct. 26;—Am. 1969, p. 373, Act 193, Eff. Jan. 1, 1970.

CITED IN OTHER SECTIONS: Sections 728.1 to 728.30 are cited in § 600.103.

728.1a Jurisdiction of defendant.

Sec. 1a. A common pleas court established under this act shall have exclusive jurisdiction except for concurrent jurisdiction of courts of record in all civil causes or proceedings where the defendant is a resident of the city where the court is located at the time of the commencement of the action, unless the cause or proceeding is brought in a municipal court of the same county in a city in which one of the parties resides or in a court of competent jurisdiction at the place where the cause of action arose.

HISTORY: Add. 1961, p. 106, Act 98, Eff. Sep. 8;—Am. 1962, p. 191, Act 170, Imd. Eff. May 14.

728.2 Judges; number, appointment, nomination, designation on ballot, election, term; vacancies.

Sec. 2. The number of judges of any such court shall be determined on the basis of 1 judge for each 100,000 population or major fraction thereof of such city according to the most recent decennial federal census at the time Act No. 260 of the Public Acts of 1929 took effect, or shall hereafter take effect, in such city: Provided, however, That the number of judges shall in no case exceed 9. All justices of the peace whose courts shall be consolidated under the provisions of this act are hereby constituted judges of

the common pleas court of the city wherein they were severally justices of the peace immediately prior to the taking effect of this act and shall hold office for the remainder of the respective terms for which they were elected justices of the peace. If in any city affected by this act the number of justices of the peace of such city is less than the number of judges herein provided for such common pleas court, and if in any city affected by this act the number of common pleas judges of such city is less than the number of judges herein provided for such common pleas court, the governor shall appoint such additional number of judges of such common pleas court as will provide 1 judge of such common pleas court for each 100,000 population or major fraction thereof of such city, as hereinbefore provided. Each judge so appointed shall assume office immediately following his appointment and shall hold the same until his successor is elected and has qualified. Successors to the judges so appointed by the governor shall be nominated and elected at the next biennial spring primary and election held in such city following such appointment, and the judges so elected shall take office immediately following their election and shall hold office for a term of 6 years from and after the fourth day of July next succeeding their election. At the biennial spring primary and election held in such city next preceding the expiration of the term of offices of such judges, their successors shall be nominated and elected in the same manner as is provided by law for the election of justices of the peace in such city, and the judges so elected shall take office the fourth day of July following their election and shall hold office for a term of 6 years thereafter and until their successors are elected and have qualified: Provided, That an incumbent who is a candidate may, upon his request in writing have printed below his name the designation, "common pleas judge". Whenever a vacancy shall occur in the office of any judge of said court by death, resignation, removal from office or from any other cause, such vacancy shall be filled by appointment by the governor. Each judge so appointed shall assume office immediately following his appointment and shall hold the same until his successor has been elected and has qualified. Successors to any judge or judges so appointed by the governor shall be nominated and elected at the next biennial spring election held in such city following such appointment and such successors shall hold office until the expiration of the term to which such judge or judges shall have been elected.

HISTORY: CL 1929, 16370;—Am. 1931, p. 766, Act 332, Imd. Eff. June 16;—Am. 1939, p. 311, Act 158, Imd. Eff. June 1;—CL 1948, 728.2;—Am. 1958 p. 49, Act 48, Eff. Sep. 13.

728.3 Judges; election, compensation, jurisdiction; practice and procedure; law applicable; term; qualification.

Sec. 3. The qualifications, time and manner of election, compensation, jurisdiction, powers and duties of the judges of the common pleas court of each city, which shall or may hereafter be affected by the provisions of this act, and the practice and procedure in such common pleas court, shall be governed by the provisions of existing laws relating to justices of the peace in such cities, and to the practice and procedure in the courts of such justices of the peace, except so far as the same, or any part thereof, are expressly repealed by, or are inconsistent with, any of the provisions of this act. Each judge of the court of common pleas, whose term of office under the existing law would expire on the fourth day of July, 1933, shall hold office until the fourth day of July, 1935; and each judge of said court, whose term of office under the existing law would expire on the fourth day of July, 1935, shall hold office until the fourth day of July, 1937. At the biennial spring primary and election held in such city next preceding the expiration of the term of offices of said judges, their successors shall be nominated and elected in the same manner as provided by law for the election of justices of the peace in such city, prior to this act, and the judges so elected shall take office the fourth day of July following their election, and shall hold office for a term of 6 years thereafter and until their successors are elected and have qualified.

Except as hereinbefore otherwise provided, the terms of office of all common pleas judges hereafter elected shall be 6 years. All judges of any common pleas court shall be attorneys at law with at least 4 years' experience in the practice of law within the state of Michigan: Provided, however, That no judge of any common pleas court shall engage in the practice of law while he is such judge.

HISTORY: CL 1929, 16371;—Am. 1931, p. 769, Act 332, Imd. Eff. June 16;—CL 1948, 728.3.

728.4 Procedure to review judgment; appeal bond.

Sec. 4. In all cases in which any of the parties to the litigation feel themselves aggrieved by the judgment, or final order of the common pleas court, appeal or certiorari shall lie within 20 days of the date of the judgment or order, to the circuit court of the county for review, but not for trial de novo, where the case shall be reviewed in the same manner as near as may be as cases appealed from the circuit court are now reviewed in the supreme court and the aggrieved party may further appeal the cause to the supreme court for review under the same terms and conditions as under existing law and under such rules for circuit court review as may be prescribed by the supreme court. If the appellant desires a stay of proceedings, he shall give bond with sufficient surety, to be approved by a judge of the common pleas court or the circuit court, to the appellee with condition that the appellant shall prosecute his appeal or certiorari to effect, and shall pay and satisfy such judgment as shall be rendered against him thereon. The penalty of such bonds shall be not less than double the amount of the judgment upon which the review is brought, if such judgment is against the appellant, nor in any case less than \$100.00. No municipal corporation, subject to this act shall be required to furnish or place a bond for review of such decision.

Transcript of judgments, filing.

Transcripts of judgments rendered by the common pleas court may be taken and filed in the same manner and within the same time and with like force and effect as is provided by law.

Stenographers, appointment, oath, compensation, fee.

A reporter or stenographer may be employed in any case upon demand of either party to the case, or on order of the court. There shall be employed in the court such number of permanent court reporters as shall be provided for by the board of supervisors of the county. Every reporter shall be appointed by the governor upon the recommendation of the judges of the common pleas court and shall be deemed an officer of the court. He shall be eligible for membership in and benefits of the retirement or the social security plan adopted by the county. Before entering upon the duties of his office, the reporter shall take and subscribe the constitutional oath of office to be administered by the presiding judge of the court, which oath of office shall be filed in the office of the secretary of state. The reporters of the common pleas court shall receive as compensation for their services the same salary and fees as the circuit court stenographers of the county in which the court is located. In counties where the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Compiled Laws of 1948, are in force, the reporters after appointment, shall be subject to such rules as now apply or may later be adopted respecting the hours and conditions of employment, vacations and sick leave of classified employees. There may also be employed on a per diem basis by order of the trial judge such additional reporters as may be temporarily required for the proper operation of the court. If either party demands a reporter he shall pay upon demand to the clerk of the court the sum of \$3.00 for the reporter. The sum may be taxed as costs.

HISTORY: CL 1929, 16372;—Am. 1935, p. 438, Act 254, Imd. Eff. June 8;—CL 1948, 728.4;—Am. 1949, p. 156, Act 149, Eff. Sep. 23;—Am. 1953, p. 166, Act 105, Eff. Oct. 14;—Am. 1962, p. 191, Act 170, Imd. Eff. May 14.

728.5 Clerk of court.

Sec. 5. The clerk of the courts of the justices of the peace in each city which shall, or may hereafter be affected by the provisions of this act, shall be the clerk of the common pleas court of such city, and his qualifications, method of appointment or election, term of office, powers, duties and compensation shall be governed by the provisions of existing laws relating to clerks of the justices of the peace of such city, except so far as the same, or any part thereof, are expressly repealed by, or are inconsistent with, any of the provisions of this act.

HISTORY: CL 1929, 16373;—CL 1948, 728.5.

728.6 Files and dockets; judges as successors to justices of the peace.

Sec. 6. All files, records and dockets belonging or appertaining to the offices of the justices of the peace in office in each city, which shall, or may hereafter be affected by the provisions of this act, shall be filed and safely kept in the office of the clerk of the common pleas court of such city, and such files, records and dockets shall in all respects and for all purposes constitute records of the common pleas court of such city provided for by this act.

The judges of such common pleas court shall in all respects be considered the successors in office of the several justices of the peace whose courts are consolidated by this act, and shall have and exercise the same powers and authority in respect of judgments rendered and matters pending before such justices of the peace as is by law conferred upon successors in office of justices of the peace in such city.

HISTORY: CL 1929, 16374;—CL 1948, 728.6.

728.7 Presiding judge; selection, term.

Sec. 7. When this act becomes effective in any such city, the governor shall immediately designate 1 of the judges of the common pleas court of such city as presiding judge of such court, and the presiding judge so designated shall continue as such until the first week in the second January after this act becomes effective in such city, or until his successor shall have been elected by a majority of all the judges. During the first week in the second January after this act takes effect in any such city, the judges of such common pleas court shall by a majority vote elect 1 of their number presiding judge, who shall continue as such until the first week in July of that year or until his successor shall have been elected by a majority of all the judges of such court, and thereafter a presiding judge shall be elected by a majority of all the judges of such court during the first week in July of that year, and thereafter, semi-annually during the first week in January and the first week in July of each year, and from time to time as vacancies occur in the office of presiding judge, who shall continue as such until his successor shall have been elected by a majority of all the judges: Provided, however, That if during the first week of any January or July the judges shall neglect, or fail to elect 1 of their number as presiding judge as herein provided, the then presiding judge shall continue as such for an additional semi-annual term.

HISTORY: CL 1929, 16375;—CL 1948, 728.7.

728.8 Presiding judge; powers and duties.

Sec. 8. The presiding judge of such common pleas court shall, in addition to having and exercising all powers and duties appertaining to his office as a judge of such common pleas court, have general superintendence of the business, both civil and criminal, of the court, and shall classify and distribute it among the judges of such court.

The presiding judge of such common pleas court shall have the power to assign and reassign for trial, or other necessary disposition, at such time and in such manner as such presiding judge shall determine, to any of the judges of such court, any suit, proceeding, or matter of business instituted or pending in such court. In all suits and proceedings, both civil and criminal, hereafter instituted or pending in such common

pleas court, the presiding judge thereof and such other judge as he may designate, shall have power to hear and determine all motions made therein, to approve all bonds required by law to be approved, to enter and set aside defaults and default judgments, and in general to dispose of any interlocutory and miscellaneous matter arising in any such suit or proceeding: Provided, however, That motions for a new trial filed in any suit or proceeding pending in said court shall be heard by the judge of such court before whom such suit or proceeding was heard, in the same manner as motions for a new trial are heard and determined by justices of the peace. Such presiding judge shall have such other powers and duties not inconsistent with the provisions of this act as the judges of such court may by rule provide.

HISTORY: CL 1929, 16376;—CL 1948, 728.8.

728.8a Marriage; authority to perform, fee.

Sec. 8a. The judges of the common pleas court shall have authority to perform marriages and shall charge a fee not to exceed \$10.00, which fee, if the marriage is performed in the courtroom facilities of the common pleas court, shall be collected and deposited by the clerk of the county in the treasury of the county at the end of each month. No judge of the common pleas court shall charge, collect or accept any other fee or any gratuity for solemnizing marriages.

HISTORY: Add. 1969, p. 556, Act 300, Eff. Mar. 20, 1970.

728.9 Presiding judge; annual report to mayor.

Sec. 9. The presiding judge of such court shall in January of each year file with the mayor of the city wherein said court is located, a report covering the preceding calendar year, which report shall set forth the business pending in, and transacted by the court and each of the judges thereof; the number of days and hours that each of the judges of said court was in attendance, and such other data as the mayor of said city may require.

HISTORY: CL 1929, 16377;—CL 1948, 728.9.

728.10 Meetings of judges; monthly report.

Sec. 10. The judges of such court shall meet at least once in each month, and at such times as the presiding judge of such court may require. Each of such judges shall at least once in each month make a report in writing to the presiding judge, in such manner and form as the presiding judge of such court may require.

HISTORY: CL 1929, 16378;—CL 1948, 728.10.

728.11 Acting presiding judge.

Sec. 11. The judges of such court shall select 1 of their number to act as presiding judge of such court in the absence or inability to act of the regularly designated presiding judge or pending the designation of a presiding judge by the governor, as is hereinbefore required.

HISTORY: CL 1929, 16379;—CL 1948, 728.11.

728.12 Actions before court; writs and process.

Sec. 12. All suits and proceedings instituted in such court shall be deemed to be pending in such court and not before a particular judge thereof and shall be numbered consecutively in the order in which the same are instituted. All writs of summons and other writs and process issuing out of said court shall be entitled in the common pleas court of such city and shall be signed by or in the name of the clerk of the common pleas court.

HISTORY: CL 1929, 16380;—Am. 1937, p. 172, Act 106, Imd. Eff. June 24;—CL 1948, 728.12.

728.13 Declaration; service of summons, return date; pleading, filing, service, copies, filed with clerk of court; non-service; filing; alias summons; failure to plead; default, entry; judgment; trial; stipulation; adjournments.

Sec. 13. In every action in assumpsit or trespass on the case instituted in such court by writ of summons, the plaintiff or his duly authorized agent or attorney shall, at the time of instituting such action, file with the clerk of the court a declaration in writing, in such form as shall be prescribed by rule of court and which shall include an itemized statement of the damages claimed. At the same time plaintiff or his agent or attorney shall provide a copy thereof for each defendant named in said suit, 1 of which copies shall be served on each defendant with the summons issued in such case.

All writs of summons, in assumpsit or trespass on the case, shall be made returnable within 90 days from the date of issuance thereof. In all other suits the writ of summons shall be made returnable within the same number of days from the date of issuance thereof as is provided by existing laws relating to writs of summons in such suits commenced before a justice of the peace in such city.

In every assumpsit or trespass on the case action commenced by writ of summons in such court within 15 days after service of the writ of summons on the defendant, and in every other action commenced by writ of summons in such court, except in garnishment proceedings, after service of the writ of summons on such defendant, and on or before the return day named in such writ of summons, each defendant in such action shall be required to file or cause to be filed in the office of the clerk of the court a pleading in writing in such manner and form as the judges may by rule provide. A copy of such pleading shall be served on the plaintiff or his attorney within such time and in such manner as the judges may by rule provide: Provided, however, That the judges may provide by rule that copies of such pleadings be filed with the clerk of the court and by such clerk served on the plaintiff or his attorney by mail or otherwise.

In assumpsit and trespass on the case actions service of such writ of summons shall be made on or before the return day thereof and proof of service on each defendant shall be filed in the office of the clerk of said court not more than 5 days after such service. A return of non-service, if such is the case, shall be filed not less than 1 day before the return day of said writ of summons. Service of all other writs of summons shall be made not less than 3 days before the return day thereof and the return or proof of service thereof shall be filed in the office of the clerk of said court not less than 1 day before the return day thereof.

When it shall appear that service of such writ of summons was not had upon all defendants, the clerk shall, upon application to him not more than 15 days after the return day of such summons, issue an alias summons, which in proceedings in assumpsit and trespass on the case shall be made returnable within 90 days. The judges may by rule provide for the issuance of alias summons and for the expeditious handling by the clerk of such alias summons.

If any defendant, having been duly served with process in an assumpsit or trespass on the case action, shall fail to plead on or before 15 days from the time of service of such writ of summons upon him, except as otherwise provided by law, and if any defendant in any other action having been duly served with process shall fail to plead on or before the return day of such writ of summons, as hereinbefore required, or within such further time as the court may allow, the clerk shall forthwith enter the default of such defendant and the plaintiff may at any time within 14 days after the entry of such default prove his claim before the presiding judge of such court, in an amount not exceeding that set forth in the copy of the itemized statement served upon such defendant: Provided, however, That when any other defendant in such suit shall have duly

pleaded, judgment may be entered against the defendant in default upon the trial of the issue as to the remaining defendants.

In actions of assumpsit and trespass on the case where the defendant is in default as hereinbefore set forth, the clerk of the court shall forthwith by mail notify the plaintiff or his attorney of such defendant's default.

A cause pending in such court shall be deemed at issue when all defendants shall have appeared generally and pleaded or when the default of any defendant who has failed to plead has been duly entered and all other defendants shall have appeared generally, and pleaded and a day certain for the trial of such cause shall thereupon be fixed by the clerk who shall forthwith notify all parties or their attorneys of the place and date of trial. Such notice shall be given by mail or in such other manner as the judges of such court shall by rule provide: Provided, however, That the date so set for trial shall be not less than 7 or more than 15 days after such cause is placed at issue as to all the parties: And provided further, That the parties to such cause or their attorneys may by written stipulation, approved by the presiding judge and filed in the office of the clerk of the court, fix an earlier trial date, and may stipulate in writing for not to exceed 2 adjournments of such cause, such stipulation to be filed in the office of the clerk of the court. No further or other adjournments shall be granted except upon motion and after cause shown under oath before the presiding judge or some other judge of the court as shall be designated by the presiding judge to hear and determine such motions.

HISTORY: CL 1929, 16381;—CL 1948, 728.13;—Am. 1952, p. 372, Act 226, Eff. Sep. 18;—Am. 1954, p. 75, Act 62, Eff. Aug. 13.

728.14 Actions in replevin, attachment and garnishment; disclosure fee.

Sec. 14. The time and manner of issuance, service and return of process, and the practice and procedure in actions of replevin, suits commenced by writ of attachment, and garnishment proceedings, shall be governed by the provisions of existing laws relating to such actions and proceedings before justices of the peace in such city, except as herein otherwise provided. All writs and process issued in and by such court in actions of replevin and in garnishment proceedings and in suits commenced by writs of attachment shall be returnable before the presiding judge of such court or some other judge designated by the presiding judge. In actions of replevin where goods or chattels are not seized under the original writ, successive or alias writs may be issued by said court for the purpose of seizing said goods or chattels or service in the same manner as original writs. The judges may by rule provide that all proceedings and process relating to garnishments ancillary to the principal case shall be filed and entered in such principal case as part of the proceedings thereof, and that all garnishment answers and disclosures shall be in writing. A garnishee defendant shall be paid 50 cents only for the purpose of filing a disclosure with the court, any other law to the contrary notwithstanding.

HISTORY: CL 1929, 16382;—Am. 1931, p. 769, Act 332, Imd. Eff. June 16;—Am. 1943, p. 145, Act 107, Eff. July 30;—CL 1948, 728.14;—Am. 1962, p. 35, Act 40, Eff. Mar. 28, 1963.

728.15 Motions in writing; filing, service, notice.

Sec. 15. The judges of such court may require all motions made in such court to be in writing. All written motions shall be filed with the clerk of such court who shall set a date for hearing thereon before the presiding judge, or some other judge to whom the presiding judge may assign the hearing and disposition of such matters, in accordance with the rules and practice of such court. The moving party shall cause to be served upon the opposite party or parties or their attorneys copies of such motions and notices of hearing thereof within the time and in the manner fixed by the rules and practices of such court.

HISTORY: CL 1929, 16383;—CL 1948, 728.15.

728.16 Notice to litigants.

Sec. 16. The judges shall by rule make provision for giving notice to litigants, or their attorneys of such matters in connection with pending proceedings as may require notice, and may provide that such notices be given by mail, and may further provide for the designation of an official newspaper and the publication therein of notice of all matters pending in such court, and may further provide for the posting of such notices in suitable places.

HISTORY: CL 1929, 16384;—CL 1948, 728.16.

728.17 Docketing causes; filing pleadings; records; form of process; power to make certain rules.

Sec. 17. The judges of such court shall have power to establish a system for docketing causes, for recording the proceedings in each case, and for filing pleadings and other matters, and shall designate the mode of keeping, filing and authenticating the records of proceedings had in such court. They may by rule provide that the clerk of such court, or any of his deputies, may sign dockets and executions. Such judges shall prescribe the form of all summons, writs and other process to be issued by such court and may adopt rules not inconsistent with the other provisions of this act governing the time and manner of filing and serving pleadings and the form thereof, the dismissal and adjournment of causes, the entry and setting aside of defaults and default judgments, the extension of time for pleading, and all other matters of pleading, practice, and procedure not inconsistent with the provisions of this act.

HISTORY: CL 1929, 16385;—CL 1948, 728.17.

728.18 Conciliation division.

Sec. 18. The judges of such court may by rule provide for the establishment and maintenance of a conciliation division of the court for the purpose of adjusting, in an informal manner, controversies submitted to it involving \$300.00 or less, and the judges of such court shall, upon the establishment of such conciliation division, adopt rules governing the submission of controversies to such conciliation division and the practice and procedure to be followed therein.

HISTORY: CL 1929, 16386;—CL 1948, 728.18;—Am. 1969, p. 557, Act 300, Eff. Mar. 20, 1970.

728.18a Orders for payment of judgments in installments and stay of garnishments.

Sec. 18a. After any judgment has been rendered, in any such court and the time to appeal therefrom has elapsed, the judge rendering said judgment, or the presiding judge of said court, or the judge to whom the hearing of the motion may be assigned by the presiding judge, may upon written consent of the parties, or upon written motion by a defendant or cross-defendant against whom said judgment has been rendered, after due notice thereof to the opposite party or his attorney, and after a full hearing of said motion, at which hearing the opposite party shall have an opportunity to cross-examine the moving party as to the facts set forth in said motion, enter an order requiring said defendant or cross-defendant to pay to the clerk of said court a certain sum of money weekly, bi-weekly, or monthly, to apply upon said judgment, and said order shall further stay the issuance of any writ of garnishment during the period that said defendant or cross-defendant complies with said order: Provided, however, For cause shown, in the discretion of such judge and upon such terms as he shall deem proper, he may grant a stay of garnishment on such judgment pending hearing upon such motion or until the further order of such court. Said motion of said defendant or cross-defendant shall be supported by the affidavit of the moving party, setting forth his inability to pay said judgment with funds other than those earned by him as wages, and setting forth the name and address of his employer, the amount of said wages, and the date of payment thereof. The clerk shall keep a record upon the file and docket of

each cause of all payments to and disbursements by him. Upon the failure of said defendant or cross-defendant to comply with said order, the clerk of said court shall make an entry upon the docket and file of said cause of the non-compliance of said defendant or cross-defendant, with said order, and declaring said order of the court ordering payment and staying said writs of garnishment, null and void, and thereupon said prior order of the court shall immediately and without any further act by any party or the court, automatically be null and void. Every proceeding instituted by a judgment debtor pursuant to this section shall appear upon and as part of the record of such judgment in such court and no transcript of such judgment shall issue out of such court pending the hearing upon any motion instituted hereunder or, in the event a stay order has issued before or after the hearing on such motion, during the time such stay order shall be in effect; and every affidavit for a transcript of any judgment rendered by such court shall contain an averment by the affiant, if such be the fact, either that no proceeding hereunder has been instituted upon such judgment or, in the event such proceeding has been instituted, that a stay order was finally denied after a hearing pursuant to the provisions hereof, or, in the event a proceeding has been instituted hereunder and a stay order has issued, after hearing on such motion, that such order became automatically null and void by reason of non-compliance on the part of the defendant or cross-defendant with the terms of such order under the provisions hereof.

HISTORY: Add. 1933, p. 178, Act 125, Imd. Eff. June 15;—Am. 1935, p. 439, Act 254, Imd. Eff. June 8;—CL 1948, 728.18a.

728.19 General law applicable.

Sec. 19. All the provisions of general statutes, local or special acts and the provisions of the charter of any such city, relating to justices of the peace and to justices courts in such city, shall apply to such common pleas court except so far as such provision may be inconsistent with the provisions of this act.

HISTORY: CL 1929, 16387;—CL 1948, 728.19.

728.19a Common pleas court; entry fee; disposition.

Sec. 19a. (1) Before any civil action or proceeding, including proceedings in garnishment before and after judgment, shall be commenced, there shall be paid to the clerk of the court by the party bringing the action, the sum of \$4.50 and the fees of the officer for service of the writ or process by which such action is commenced, and no additional fee shall be charged up to and including the entry of judgment.

(2) The clerk shall pay the sum of \$2.75 weekly out of such entry fee to the treasurer of the county, and the clerk shall pay the sum of 75 cents weekly out of such entry fee to the executive secretary of the retirement system to be credited to the judges' retirement system and \$1.00 to the Wayne county retirement system to be credited to the common pleas courts' bailiffs' retirement fund. The fees paid to the clerk for service of the writ or process by which action is commenced shall be retained by the clerk until the writ or process has been returned duly served or the cause is brought to issue. The fees shall then be paid by the clerk to the officer making the service, taking his receipt and placing it in the file of the cause of action. If it appears by the file that no service has been had for 3 months after the date of the writ, the officer's fees which were paid into the court shall be returned by the clerk to the plaintiff in the suit.

HISTORY: Add. 1970, p. 92, Act 37, Imd. Eff. Jun. 24.

Sec. 20. (This was a severing clause section.)

HISTORY: CL 1929, 16388;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 21. (This was a repeal section.)

HISTORY: CL 1929, 16389;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

728.22 Common Pleas Court Act; short title.

Sec. 22. This act shall be known and may be cited as "The Common Pleas Court Act".

HISTORY: CL 1929, 16390;—CL 1948, 728.22.

728.23 Bailiffs; appointment, vacancy, number, successors, qualifications, oath, bond, badge, card, bearing arms.

Sec. 23. All constables in any city having or which may hereafter have over 250,000 inhabitants who shall have been duly elected or appointed in any ward in the city and who have qualified on the effective date of this act shall forthwith be appointed bailiffs, by said judges. Each bailiff shall hold such office until resignation or removal from office for any of the causes and in the manner hereinafter provided. In the case of a vacancy of a bailiff, the judges of said court shall have the power to fill any and all such vacancies. There shall be not more than 36 bailiffs serving out of such court at any one time, except that bailiffs serving upon the effective date of this 1961 amendatory act shall continue to serve, but no vacancies shall be filled until the number of bailiffs is reduced below 36. All successors to fill any such vacancies shall have been a duly and qualified resident and elector of this state and county in which such court is located for at least 5 years immediately preceding such appointment. No appointee shall have been previously removed from such office for any reason. Such appointment and any revocations thereof shall be in writing attested by the presiding judge and filed with the clerk of such court as a part of the records thereof. Before entering upon his duties, each bailiff shall take and subscribe an appropriate oath of office in form to be prescribed by the presiding judge and shall make, and file, together with said oath, with the city clerk of such city a surety bond in the amount of not less than \$2,000.00 with a surety company. The premium thereon shall be paid by the bailiffs. Such bond and oath shall be filed with the city clerk prior to the issuance of the card evidencing the appointment of such bailiff. The bailiffs shall possess only the powers necessary in the service of process issued by the court established under the provisions of this act. The bailiff shall have suitable and adequate accommodations supplied by the county auditors including all furniture, supplies, stationery, appropriate printed blanks, secretary, office help and equipment. The bailiffs shall be authorized to wear an appropriate badge of office furnished at the expense of the city. Such badge shall at all times remain the property of the city and shall be surrendered to the city clerk only upon being found guilty of misfeasance or malfeasance in office. The clerk of the common pleas court shall issue to each bailiff a card signed by and under seal of said court stating that such person has been duly appointed and is vested with all powers conferred upon him by law, upon which card there shall appear also a clear photograph of such person to be furnished by himself. Each bailiff shall, while in office and in the exercise of his duties as such, be authorized to bear arms.

Service of process; rotation; substituted service.

All process directed to the common pleas court by any litigant shall be rotated among the bailiffs of said court, except writs of replevin, writs of execution and writs of attachment. Such bailiffs of the city in which the court is located shall promptly serve or cause to be served and execute all process, writs or orders delivered to them as herein provided, and in actions of assumpsit and trespass on the case after inquiry on the part of the said bailiff to make personal service, said bailiff may then and there leave a true copy at the defendant's abode with a person at least 21 years of age and suitable discretion to whom he shall read the contents of same. This shall be construed as adequate service and the court shall have jurisdiction over the litigants and judgment may be rendered by the judges of the common pleas court either by the appearance of said defendant or in his default. In each case the clerk of the common pleas

court shall mail a proper notice of default judgment to the defendant who had been served by substitute service and inform said defendant that he must appear in said case within 10 days.

HISTORY: Add. 1935, p. 439, Act 254, Imd. Eff. June 8;—Am. 1941, p. 167, Act 129, Imd. Eff. May 26;—Am. 1943, p. 384, Act 233, Eff. July 30;—CL 1948, 728.23;—Am. 1951, p. 169, Act 139, Eff. Sep. 28;—Am. 1952, p. 373, Act 226, Eff. Sep. 18;—Am. 1961, p. 278, Act 190, Eff. Sep. 8;—Am. 1965, p. 109, Act 78, Eff. Jul. 1.

728.24 Fees of bailiffs; schedule of fees not fixed by law, changes.

Sec. 24. Said bailiffs shall be paid by the clerk of the common pleas court fees provided as follows: \$3.50 for service of garnishments; \$4.00 for service of all other summonses; \$3.00 for writs of executions; \$8.00 for writs of replevin; \$4.00 for arrest warrants; \$4.00 for arrest fees; \$1.00 apiece for posting 3 notices and a \$3.00 charge for levy fee on executions, excepting in the case of collection and paying money on executions in which case the fee shall be 6% of the amount collected on the judgment up to and including \$1,000.00 and 4% on all sums in excess thereof. All other fees not mentioned herein shall be the same as those provided by existing law for constables. At any time after this act takes effect a majority of all the judges of such court may by court rule adopt a schedule fixing appraisal fees and such other fees not now fixed by law for bailiffs as such judges shall deem expedient and file the same with the clerk of such court, and thereupon such schedule of fees shall become the legal fees for bailiffs serving out of such court for the services specified in such schedule and such clerk shall post and keep posted 1 or more copies thereof, as the presiding judge shall direct, in 1 or more conspicuous places in the clerk's office accessible to the public, and shall indorse on the original approved schedule the date of posting. Changes in such fees shall be posted by the clerk immediately after the order therefor signed by a majority of the judges of such court has been filed and shall take effect 30 days after such posting when a complete schedule embracing the changes shall be posted in place of the superseded schedule. The clerk shall indorse on every original order for changes in such fees the date of posting the same and on every posted copy the date it takes effect.

HISTORY: Add. 1935, p. 440, Act 254, Imd. Eff. June 8;—Am. 1941, p. 168, Act 129, Imd. Eff. May 26;—Am. 1943, p. 346, Act 233, Eff. July 30;—Am. 1947, p. 13, Act 7, Imd. Eff. Feb. 27;—CL 1948, 728.24;—Am. 1952, p. 374, Act 226, Eff. Sep. 18;—Am. 1965, p. 110, Act 78, Eff. Jul. 1.

728.25 Fees of bailiffs; payment; authority of clerk of court.

Sec. 25. Every bailiff collecting moneys from court orders issued out of the common pleas court, other than the clerk of the court out of which he serves process, by virtue of any process, writ or order issued out of said court, shall immediately turn all of the same without any deduction over to the clerk of said court who shall pay the bailiff his proper fees upon the filing of proper returns covering the same. The clerk shall have power, in his discretion, to require proof in addition to the return that any fee claimed by any bailiff has been duly earned before paying the same. Any dispute pertaining to payment of fees fixed as herein provided shall be referred by the clerk to and shall be disposed of by the presiding judge of such court or such other judge thereof as shall be assigned to hear such matter.

HISTORY: Add. 1935, p. 440, Act 254, Imd. Eff. June 8;—Am. 1941, p. 168, Act 129, Imd. Eff. May 26;—CL 1948, 728.25.

NOTE: Amendatory Act 129, 1941, contained a section 2 and a section 4 reading as follows:

"Sec. 2. This amendatory act shall be liberally construed to effectuate the object thereof. Each section and provision of this amendatory act shall be construed separately, and the invalidity of any section or provision thereof shall not affect the validity of the remaining sections or provisions."

"Sec. 4. All constables in cities affected by this act shall on or before the effective date hereof make and file with the clerk of the court due and proper return of all writs, summonses and other process in this hands."

728.26 Fees of bailiffs; extraordinary expenses; reimbursement.

Sec. 26. All fees, charges and disbursements, other than fees fixed by law or specified in said posted schedules, necessarily incurred by any bailiff in the seizure, removal, safekeeping and/or sale of property or otherwise in connection with the service or execution of any process, writ or order issued out of any such court, shall before allowance thereof, be by said bailiffs itemized and if no objections are filed with the

clerk, and the clerk has no reason to question such fees, charges and/or disbursements on his own initiative, the same shall be paid to him at the expiration of said 4 days. In the event, however, objections are filed with the clerk in writing by any party to the suit or any interested person, or in the event the clerk, on his own initiative, has reason to question such fees, charges and/or disbursements the clerk shall forthwith notice same for hearing and notify the bailiff and the objecting party or parties, if any, of the time and place of such hearing. The matter shall be heard and disposed of by the presiding judge or such other judge of said court as shall be assigned to hear the same.

HISTORY: Add. 1935, p. 441, Act 254, Imd. Eff. June 5;—Am. 1941, p. 168, Act 129, Imd. Eff. May 26;—CL 1948, 728.26.

NOTE: Amendatory Act 129, 1941, contained a section 2 and a section 4 reading as follows:

"Sec. 2. This amendatory act shall be liberally construed to effectuate the object thereof. Each section and provision of this amendatory act shall be construed separately, and the invalidity of any section or provision thereof shall not affect the validity of the remaining sections or provisions."

"Sec. 4. All constables in cities affected by this act shall on or before the effective date hereof make and file with the clerk of the court due and proper return of all writs, summonses and other process in their hands."

728.27 Fees of bailiffs; exempt property, seizure; procedure for release.

Sec. 27. On complaint in writing under oath to the presiding judge or other judge of such court assigned to receive such complaint, by or on behalf of any judgment debtor that any property of such debtor, taken by a bailiff under a writ of execution issued out of such court, is exempt from execution under any law of this state, and provided such complaint be filed before a lawful sale of such property under such execution to a bona fide purchaser for value, such judge shall issue an order directed to such bailiff, the plaintiff in execution and/or any other person or persons having such property in custody, requiring them to appear before such court, at a time and place fixed in the order and show cause why such property should not be forthwith released to such judgment debtor or otherwise dealt with as the court shall order. The judge receiving or hearing such complaint may, in his discretion, before issuing the order, require the complainant to give security for the costs of such proceeding, in such form and amount and with such surety or sureties as the judge shall approve. The judge, at such hearing, may without subpoena require such bailiff and/or any other person to whom the order is directed to appear and give evidence under oath, disclose the whereabouts of such property, produce any papers or records which the judge may deem necessary, and may continue the hearing from time to time as the judge shall see fit, and shall admit thereat such competent proofs bearing upon the issue before the court as the complainant, the bailiff or the plaintiff in execution shall offer; and in the event the judge determines that the property in question was exempt when taken, he shall order summarily its immediate release without payment of any fees or charges to the bailiff or any other person claiming fees or charges in connection with its seizure, removal, safekeeping or otherwise; and, whether the decision be for or against the complainant, such judge shall award damages sustained and the costs of such proceeding to be paid by the complainant or the bailiff against whom the decision shall be in the premises, and shall render judgment for such damages and costs against such party and his sureties for which execution and/or garnishment may issue on a judgment recovered at law. Pending the hearing and final disposition of said complaint, the presiding judge or the judge assigned to hear and dispose of such matter, may by written order restrain the sale or removal of such property and control its safekeeping, and/or, upon the filing of a bond in an amount equal to twice the value of such property as determined by such judge, and in form and with surety or sureties to be approved by such judge, may order such property to be immediately returned to complainant. Wilful failure, neglect or refusal by such bailiff or any other person having custody or control of such property to obey any lawful order of such court made hereunder shall be punishable summarily as a contempt of such court by the presiding judge thereof or any other judge thereof assigned to hear such matter. It shall also constitute misconduct in office on the part of such bailiff and render him subject to disciplinary action by such court

under section 28 of this amendatory act. This section shall be deemed not to supersede but to supplement any other remedy which such complainant might have against such bailiff or any other person under existing law: Provided, however, That a judgment of any such court rendered hereunder on the issue as to whether such property was exempt when taken and as to the damages sustained shall be res adjudicata in any subsequent suit or proceeding between complainant and such bailiff between complainant and such execution plaintiff and between the bailiff of the city in which the court is situated and such execution plaintiff.

HISTORY: Add. 1935, p. 441, Act 254, Imd. Eff. June 8;—Am. 1941, p. 169, Act 129, Imd. Eff. May 26;—CL 1948, 728.27.

NOTE: Amendatory Act 129, 1941, contained a section 2 and a section 4 reading as follows:

"Sec. 2. This amendatory act shall be liberally construed to effectuate the object thereof. Each section and provision of this amendatory act shall be construed separately, and the invalidity of any section or provision thereof shall not affect the validity of the remaining sections or provisions."

"Sec. 4. All constables in cities affected by this act shall on or before the effective date hereof make and file with the clerk of the court due and proper return of all writs, summonses and other process in their hands."

728.28 Fees of bailiffs; answerable to court; inquiry into conduct; penalty.

Sec. 28. Every bailiff of the city in which the court is situated serving process out of any such court shall be answerable thereto for all his conduct in the line of duty; and it shall be the duty of every such court to compel bailiffs serving process out of such court to perform their duties, to examine into complaints against them, to determine their guilt or innocence of misfeasance and/or malfeasance in office and to discipline any offending bailiffs in manner as herein provided. Inquiry into the conduct of any bailiffs serving process out of any such court shall be instituted on complaint by the clerk thereof or by any person conceiving himself aggrieved, in manner as hereinafter provided, and may be instituted by such court on its own motion whenever the presiding judge or whenever any judge or judges thereof assigned to deal with such matters consider it expedient to do so. Where the inquiry is instituted on the court's own motion the procedure shall be as prescribed by court rule adopted by a majority of the judges of such court. On complaint in writing by the clerk of any such court or in writing under oath by or on behalf of any person conceiving himself aggrieved, to the presiding judge or such other judge or judges thereof assigned to receive such complaint, stating allegations of fact from which it appears to the examining judge that any bailiff serving process out of such court is guilty of any misconduct in office, such judge shall issue an order in writing directed to such bailiff requiring him to appear before the presiding judge or any judge or judges of said court assigned to hear such complaint, at a time fixed in such order, and show cause why said court should not take disciplinary action against such bailiff. A copy of said complaint and order shall be served on such bailiff prior to the date of hearing, the time and manner of service to be fixed in the order. No complaint, after the filing thereof as aforesaid, may be withdrawn nor shall the same or any proceeding thereon be dismissed or discontinued except by written order of the court for good cause shown, the reasons therefor to be stated in the order. The judge or judges hearing said complaint may permit or, on the court's own motion, order the filing of amendments thereto, may continue the hearing thereon from time to time, as the ends of justice may require, and, at any time prior to the final disposition of such matter, may require the prosecuting attorney of the county where such court is situated to prosecute said complaint, and the county where such court is situated shall pay the fees for such witnesses, depositions, if any, and such other evidence adduced by such prosecutors as the judge or judges in charge of said proceedings shall approve or certify to the board of county auditors. No fees shall be allowed or paid to such prosecutors for their services. In the event such bailiff shall be found guilty of any misfeasance and/or malfeasance in office as herein defined, the trial judges shall have power, in their discretion, as follows: (a) permanent removal from office of such officer; (b) suspension from office for a definite period; (c) a finding of contempt of court and the imposition of a penalty therefor as provided by law. The punishment, pro-

vided in clause (c) hereof, may be imposed concurrently with the provision in cause (a) or (b) hereof. All findings of guilt and all orders of punishment may be confirmed by a majority of the judges of the court. The findings of fact made by such judges shall be based upon a record stenographically reported: Provided, however, That an appeal from the order of such judges shall lie to the circuit court of the county in which such court is located on all questions of law and facts and upon said record, and a further appeal to the supreme court of the state of Michigan.

HISTORY: Add. 1935, p. 442, Act 254, Imd. Eff. June 8;—Am. 1941, p. 170, Act 129, Imd. Eff. May 26;—Am. 1943, p. 396, Act 233, Eff. July 30.—CL 1948, 728.28.

NOTE: Amendatory Act 129, 1941, contained a section 2 and a section 4 reading as follows:

"Sec. 2. This amendatory act shall be liberally construed to effectuate the object thereof. Each section and provision of this amendatory act shall be construed separately, and the invalidity of any section or provision thereof shall not affect the validity of the remaining sections or provisions."

"Sec. 4. All constables in cities affected by this act shall on or before the effective date hereof make and file with the clerk of the court due and proper return of all writs, summonses and other process in their hands."

728.29 Courts' authority to set aside default judgment; basis; hearing, motion.

Sec. 29. In any case where default judgment shall have been rendered by any such court against any defendant and the regular time for appeal, motion to set aside such default or for a new trial has expired, the judge who rendered such judgment or his successor in office, shall have power to set aside such judgment and grant a new trial on special motion therefor supported by affidavit based upon the personal knowledge of the affiant, setting forth, in substance, the following facts: (a) that such motion is based upon lack of personal service of process upon the judgment debtor; (b) that no delayed appeal from or transcript of such judgment has been taken and no other proceeding, seeking relief therefrom, has been instituted in any other court; (c) that said defaulted party has a good and meritorious defense to the action; and (d) that such motion is filed within 10 days after such judgment debtor had notice or actual knowledge of the existence of such judgment or, where any property of such judgment debtor has been seized by execution upon such judgment, within 4 days after such seizure, or, if there has been no such seizure but any indebtedness or property of such judgment debtor has been attached by garnishment upon such judgment, then within 10 days after such attachment. At the hearing on said motion the opposite party shall have an opportunity to cross-examine the moving party on the question of personal service, and the judge hearing the same shall admit such competent proofs bearing on said question as either party shall offer, and no relief shall be granted on such motion unless the judge hearing the same be satisfied by a preponderance of the evidence that there has been a lack of personal service of process upon the judgment debtor, and then only upon such terms and conditions as such judge shall deem proper. The judges of every such court may by court rule prescribe the form of notice of such motion, the time and manner of serving the same on the opposite party or parties or their attorneys and/or any other requirement which the judges of such court may deem proper to impose as a condition to the hearing of such motion; and until so prescribed, the procedure shall be according to the rules and practice governing motions in the circuit courts, as near as may be.

HISTORY: Add. 1935, p. 444, Act 254, Imd. Eff. June 8;—CL 1948, 728.29.

728.30 Attorney fees; taxable as costs.

Sec. 30. In all cases where a contested trial takes place, the prevailing party, if he be the plaintiff and was represented by a regularly licensed attorney and counselor, shall be entitled to tax as an attorney fee the sum of \$15.00 in case of rendition of a judgment of \$500.00 or under, \$25.00 in the case of rendition of a judgment of over \$500.00 but not more than \$1,000.00, and \$35.00 in case of rendition of a judgment of over \$1,000.00; and, in all cases where a contested trial takes place, if the defendant was the prevailing party, and if he was represented by a regularly licensed attorney

and counselor, he shall be entitled to tax as an attorney fee the sum of \$15.00 in case the plaintiff sought in his pleadings to recover a judgment of \$500.00 or less, \$25.00 in case the plaintiff sought in his pleadings to recover a judgment of over \$500.00 but not more than \$1,000.00, and \$35.00 if the plaintiff in his pleadings sought to recover a judgment of over \$1,000.00: Provided, however, That the allowance of the fees above set forth, or any portion thereof, shall be within the discretion of the judge hearing the case and shall be in addition to all other costs allowed by law.

HISTORY: Add. 1955, p. 259, Act 169, Eff. Oct. 14.

CHAPTER 729. POLICE COURTS

GRAND RAPIDS POLICE COURT

Act 76 of 1879

- 729.1 Police court of Grand Rapids; establishment; judge; election, oath, qualifications.
- 729.2 Clerk of court; election, term, qualifications.
- 729.3 Clerk of court; oath of office, bond; vacancy in office of judge or clerk.
- 729.4 Prosecuting and city attorneys; duties in court.
- 729.5 Place for holding court; power of court; peremptory challenges.
- 729.6 Jurisdiction; entries as evidence; arrest without process.
- 729.7 Practice; process; service, record.
- 729.8 Fees and salary of judge, clerk and police.
- 729.9 Office and supplies for judge and clerk.
- 729.10 Court open at all times; adjournments; bailiff, appointment, powers, removal, salary, vacancy in office of judge or clerk.
- 729.11 Judge to instruct jury; appeals; juries.
- 729.12 Assistant police judge.
- 729.13 Cases for violation of city ordinances; fines and costs; report.
- 729.14 Fees and costs.
- 729.15 Security for costs; judgment for costs against sureties.
- 729.16 County to pay part of expenses of court; limit.
- 729.17 Clerk; duties, deputy, vacancy, power as to writs and process, administration of oaths, other powers.
- 729.18 Suspension of judge.
- 729.19 Commitments.
- 729.21 Cases pending when act becomes effective.
- 729.23 Immediate effect of act.

POLICE JUDGE, CLERK AND BAILIFF

Act 353 of 1913

- 729.101 Police judge; salary; fees of judge and clerk.
- 729.102 Police judge; election, term, oath, qualifications.
- 729.103 Clerk; salary, appointment, term, qualifications.
- 729.104 Bailiff; appointment, powers, rights and liabilities, salary, vacancy, oath, bonds, deputy clerk.
- 729.104a Court stenographer; appointment, duties, compensation, removal.
- 729.105 Jury; drawing instruction.
- 729.106 Appeals and certiorari.

DRAWING OF JURIES

Act 17 of 1953

- 729.201 Adoption of act by certain cities; rescission.
- 729.202 Board of jury commissioners; membership.
- 729.203 Board of jury commissioners; list of persons to serve as jurors, computation; additional names; lists in duplicate.
- 729.204 Board of jury commissioners; qualifications of persons selected.
- 729.205 Board of jury commissioners; exemptions; excused from serving.
- 729.206 Duty of clerk of court.
- 729.207 Date of trial; drawing of panel, time; number of jurors.
- 729.208 Drawing; conduct.
- 729.209 Clerk to draw names; record; signature.
- 729.210 Slips drawn; replacement.
- 729.211 Summoning of jurors; service.
- 729.212 Failure to attend; penalty.
- 729.213 Jury panel placed in separate receptacle; drawing; additional names, drawing; summoning.
- 729.214 Challenges.
- 729.215 Instructions to jury.
- 729.216 Jury service; limitation.
- 729.217 Fees.

Act 76, 1879, p. 66; Imd. Eff. May 13.

AN ACT to establish and organize a municipal court in the city of Grand Rapids to be known and called "The police court of Grand Rapids," and to repeal an act entitled "An act to establish and organize a police court in the city of Grand Rapids," approved April thirtieth, 1873, and all amendments thereto, and all acts and parts of acts in any wise contravening the provisions of this act.

The People of the State of Michigan enact:

729.1 Police court of Grand Rapids; establishment; judge; election, oath, qualifications.

Sec. 1. That there shall be established and organized a municipal court, in and for the city of Grand Rapids, to be known as and called "The police court of Grand Rapids," and there shall be elected a judge and a clerk of said court, as hereinafter pro-

vided. The police justice of the city of Grand Rapids now officiating, shall continue and hold his office, and exercise the powers and duties herein conferred, under the title of "police judge," until the expiration of the time for which he was elected. At the annual charter election of said city to be held in 1882, and at every fourth annual charter election thereafter, a police judge shall be elected in and for said city, by the electors thereof in the manner provided by law for the election of mayor of said city, and the person so elected shall hold said office for the term of 4 years from and after the first Monday in May next after his election, and until his successor shall be elected and qualified. Before entering upon the duties of his office, he shall take, subscribe and file in duplicate, with the clerk of said city, and with the clerk of the county of Kent, respectively, the constitutional oath of office. He shall be an attorney and counsellor at law, entitled to practice in all the courts of this state, and a resident in, and qualified elector of said city.

HISTORY: How. 6591c6;—CL 1929, 16399;—CL 1948, 729.1. This section probably is superseded by Compilers' § 729.102.

This act did not appear in the compilations of 1897 and 1915.

FORMER ACT: Act 396 of 1873.

CONSTITUTION: For form of oath, see Const. XI, 1.

JUSTICE COURT: Of Grand Rapids, see Act 299 of 1911, being Compilers' § 730.1 et seq.

729.2 Clerk of court; election, term, qualifications.

Sec. 2. At the first annual charter election, to be held in said city next after the passage and approval of this act, and at every second annual charter election thereafter, there shall be elected a clerk of the police court, in the manner provided by law for the election of the judge of the said court. He shall enter upon the discharge of the duties of his office on the first Monday in May next after his election, and hold the same for the term of 2 years thereafter, and until his successor shall be elected and qualified. He shall be a resident of and a qualified elector of said city. Immediately after the passage of this act, and before said first election of such clerk, the common council shall appoint a suitable and qualified person to exercise the duties of said office until a clerk shall be elected and qualified under this act.

HISTORY: How. 6591c7;—CL 1929, 16400;—CL 1948, 729.2. This section probably is superseded by Compilers' § 729.103.

729.3 Clerk of court; oath of office, bond; vacancy in office of judge or clerk.

Sec. 3. Before entering upon the duties of his office, the clerk of police court shall take, subscribe and file with the clerk of said city, the constitutional oath of office, and give a bond to the city of Grand Rapids, and a bond to the treasurer of the county of Kent, each in the sum of 2,000 dollars, with 2 sufficient sureties, to be approved by the mayor of said city, and by the treasurer of said county, respectively, conditioned for the faithful discharge of the duties of his office, and to account for and pay over to the proper treasurers, in the manner and at the times hereinafter provided, all moneys which shall come into his hands by virtue of his said office. The bond to the city shall be filed with the city clerk and the bond to the treasurer of said county shall be filed with said treasurer, and if from any cause a vacancy shall occur in the office of judge or clerk of said police court, either or both, the common council of said city may order a special election to be held for the election of a judge or clerk of said court as the case may be, for the remainder of the term of said judge or clerk, as the case may be, which said election, if ordered, shall be conducted in the same manner as the annual city election, and the same notice thereof given, as is required by law to be given for the annual city election.

HISTORY: How. 6591c8;—CL 1929, 16401;—CL 1948, 729.3.

CONSTITUTION: For form of oath, see Const. XI, 1.

VACANCY: Filling by justice of the peace, see Compilers' § 730.12.

729.4 Prosecuting and city attorneys; duties in court.

Sec. 4. It shall be the duty of the prosecuting attorney of the county of Kent, or his authorized deputy or assistant, to attend all sessions of said police court, and prosecute all state criminal cases therein; and it shall be the duty of the city attorney, or any assistant authorized by the common council, to attend all sessions of said court, to prosecute all violations of the charter, by-laws or ordinances therein.

HISTORY: Am. 1885, p. 125, Act 127, Imd. Eff. May 28;—Am. 1889, p. 118, Act 109, Imd. Eff. May 23;—How. 6591c9;—CL 1929, 16402;—CL 1948, 729.4.

729.5 Place for holding court; power of court; peremptory challenges.

Sec. 5. The police judge shall hold a court in said city, at a suitable place, to be provided by the common council thereof, to be styled the police court, and which shall not be a court of record. Said police judge shall have power and authority to take complaints, issue all processes necessary in said court, to be signed by or attested in the name of said judge, and the court shall have the same power to punish contempts and preserve order, to compel the attendance of witnesses, parties and jurors, and determine as to the qualifications of jurors, and such further powers incident to a circuit court, and the judge thereof, as may be convenient in the exercise of the jurisdiction and powers herein conferred upon him as such court; he shall also have all the powers and authority of a justice of the peace, except in the trial of civil cases. And in every trial in said court by jury, the city or the people, as the case may be, shall be entitled to but 2 peremptory challenges, and the accused to but 2 peremptory challenges.

HISTORY: Am. 1885, p. 125, Act 127, Imd. Eff. May 28;—Am. 1889, p. 118, Act 109, Imd. Eff. May 23;—How. 6591d;—CL 1929, 16403;—CL 1948, 729.5.

729.6 Jurisdiction; entries as evidence; arrest without process.

Sec. 6. Said police court shall have exclusive original jurisdiction to issue process for, hear, try and determine all cases against persons charged with violations of the provisions of the charter of said city, or of any act of the legislature relating to the government thereof, and of the by-laws and ordinances of the common council thereof, already enacted, or that may hereafter be enacted, anything in any other law of this state or the charter of said city or any ordinance of said city contained to the contrary thereof notwithstanding; and all the provisions of law relative to complaints against offenders for violations of the provisions of the charter of said city or any by-law or ordinance of the common council of said city or of the acts aforesaid and relative to process, proceedings and judgments therein, and relative to executions upon such judgments and proceedings therein shall apply to said police court. Said police court shall also have exclusive original jurisdiction to issue process for, hear, try and determine all cases of misdemeanor, and of a quasi criminal nature, committed within the corporate limits of said city heretofore or hereafter within the jurisdiction of justices courts, anything otherwise herein or in any other law of this state contained to the contrary thereof in any wise notwithstanding. Said police court shall also have exclusive original jurisdiction to issue process for, hear, try and examine, and to hold to bail or discharge all persons charged therein with the commission of felonies within the corporate limits of said city. Said police court shall have authority to sentence any person convicted therein of the commission of a misdemeanor and triable in justice courts of this state, the same as justices of the peace may by law do. It shall not be necessary to file a record of any conviction had in said court, but the dockets or journal entries and file shall be prima facie evidence of all proceedings had in said court. And in all cases of the violation of the provisions of the charter, by-laws or ordinances of said city, each member of the police force may make arrest without process when committed in his presence, in which case complaint and arraignment [arraignment] shall be made without delay, so that no injustice shall be done.

HISTORY: Am. 1885, p. 125, Act 127, Imd. Eff. May 28;—Am. 1889, p. 119, Act 109, Imd. Eff. May 23;—How. 6591d1;—CL 1929, 16404;—CL 1948, 729.6.

729.7 Practice; process; service, record.

Sec. 7. The practice in said court may be the same as practice in courts of justices of the peace in criminal cases, and the laws of this state relative to such practice, and the procedure before justices of the peace in criminal cases shall, except where herein otherwise provided, extend to said police court, so far as is consistent with the practice of said court. All process issued out of said court shall be directed to the chief of police, or any member of the police force of said city, or to the sheriff of Kent county, but no such process shall be served or executed by the chief of police or any member of said police force outside of the corporate limits of said city, unless in case of immediate pursuit in view of such officer, in which case he or they may pursue and arrest the same as the sheriff of the county might in like case do. It shall be the duty of the sheriff to keep a record of all process required to be served and executed outside of said city, which record shall show the date of the process, name of the accused, a summary of the proceedings had therein and the amount of fees and charges of the officers who shall execute the same.

HISTORY: Am. 1885, p. 126, Act 127, Imd. Eff. May 28;—How. 6591d2;—CL 1929, 16405;—CL 1948, 729.7.

CRIMINAL PROCEDURE: In justices' courts, see Ch. XIV of Act 175 of 1927 (Code of Criminal Procedure), being 'Compilers' § 774.1 et seq.

729.8 Fees and salary of judge, clerk and police.

Sec. 8. The police judge and clerk shall receive no fees or perquisites for their services performed under this act, but in lieu thereof the police judge shall receive an annual salary of 1,800 dollars, 1/2 of which shall be paid by the city of Grand Rapids monthly in the manner provided by law for the salary of the judge of the superior court of Grand Rapids, and 1/2 of which shall be paid by the treasurer of the county of Kent, out of the treasury of said county, in the manner provided by law for the payment of the salary of the prosecuting attorney. The clerk of said police court shall receive an annual salary, to be paid in the manner herein provided for the payment of the salary of the police judge, of 1,200 dollars, 1/2 of which shall be paid by said city and 1/2 thereof by the treasurer of the county of Kent, out of the treasury of said county. Neither the chief of police nor any member of the police force of said city shall be entitled to receive for his own use any fees for services performed under this act, but in lieu thereof the chief of police and members of the police force of said city shall receive such annual salary as shall be fixed by the board of police and fire commissioners of the city of Grand Rapids.

HISTORY: Am. 1885, p. 126, Act 127, Imd. Eff. May 28;—Am. 1889, p. 119, Act 109, Imd. Eff. May 23;—How. 6591d3;—CL 1929, 16406;—CL 1948, 729.8.

As to salary of the judge and clerk this section has probably been superseded by Compilers' §§ 729.101 and 729.103 respectively.

729.9 Office and supplies for judge and clerk.

Sec. 9. It shall be the duty of the common council of said city to provide a suitable office for the judge and clerk of said court adjacent to the court room thereof, as near as may be, and such necessary furniture, light, fuel, records, blanks, stationery and other articles as may be required for the judge, court, clerk, jury and other officers of said court; the office of said judge not to be with that of the clerk.

HISTORY: Am. 1885, p. 127, Act 127, Imd. Eff. May 28;—Am. 1889, p. 120, Act 109, Imd. Eff. May 23;—How. 6591d4;—CL 1929, 16407;—CL 1948, 729.9.

729.10 Court open at all times; adjournments; bailiff, appointment, powers, removal, salary, vacancy in office of judge or clerk.

Sec. 10. The police court shall always be open for business, but may adjourn its sittings from day to day and from time to time as may be convenient and not inconsistent with the dispatch of business therein. Cases and examinations pending in said court may be adjourned from time to time, not exceeding 3 months from the arraignment of the accused therein, unless the court shall be satisfied by proper evidence that the attainment of justice requires a further continuance, and then only for such further time

as the exigency of the case for the attainment of the object aforesaid shall require. One member at least of the police force of said city shall attend each session of said court to assist the bailiff. The judge of said court shall appoint a good and competent elector of said city "bailiff" of said court, which appointment shall be in writing signed by said judge and filed with the clerk of said court as the files or record thereof; thereupon said clerk shall make a duly certified copy of such appointment to and file the same with the board of police and fire commissioners of the city of Grand Rapids, which said board shall at that time or at its first session thereafter, by a proper resolution, duly clothe such person with police powers, and who shall thereupon be a policeman of said city, vested with all the powers, rights and liabilities of such officer and of police constables, but not to receive pay as such policeman. The person thus appointed may be removed at the pleasure of such judge; such bailiff shall receive a salary at the rate of 800 dollars per year, to be paid in the same manner as the salary of the judge of said court is paid; and upon a vacancy occurring in said office by removal or otherwise, the same shall be immediately filled as above provided. In case of the removal from the city of the judge of said police court, his death, resignation or removal from office, his office shall be deemed vacant, and such vacancy filled in the manner hereinbefore provided. The same causes shall be deemed to constitute a vacancy in the office of clerk of said police court, and such vacancy shall be filled as hereinafter provided.

HISTORY: Am. 1885, p. 127, Act 127, Imd. Eff. May 28;—Am. 1899, p. 120, Act 109, Imd. Eff. May 23;—How. 6591d5;—CL 1929, 16406;—CL 1945, 729.10.

As to bailiff, this section is probably superseded by Compilers' § 729.104.

729.11 Judge to instruct jury; appeals; juries.

Sec. 11. It shall be the duty of the judge of said court to instruct the jury as to the laws applicable to the case, which instruction shall be received by the jury as the law of the case. Such defendant shall have the right of appeal, provided such appeal shall be taken and perfected within 24 hours from the time of the court pronouncing its judgment or sentence, and certiorari from final judgment of said court, as provided by law for appeals and certiorari from final judgments of justices of the peace in criminal cases, such appeals being taken and perfected as hereinbefore in this section provided. In State criminal cases appeals and writs of certiorari shall when taken be taken to the circuit court for the county of Kent. Juries shall be obtained and appeals and writs of certiorari, both in city and State cases, shall be taken, perfected, and returned in the manner provided by law for like acts before justices of the peace in criminal cases, except as herein otherwise provided.

HISTORY: Am. 1885, p. 127, Act 127, Imd. Eff. May 28;—How. 6591d6;—CL 1929, 16409;—CL 1945, 729.11.

This section is probably superseded by Compilers' §§ 729.105 and 729.106.

APPEALS: Superseded by Compilers' § 774.34 et seq.

DRAWING OF JURY: See Compilers' § 774.12 et seq.

729.12 Assistant police judge.

Sec. 12. At the first annual meeting of the common council of said city in each year, or within 20 days thereafter, said council shall select upon the nomination of the mayor, from among the justices of the peace of said city, a suitable and qualified person as assistant police judge, who shall possess the same qualifications as are required of the police judge, and exercise the power, authority and jurisdiction herein conferred upon said police judge, in case of the absence, inability, or disability of the police judge to perform the duties of his office. He shall receive compensation for the time he shall officiate at the rate of 3 dollars per day, to be paid in the same manner as the police judge except that his claim for such salary shall be allowed as other claims against said city and county.

HISTORY: Am. 1885, p. 128, Act 127, Imd. Eff. May 28;—How. 6591d7;—CL 1929, 16410;—CL 1945, 729.12.

729.13 Cases for violation of city ordinances; fines and costs; report.

Sec. 13. Cases commenced in the name of said city for violations of the provisions of the charter or ordinances of said city or of any act of the legislature relating to the government thereof, shall be prosecuted and proceeded in and the judgment thereon, and the final process upon such judgment to carry the same into effect, shall be in all respects as in criminal cases, but all fines and costs collected in such cases shall be by the clerk of the police court paid to the treasurer of the city of Grand Rapids on the first Monday of each and every month or within 3 days thereafter, and all fines and costs collected in state criminal cases shall at the same time be paid to the treasurer of the county of Kent by the clerk of the police court, and receipts therefor shall be duly issued to said clerk, said clerk shall at the same time report in writing to the common council of said city, in city and state criminal cases, and to the board of supervisors in state criminal cases, the names of all persons tried in said court during the preceding month, the offense charged against each and the amount of fine and costs separately collected by him, and shall make oath thereto that the same are correct, and that he has paid over all the said moneys respectively in accordance with the provisions of this act.

HISTORY: Am. 1885, p. 128, Act 127, Imd. Eff. May 28;—How. 6591d8;—CL 1929, 16411;—CL 1948, 729.13.

729.14 Fees and costs.

Sec. 14. The fees and costs in each case in the said court whether under the laws of this state or under the charter, by-laws or ordinances of said city, shall be the same as are or may be provided by law for like cases before justices of the peace, in criminal cases, and shall be taxed by the said clerk. The fees of witnesses, jurors, sheriffs and constables, other than police officers of said city shall when collected be paid to them by said clerk, to their own use, and in city cases commenced before said police court for the recovery of fines, penalties or forfeitures, and in all cases of offenses against the criminal laws of this state, within the jurisdiction of said court to try and determine. If the defendant shall plead guilty to the offense charged, or shall be found guilty thereof on trial by said judge, judgment for costs accruing in the case shall be rendered against and paid by said defendant, in addition to the fine, penalty, or forfeiture imposed.

HISTORY: Am. 1885, p. 128, Act 127, Imd. Eff. May 28;—How. 6591d9;—CL 1929, 16412;—CL 1948, 729.14.

JUROR'S FEES: See also Compilers' § 729.103.

729.15 Security for costs; judgment for costs against sureties.

Sec. 15. The said police judge or clerk shall have authority in all cases, either state or city, at his discretion, either before or after issuing of process, to require of the complaining witness security for costs to the satisfaction of said judge or clerk, and the person becoming such surety shall sign a memorandum in writing to that effect, which said clerk shall keep as a part of the record in the case. If the defendant or accused be discharged on examination or acquitted on trial, the said police court shall enter a judgment for costs against the surety and the complaining witness, either or both of them which shall be of like force, and effect, and shall be collected as upon judgments rendered by a justice of the peace in actions commenced by warrant, and of like form with such executions as near as may be: Provided, however, Before rendering such judgment said court shall cause to be certified on the record that such payment of costs by such complainant is just and equitable.

HISTORY: Am. 1885, p. 129, Act 127, Imd. Eff. May 28;—How. 6591e;—CL 1929, 16413;—CL 1948, 729.15.

729.16 County to pay part of expenses of court; limit.

Sec. 16. One-half of all the costs and expenses of said city in maintaining and providing for said court other than for the salaries of its officers, shall be paid to the clerk of said city annually by the treasurer of said county, out of the treasury of said county, and by said city clerk deposited in the treasury of said city at the close of the regular

annual session of the board of supervisors of said county: Provided, That 1/2 the whole amount of the expense of said city for salaries of the police judge and clerk of the police court, and for rent of court-room and office for said clerk and records, blanks and stationery for use of said court and the officers thereof, in any 1 year, shall not exceed the sum of 1,600 dollars. It shall be the duty of the clerk of said city on the first day of each annual session of said board, to present the claim of said city therefor, duly certified, and said board shall, if found correct, at the same session, audit and allow the same, and order the payment thereof as aforesaid.

HISTORY: How. 6591e1;—CL 1929, 16414;—CL 1948, 729.16.

729.17 Clerk; duties, deputy, vacancy, power as to writs and process, administration of oaths, other powers.

Sec. 17. The clerk of the police court shall keep the records of said court, and do all the necessary clerical work of said court, except as hereinafter provided, and be the custodian of the records and files and property of said court. He shall provide the court and its officers with necessary stationery, records, blanks and other articles, to be furnished by said city on requisition on the common council thereof. The journal or docket entries of said court shall be signed by the judge thereof. Said clerk shall receive and account for all moneys collected in said court. He shall annually nominate a suitable person as deputy, to be elected by the common council of said city. Such deputy shall, before acting, take and file the oath of office, and make and file the like bonds as are required of the clerk. The said deputy clerk shall perform the duties of said clerk when so required by said judge, and during absence of said clerk, for which he shall receive compensation for the time he shall officiate at the rate of 3 dollars per day, to be paid in the manner hereinbefore provided for the payment of the salary of the judge of said court, which said amount so paid to said deputy clerk shall, when paid, be deducted from the salary of the clerk of said court. In case the office of said clerk shall become vacant by resignation or as hereinbefore provided, said deputy clerk shall become the clerk of said court until the next charter election of said city of Grand Rapids, and thereupon it shall become his duty to file bonds as clerk of said court and appoint a deputy as hereinbefore provided. The clerk of said court shall file and preserve all the records and files of said court, and he shall not be concerned as counsel in any case therein. Said clerk may sign and seal either with a scroll or device, and if with a device, such device as may be ordered by such police judge, which order, if made, shall be filed and recorded by said clerk as a part of the records of said court, all writs and processes issuing from said court, as provided in section 5 of this act, and shall have power generally to administer oaths and affidavits, take recognizance or bail, swear witnesses and jurors, and to do all acts usual and proper to do by the clerk of the superior court of Grand Rapids, within the jurisdiction of said police court.

HISTORY: Am. 1885, p. 129, Act 127, Imd. Eff. May 28;—Am. 1889, p. 121, Act 109, Imd. Eff. May 23;—How. 6591e2;—CL 1929, 16415;—CL 1948, 729.17.

729.18 Suspension of judge.

Sec. 18. Said police judge may be suspended from his said office and removed therefrom in the same manner and form as provided by law for the suspension and removal of justices of the peace.

HISTORY: How. 6591e3;—CL 1929, 16416;—CL 1948, 729.18.

729.19 Commitments.

Sec. 19. Whenever any person shall be sentenced by the police court, to confinement in any place of imprisonment outside of the corporate limits of said city, it shall be the duty of the sheriff or any deputy sheriff of Kent county to take, transfer, convey and deliver such sentenced person, under commitment of said court, to such place of

imprisonment: but all other commitments may be executed by said sheriff or by the chief of police, or any member of the police force of said city.

HISTORY: How. 6591e4;—CL 1929, 16417;—CL 1948, 729.19.

Sec. 20.

HISTORY: Am. 1885, p. 129, Act 127, Imd. Eff. May 28;—Am. 1889, p. 121, Act 109, Imd. Eff. May 23;—How. 6591e5;—Am. 1925, p. 416, Act 286, Eff. Aug. 27;—CL 1929, 16418;—Rep. 1947, p. 261, Act 181, Imd. Eff. June 11.

729.21 Cases pending when act becomes effective.

Sec. 21. All criminal cases arising in said city and commenced before any justice of the peace before this act shall take effect, shall be tried, heard, determined or examined as if this act had not been passed, and all cases pending in the police court of said city at the time of the passage of this act, shall be tried, heard, determined or examined into as if this act had not been passed.

HISTORY: How. 6591e6;—CL 1929, 16419;—CL 1948, 729.21.

Sec. 22. (This was a repeal section.)

HISTORY: How. 6591e7;—CL 1929, 16420;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 396, L. A. 1873.

729.23 Immediate effect of act.

Sec. 23. This act shall take immediate effect.

HISTORY: CL 1929, 16421;—CL 1948, 729.23.

Act 353, 1913, p. 666; Eff. Aug. 14.

AN ACT to fix the term of office and compensation of the judge, clerk, bailiff and stenographer; to prescribe the duties and powers of such officers; to prescribe the manner and limit the time for appeals of police courts in cities of this state of a population not less than 125,000 and not more than 200,000 inhabitants, and to provide for the appointment of a deputy clerk. Am. 1927, p. 190, Act 132, Eff. Sep. 5;—Am. 1947, p. 260, Act 181, Imd. Eff. Jun. 11.

The People of the State of Michigan enact:

729.101 Police judge; salary; fees of judge and clerk.

Sec. 1. In all cities of this state having a population of not less than 125,000 inhabitants nor more than 200,000 inhabitants, the police judge and clerk shall receive no fees for their services, but in lieu thereof the police judge shall receive an annual salary of \$6,500.00, and such additional sums as the city commission or other legislative body of the city or board of supervisors of the county wherein said court is located may by resolution provide, which salary shall be paid 3/5 by the city in which said court is held, monthly, and in the manner provided by law for the payment of salaries of city officers, and 2/5 of which shall be paid by the treasurer of the county in which said city is located, out of the treasury of said county in the manner provided by law for the payment of the salary of the prosecuting attorney thereof.

HISTORY: CL 1915, 14720;—Am. 1925, p. 181, Act 140, Eff. Aug. 27;—CL 1929, 16422;—Am. 1947, p. 260, Act 181, Imd. Eff. June 11;—CL 1948, 729.101.

This section probably supersedes part of Compilers' § 729.8.

GRAND RAPIDS: At the time of enactment this was the only city meeting the population requirements of this act.

729.102 Police judge; election, term, oath, qualifications.

Sec. 2. The police judge of said court existing under the law at the time this act takes effect, and now officiating in said court, shall continue to hold his office and exercise his powers and duties herein conferred under the title of police judge, until the expiration of the time for which he was elected. At the charter election in said city or cities, coming under this act, held in April, 1914, a police judge of said court shall be elected to hold his office for the term of 6 years from and after the first Monday in

May next after his election, and until his successor shall be elected and qualified. Before entering upon the duties of his office he shall take, subscribe and file in duplicate with the clerk of said city and with the clerk of said county, respectively, the constitutional oath of office. He shall be an attorney and counselor of law, entitled to practice in all the courts of this state, and a resident and a qualified elector in the said city.

HISTORY: CL 1915, 14721;—CL 1929, 16423;—CL 1948, 729.102. This section probably supersedes Compilers' § 729.1.

CONSTITUTION: For form of oath, see Const. XI, 1.

729.103 Clerk; salary, appointment, term, qualifications.

Sec. 3. The clerk of said police court shall receive an annual salary of \$4,000.00, and such additional sums as the city commission or other legislative body of the city or board of supervisors of the county wherein said court is located may by resolution provide, which salary shall be paid in the same manner as that of police judge, 3/5 of which shall be paid by said city, and 2/5 thereof by the county in which said city may be located, out of the treasury of said county. Notwithstanding any charter provisions or other statutes to the contrary, the clerk of said court shall be appointed by the judge thereof, and a memorandum of such appointment shall be filed with the clerk of said city. Such clerk shall hold his office at the pleasure of the court. The first appointment under this section shall not take effect until the first Monday in May, 1956. He shall be a resident in and a qualified elector of the said city.

HISTORY: CL 1915, 14722;—Am. 1925, p. 181, Act 140, Eff. Aug. 27;—Am. 1927, p. 870, Act 365, Imd. Eff. June 1;—CL 1929, 16424;—Am. 1947, p. 260, Act 181, Imd. Eff. June 11;—CL 1948, 729.103;—Am. 1956, p. 3, Act 1, Imd. Eff. Feb. 27.

This section probably supersedes Compilers' § 729.2 and part of Compilers' § 729.8.

JUROR'S FEES: See also Compilers' § 729.14.

729.104 Bailiff; appointment, powers, rights and liabilities, salary, vacancy, oath, bonds, deputy clerk.

Sec. 4. The judge of said court shall appoint a good and competent elector of said city, bailiff of said court, which appointment shall be in writing signed by said judge and filed with said clerk of said court as a part of the records thereof, and thereupon, said clerk shall make a duly certified copy of such appointment and file with the director of public safety of said city, who shall duly clothe such person with police power, and he shall thereupon be a policeman of said city, vested with all the powers, rights and liabilities of such officers and of police constables but not to receive pay as such policeman. The person thus appointed may be removed at the pleasure of such judge. Said bailiff shall receive an annual salary of \$3,000.00 per year and such additional sums as the city commission or other legislative body of the city or board of supervisors of the county wherein said court is located may by resolution provide, which salary shall be paid in the same manner as the salary of the judge of the said court is paid, and upon a vacancy occurring in the said office by removal or otherwise, the same shall be immediately filled as above provided. The said bailiff shall by virtue of his office be the deputy clerk of said court. Such deputy shall before acting take and file the oath of office, and make and file the like bonds as are required of the clerk. The said deputy clerk shall perform the duties of said clerk when so required by said judge, and during the absence of said clerk.

HISTORY: CL 1915, 14723;—Am. 1925, p. 182, Act 140, Eff. Aug. 27;—Am. 1927, p. 870, Act 365, Imd. Eff. June 1;—CL 1929, 16425;—Am. 1947, p. 261, Act 181, Imd. Eff. June 11;—CL 1948, 729.104;—Am. 1956, p. 3, Act 1, Imd. Eff. Feb. 27.

This section probably supersedes part of Compilers' § 729.10.

729.104a Court stenographer; appointment, duties, compensation, removal.

Sec. 4a. The police judge, by and with the advice and consent of the justices of the peace of the city in which said court is located, shall appoint a competent court stenographer for said court, whose duty it shall be to take down in shorthand the testimony in examinations of offenders by the police court or the justices courts in the county in which said court is located, for offenses committed against the criminal laws

of his state when said police court or justice courts have jurisdiction to examine and hold to bail only. The stenographer so appointed shall receive as compensation a salary of \$4,000.00 per annum and such additional sums as the city commission or other legislative body of the city or board of supervisors of the county wherein said court is located may by resolution provide, which salary shall be paid 2/5 by the city in which said court is held, monthly, and in the manner provided by law for the payment of salaries of city officers, and 3/5 of which shall be paid by the treasurer of the county in which said city is located, out of the treasury of said county in the manner provided by law for the payment of the salary of the prosecuting attorney thereof. Said stenographer shall furnish a copy of the transcript of the testimony whenever desired and shall receive from the party so receiving it, the sum of 10 cents per folio. Said stenographer shall be provided suitable office facilities and stationery for the work. Said stenographer may be removed from office for misconduct or incompetency.

HISTORY: Add. 1947, p. 261, Act 181, Imd. Eff. June 11;—CL 1948, 729.104a.

729.105 Jury; drawing instruction.

Sec. 5. And it shall be the duty of the judge of said court to instruct the jury as to the law applicable to any case on trial before a jury, which instruction shall be received by the jury as the law of the case. Juries shall be drawn in the manner provided by law for the drawing of juries before justices of the peace in criminal cases.

HISTORY: CL 1915, 14724;—Am. 1927, p. 190, Act 132, Eff. Sept. 5;—CL 1929, 16426;—CL 1948, 729.105. This section probably supersedes part of Compilers' § 729.111.

DRAWING OF JURY: See Compilers' § 774.12 et seq.

729.106 Appeals and certiorari.

Sec. 6. Subject to the provisions of this act, the defendant shall have the right of appeal and certiorari from final judgments of said court as provided by law for appeals and certiorari from final judgments of justices of the peace in criminal cases.

HISTORY: CL 1915, 14725;—Am. 1927, p. 190, Act 132, Eff. Sept. 5;—CL 1929, 16427;—Am. 1947, p. 261, Act 181, Imd. Eff. June 11;—CL 1948, 729.106. This section probably supersedes part of Compilers' § 729.111. As originally enacted Sec. 6 was a general repeal clause.

CONSTITUTIONALITY: Held unconstitutional in denying right to appeal. *Monroe v. Judge of Police Court*, 311 Mich. 76, 18 N.W. 2nd, 371.

ACT REPEALED: Act 57, 1919; Act 275, 1921, repealed by section 2 of amendatory Act 140, 1925, CL 1929, 16428, Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 17, 1953, p. 16; Imd. Eff. Apr. 3.

AN ACT to provide an optional method of drawing juries in police courts, or other courts having criminal jurisdiction in cities.

The People of the State of Michigan enact:

729.201 Adoption of act by certain cities; rescission.

Sec. 1. Any city located in a county having a population of less than 500,000 having a court known as a police court, or otherwise, and having the jurisdiction in criminal cases of justices of the peace, or the jurisdiction to try and determine cases against persons charged with the violation of the charter or ordinances of the city, or both such jurisdictions, may adopt the provisions of this act by ordinance passed in accordance with the provisions of the charter of said city. Such adoption of this act may likewise be rescinded by ordinance.

HISTORY: New 1953, p. 16, Act 17, Imd. Eff. Apr. 3.

729.202 Board of jury commissioners; membership.

Sec. 2. A board of jury commissioners is hereby created for each city adopting the provisions hereof, which shall consist of the city treasurer, the city clerk and the city assessor. If there be more than 1 city assessor, the city legislative body shall designate the assessor to act as a member of said board.

HISTORY: New 1953, p. 16, Act 17, Imd. Eff. Apr. 3.

729.203 Board of jury commissioners; list of persons to serve as jurors, computation; additional names; lists in duplicate.

Sec. 3. The said board shall within 15 days after the adoption of this act in any city make a list of persons to serve as jurors in said court for the remainder of the then calendar year, and shall during the month of November of each year thereafter make a list of persons to serve as jurors of said court for the next succeeding calendar year: Provided, That the failure to complete said list during the period specified shall not affect the validity of the list thereafter made by said board. Each of said lists shall be of jurors equal in number to 1 for each 500 inhabitants in the city, computed according to the last preceding census: Provided, That in no case shall it be necessary to make a list of more than 300 persons. If before the end of said calendar year the judge of a police court shall determine that additional names are necessary, he shall order said board to make another list of persons in such number as he shall determine to serve as additional jurors for the remainder of such calendar year, and it shall be the duty of said board to make such list.

Said board shall make such lists in duplicate and file 1 in the office of the city clerk and 1 in the office of said court.

HISTORY: New 1953, p. 16, Act 17, Imd. Eff. Apr. 3.

729.204 Board of jury commissioners; qualifications of persons selected.

Sec. 4. The said board in making such list shall select only the names of persons who are qualified electors, in possession of their natural faculties, not infirm or decrepit, of good character, integrity and sound judgment, well informed in and conversant with the English language, free from all legal exceptions and not exempt from serving on juries.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.205 Board of jury commissioners; exemptions; excused from serving.

Sec. 5. Any person shall be exempt from serving on a jury drawn in accordance with the provisions of this act if he is exempt from serving on juries in the circuit courts of this state. Any person more than 70 years of age shall be excused upon his request, and any person entitled to be excused from serving on a jury in the circuit courts of the state shall be entitled to be excused from serving on a jury in said court.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.206 Duty of clerk of court.

Sec. 6. The clerk of said court shall write the name and address of each person named on such lists on a separate slip of paper. Each slip shall then be placed in a separate receptacle so designed as to conceal the information contained on the slip, and all the receptacles containing the slips shall then be placed in a box to be kept for that purpose, which shall be kept locked when not being used to draw a panel of jurors. The clerk of the court shall be the custodian of the slips, receptacles, box, lock and key.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.207 Date of trial; drawing of panel, time; number of jurors.

Sec. 7. When a jury trial shall have been demanded by any person to be tried in said court, the judge of said court shall fix a time for such trial and shall fix a time for the

drawing of a panel of jurors for such trial. Such latter time shall be at least 5 days prior to the date set for trial unless otherwise ordered by the judge on request of such defendant. The judge shall designate the number of jurors to be drawn as such panel, which number shall not be less than 16.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.208 Drawing; conduct.

Sec. 8. Such drawing shall be conducted at the place of the holding of said court at the time so fixed by the judge, or at such adjourned time as he may order. Such drawing shall be conducted by the clerk in the presence of the judge, shall be public, and the defendant and his attorney, and the prosecuting attorney in state cases, and the city attorney in city cases, shall be entitled to be present.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.209 Clerk to draw names; record; signature.

Sec. 9. Upon such drawing of the panel the clerk shall draw from said box such names, 1 at a time, as may be needed to complete said panel, in the number ordered by the court. He shall publicly announce the name of each juror drawn and make a record thereof. If to the knowledge of the judge or the clerk of said court, it appears that any person whose name is drawn shall be dead, insane or permanently removed from the city, an entry of such fact shall be made in the minutes of the drawing and the slip of paper containing such name be destroyed. Another name shall then be drawn from the box and the same proceeding had until the whole number of jurors required for such panel shall have been drawn.

The clerk shall then sign the record of such drawing, which shall include the names of the persons drawn as the members of such panel and file the same in his office as a public record.

HISTORY: New 1953, p. 17, Act 17, Imd. Eff. Apr. 3.

729.210 Slips drawn; replacement.

Sec. 10. All slips drawn, except those destroyed as hereinbefore provided, shall be replaced in the receptacle and returned to the box after the drawing of a jury panel has been completed and used with the names already in the box in the drawing of subsequent jury panels.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.211 Summoning of jurors; service.

Sec. 11. The clerk of said court shall issue under his hand and deliver to the bailiff of said court, or to a police officer of said city, a subpoena or venire for each juror who is a member of said panel, summoning him to appear for said trial. Said officer shall serve the same upon said persons either personally or by mailing the same by United States registered mail at least 3 days prior to the date set for said trial.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.212 Failure to attend; penalty.

Sec. 12. Any person so summoned as a juror, who shall fail to attend and to continue in attendance at said trial, unless excused by the judge of the police court, shall be punished by a fine not exceeding \$100.00, or imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court trying the offender.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.213 Jury panel placed in separate receptacle; drawing; additional names, drawing; summoning.

Sec. 13. The clerk shall write the name of each person so selected as a member of such jury panel on a separate slip of paper and place the same in a separate receptacle,

so designed as to conceal the name, and place all such receptacles in a box to be kept for that purpose. Juries in all cases drawn in accordance with the provisions of this act shall consist of 6 persons, or less, if agreed to by both parties. At the opening of the trial, the clerk shall draw from said box 6 names and if any so drawn shall not be present or shall be excused, additional names shall be drawn until a jury is secured. If the panel shall be exhausted before the jury is secured the judge shall order such additional names as he may deem necessary drawn from the box provided for in section 6 hereof, in accordance with the procedure set forth in section 9 hereof, and the persons whose names are so drawn shall forthwith be summoned to appear, and the drawing of a jury continued in accordance with the provisions of this section until a jury is secured.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.214 Challenges.

Sec. 14. Any person drawn as a juror may be challenged for cause for the same reasons he could have been challenged for cause if drawn as a juror in a trial in the circuit court. The respondent and the prosecuting attorney in state cases, and the city attorney in city cases, shall each be entitled to 5 peremptory challenges, and no more.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.215 Instructions to jury.

Sec. 15. It shall be the duty of said judge of a police court to instruct the jury in all cases as to the law applicable to the case being tried by it, which instruction shall be received by the jury as the law of the case.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.216 Jury service; limitation.

Sec. 16. No person shall be required to serve as a juror in said court more than 4 times within any calendar year. A person who shall be upon the jury list provided in section 3 hereof shall not again be placed on said list for a period of 2 years.

HISTORY: New 1953, p. 18, Act 17, Imd. Eff. Apr. 3.

729.217 Fees.

Sec. 17. Each police court juror shall be entitled to receive \$8.00 for each day's actual attendance in court, and \$4.00 for each 1/2 day of such attendance, to be paid by the clerk of the police court and accounted for to the proper city or county officials.

HISTORY: New 1953, p. 19, Act 17, Imd. Eff. Apr. 3;—Am. 1959, p. 321, Act 219, Eff. Mar. 19, 1960.

CHAPTER 730. JUSTICE COURTS IN CITIES

Act 299 of 1911

JUSTICE COURTS (CITIES 80,000)

- 730.1 Justice courts in certain cities; number, qualifications, election.
- 730.2 Justice courts in certain cities; election, term, vacancies.
- 730.3 Court rooms and supplies provided by city.

JUSTICES, SALARIES, FEES, OFFICE HOURS, ETC.

- 730.4 Salaries in lieu of fees, payment; office hours.

JURISDICTION OF JUSTICES

- 730.5 Jurisdiction; exclusive; stipulated, amount.

OATH OF OFFICE—GENERAL POWERS

- 730.6 Oath of office; jurisdiction; writs returnable, adjournments.

DUTY OF JUSTICES

- 730.7 Location of office; criminal complaints.
- 730.8 Appeals.

FEES FOR FILING APPEALS—CLERK OF COURT TO FILE RETURN TO APPEAL WITH CLERK OF COUNTY

- 730.9 Appeal or certiorari; fee for filing, return.

BONDS OR FUNDS DEPOSITED WITH CLERK OF COURT TO SECURE PAYMENT OF JUDGMENT, COSTS, ETC.

- 730.10 Security for payment of judgment and costs.

FINES, ETC., FOR CONTEMPT OF COURT

- 730.11 Rules of practices; contempts; alias and pluries summons; rules.

WHEN JUSTICES MAY ACT AS POLICE JUDGE—COMPENSATION FOR SAME

- 730.12 Justice as police judge; powers and jurisdiction; compensation.

JUSTICES MAY ACT IN ABSENCE OF THE CIRCUIT COURT COMMISSIONER

- 730.13 Justice as assistant circuit court commissioner; compensation.

REMOVAL OF JUSTICE FROM OFFICE

- 730.14 Suspension or removal from office.

BOOKS, DOCKETS, ETC., KEPT BY CLERK OF COURT TO BE OPEN FOR INSPECTION, ETC.

- 730.15 Books and records of clerk; inspection, production.

JUSTICES TO INSTRUCT IN JURY CASES

- 730.16 Instruction to juries.

JUSTICES EXERCISING CIVIL JURISDICTION DEEMED JUSTICES OF THE COUNTY

- 730.17 Justices deemed justices of county in civil causes; appeals.

AUTHORITY OF JUSTICES IN CRIMINAL CASES

- 730.18 Criminal jurisdiction.

CLERK OF JUSTICE COURT—HIS NOMINATION AND APPOINTMENT

- 730.19 Clerk of justice court; qualifications, appointment, term, salary, deputy bonds, removal.

CLERK OF JUSTICE COURTS—OFFICE HOURS, DUTIES, ETC.

- 730.20 Office hours of clerk; powers and duties, fees.

FEES TO BE PAID CLERK OF COURT

- 730.21 Fees; entry, judgment, execution, adjournment.
- 730.22 Process; absence of justice; assignment of cases; docket.
- 730.23 Jurors; qualifications; challenges; jury fee.
- 730.24 Jurors; selection, summoning, attendance, fee.

FEES IN CRIMINAL CASES

- 730.25 Justice's fee in criminal cases; disposition.
- 730.26 Justice or clerk not to act as counsel; litigant may conduct own trial.

FEES OF CONSTABLES AND COURT OFFICERS

- 730.27 Constables, election, term, bond, duties, fees.
- 730.28 Action for work and labor, commence without payment of costs.
- 730.29 Repeal.
- 730.30 Declaration of necessity; saving clause; effect on salaries.

CITY MUNICIPAL COURTS

Act 269 of 1933

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Act 299, 1911, p. 522; Imd. Eff. May 3.

AN ACT to provide for justice courts in all cities of not less than 80,000 population, whose justice court or courts are not provided for in their present charters or by other general or local acts, and to repeal all acts and parts of acts inconsistent with this act. Am. 1939, p. 794, Act 322, Imd. Eff. Jun. 22;—Am. 1945, p. 18, Act 21, Eff. Sep. 6.

The People of the State of Michigan enact:

730.1 Justice courts in certain cities; number, qualifications, election.

Sec. 1. In all cities of not less than 80,000 population as determined by the last federal decennial census or by any federal decennial census hereafter taken, whose justice court or courts are not provided for in their present charters or by other general or local acts, there shall be 2 justices of the peace in and for said city, who shall be electors of said city and residents therein and shall be known as judges of said court. None but attorneys at law of 4 years standing shall be eligible to be elected or appointed to the office of justice of the peace under the provisions of this act. No justice of the peace for said city shall during his term of office act as attorney in any court in the county wherein his court is located. Each of said justices shall be nominated and elected in the same manner that public officials of the city wherein said court is located shall be hereafter nominated and elected. The justices of the peace now holding office in said cities shall continue to hold the same until the expiration of their respective terms and until their successors are elected and qualified. The files, records and dockets appertaining to the offices of the former justices of the peace in said cities shall be kept in the office of the clerk herein provided for. Either of the present or future justices authorized by this act is empowered to issue an execution according to law upon the judgments entered upon such dockets, as if such judgments had been rendered by him.

HISTORY: CL 1915, 14726;—CL 1929, 16429;—Am. 1939, p. 794, Act 322, Imd. Eff. June 22;—Am. 1945, p. 18, Act 21, Eff. Sept. 6;—CL 1948, 730.1.

JUDICATURE ACT: For effect of this act on other law relating to justice courts, see Compilers' § 680.16.

JUSTICES OF THE PEACE: For provisions dealing with civil cases before justices in general, see Compilers' § 600.6601 et seq., with criminal cases, see Compilers' § 774.1.

JUSTICE COURTS IN CITIES: Fourth class cities, see Compilers' § 57.28 et seq., home rule cities, see Compilers' § 117.28 et seq.

See also charter provisions for particular cities.

BATTLE CREEK: Justice court in, see Ch. XXIII of Local Act 430 of 1899 as amended by Local Act 432 of 1907.

DEARBORN: See Compilers' § 730.101 et seq.

DETROIT: See Act 260 of 1929, being Compilers' § 728.1 et seq.

FLINT: See Compilers' § 730.101 et seq. Justice court in, see Local Act 347 of 1901, as amended by Local Act 471 of 1907. Jurors in such courts, see Local Act 379 of 1901.

GRAND RAPIDS AND SAGINAW: These cities meet the population and other requirements of this act. For further indications of the limited application of this act, see Compilers' §§ 730.24 and 730.29.

Police court of Grand Rapids, see Act 76 of 1879, being Compilers' § 729.1 et seq.

HIGHLAND PARK: See Compilers' § 730.101 et seq.

ISHPEMING: Justice court in, see Ch. IV of Local Act 251 of 1891 as amended by Local Act 346 of 1903.

JACKSON: Justice court in, see Title V of Local Act 399 of 1905. See also city charter provisions.

KALAMAZOO: Justice court in, see Ch. XXIX of Local Act 475 of 1897 as added by Local Act 648 of 1907. See also city charter provisions.

LANSING: Justice court in, see Title V of Local Act 405 of 1893 as amended by Local Acts 378 of 1903 and 614 of 1905. See also city charter provisions.

MONROE: Justice court in, see Local Act 3 of 1925.

MUSKEGON: Justice court in, see Title VI of Local Act 344 of 1901.

PONTIAC: Justice court in, see Local Act 397 of 1905. See also city charter provisions.

PORT HURON: Justice court for, see Ch. XIV of Local Act 390 of 1885, as amended by Local Act 392 of 1893, Local Act 445 of 1897, Local Act 372 of 1899 and Local Act 317 of 1901.

YPSILANTI: Justice court in, see Local Act 328 of 1877 as amended by Local Act 481 of 1905.

730.2 Justice courts in certain cities; election, term, vacancies.

Sec. 2. Justices of the peace in said cities, except where they shall be elected to fill vacancies as hereinafter provided, shall be elected at the annual charter elections held therein, and shall hold their offices for a term of 4 years, from and after the fourth day of July, succeeding their election, and until their successors are elected and qualified. In case of death, disbarment, resignation or removal from office or removal from the city wherein this court is located of either of said justices of the peace, his office shall be deemed vacant. If for any cause, a vacancy shall occur in the office of justice of said courts, the mayor of said city wherein said court is located shall nominate a suitable person, subject to confirmation by a majority vote of the members elect of the common council of said city to serve until the successor of such justice whose office has be-

come vacant, shall be elected at the next general municipal election and shall have qualified. The person so elected justice of the peace of said court at such general municipal election shall qualify for the position upon the first Monday of May next succeeding after he shall have been so elected thereto for the balance of the unexpired term.

HISTORY: CL 1915, 14727;—CL 1929, 16430;—CL 1948, 730.2.

730.3 Court rooms and supplies provided by city.

Sec. 3. The common council of the city wherein such justices' court may be located, shall provide such rooms as shall be suitable for the use of holding justice courts and for jury purposes and offices for the clerk of said courts and constables and court officers of said court. The said common council of said city shall also provide the necessary furniture, fixtures, dockets, books, blanks, stationery, etc., for use in the business of said courts and for heating and lighting the said rooms.

HISTORY: CL 1915, 14728;—CL 1929, 16431;—CL 1948, 730.3.

JUSTICES, SALARIES, FEES, OFFICE HOURS, ETC.

730.4 Salaries in lieu of fees, payment; office hours.

Sec. 4. Each of the justices of the peace provided for in this act shall receive an annual salary of not less than 3,500 dollars and such additional sums as the city commission or other legislative body of the city or board of supervisors of the county wherein said court is located, may by resolution provide, which salary shall be in lieu of all fees and charges to which said justice would be entitled as justice, but for the provision of this act, except fees for the performance of marriage ceremonies, for taking acknowledgments and for administering oaths in matters not connected with suits or proceedings in justices' courts in said city; such salary shall be paid to such justices in monthly or weekly installments, 1/2 by the county and 1/2 by the city in which said court is located, in the same manner as other public officials of said city and county, wherein said court is located, are paid. Each of said justices shall have his court room open and he shall be in attendance from the hour of 9 o'clock in the forenoon until 12 o'clock noon, and from the hour of 2 o'clock in the afternoon until 4 o'clock: Provided, That where either of said justices is actively engaged in the trial of a suit, he shall so continue at least until 5 o'clock in the afternoon, when it may be necessary to do so in order to finish the trial of the suit in progress.

HISTORY: CL 1915, 14729;—Am. 1921, p. 489, Act 262, Eff. Aug. 18;—Am. 1925, p. 494, Act 328, Eff. Aug. 27;—CL 1929, 16432;—CL 1948, 730.4.

JURISDICTION OF JUSTICES.

730.5 Jurisdiction; exclusive; stipulated, amount.

Sec. 5. Each of said justices of the peace in said city wherein said court is located, shall, as against all other justices of the peace of said county in which said court is located, have exclusive jurisdiction of all acts and proceedings within their jurisdiction where both the parties shall at the time of the commencement of such actions or proceedings be residents of said city wherein said justices' court is located. They shall also have exclusive jurisdiction as against all other justices of the peace of said county wherein said court is located where the original cause of action existed in favor of a resident of said city wherein said court is located, but has been by him assigned: Provided, however, Such assignee resides in the county wherein said court is located. In case of judgment by default or manifest clerical error a justice of the peace entering a judgment is hereby authorized in his discretion to set aside such judgment upon the filing within 5 days thereafter a petition setting forth the facts: Provided further, That

where a cause of action arises within said county in a township not within the exclusive territorial jurisdiction of said justices under the general law, both plaintiff and defendant residents of such township may submit themselves by written stipulation to the jurisdiction of such justices and have their cases tried up to the amount of 500 dollars.

HISTORY: CL 1915, 14730;—Am. 1925, p. 495, Act 328, Eff. Aug. 27;—CL 1929, 16433;—CL 1948, 730.5.

OATH OF OFFICE—GENERAL POWERS.

730.6 Oath of office; jurisdiction; writs returnable, adjournments.

Sec. 6. The justices of the peace provided for in this act shall file their oaths of office in the office of the clerk of the county where their court is located, and shall have in addition to the duties conferred by this act, the same jurisdiction, powers and duties conferred on justices of the peace in townships in all civil actions where the debt or damages do not exceed the sum of 100 dollars; and concurrent jurisdiction in all civil actions ex contractu or ex delicto, including the action of replevin with the circuit courts of said county, wherein the debt or damages or the property involved does not exceed the sum of 500 dollars except as provided in section 4 of chapter 66 of the judicature act of 1915. All original writs shall be returnable at 9 o'clock a.m. city time of the city where said court is located, and all adjournments for the purpose of putting in pleadings, shall be adjourned to 9 o'clock a.m. city time. It shall not be necessary for the said justices to wait any length of time after the time fixed by any writ or adjournment in order to dispose of the cases pending before them. Said justices shall have the right to adjourn any cause of their own motion not to exceed 6 days, and either party shall be entitled to 2 adjournments on cause shown without the payment of any fee, but after a party has obtained 2 adjournments he shall not have any further adjournment, except upon good cause shown and the payment of 25 cents for each adjournment.

HISTORY: CL 1915, 14731;—Am. 1925, p. 495, Act 328, Eff. Aug. 27;—CL 1929, 16434;—CL 1948, 730.6.

NOTE: Sec. 4 of Ch. LXVI of the Judicature Act, above referred to, is Compilers' § 666.4.

JURISDICTION: See Compilers' § 600.6615.

DUTY OF JUSTICES.

730.7 Location of office; criminal complaints.

Sec. 7. It shall be the duty of the justices of the peace herein provided for to keep their offices in the city wherein their court is located, and attend to all complaints of a criminal nature which under the general laws of the state may come before them.

HISTORY: CL 1915, 14732;—CL 1929, 16435;—CL 1948, 730.7.

730.8 Appeals.

Sec. 8. Appeals shall be taken from any judgment of any justice in the following manner: First, within 10 days after the rendition of any judgment the appellant, his agent or attorney, shall file an affidavit and bond, and pay the costs, as now required by law to be filed with a county justice of the peace. Appeals may be authorized by the circuit court of the county wherein the court is located, when the party making the appeal has been prevented from making a defense upon the merits of the case in which such appeal is taken by circumstances not under his control; and such appeal may also be authorized by the circuit court of the county wherein said court is located when in the opinion of such court justice requires that it be granted. Under no circumstances shall any appeal be allowed or authorized after 10 days from the rendition of judgment, except as herein otherwise provided. In all cases where the parties against whom such appeal is sought have appeared in said justice court by attorney or agent, it will be sufficient to serve such attorney or agent with notices of all subsequent proceedings in such case, and all orders made therein by said circuit court may be served

on said attorney or agent and such service shall have the same effect as though made on the party against whom such appeal has been taken.

HISTORY: CL 1915, 14733;—CL 1929, 16436;—CL 1948, 730.8;—Am. 1957, p. 79, Act 73, Eff. Sep. 27.

FEES FOR FILING APPEALS—CLERK OF COURT TO FILE RETURN TO APPEAL WITH CLERK OF COUNTY.

730.9 Appeal or certiorari; fee for filing, return.

Sec. 9. Before any affidavit for appeal or writ or notice of certiorari shall be served on any 1 of said justices in addition to the fees allowed by law for making returns to an appeal or certiorari, the entry fee for filing the same in the circuit court shall be paid to the said clerk thereof by the appellant or plaintiff in error, and the said clerk thereof shall as early as possible file a return to such appeal or writ of certiorari in the office of the clerk of the circuit court for the county wherein said court is located, and shall pay over to him the fees as aforesaid, and if said return is not filed with the clerk of the circuit court within 10 days after the appeal or costs on certiorari shall have been paid, a writ of mandamus may be issued in the circuit court for the county where said court is located, to the clerk of the justices' courts compelling him to make such return forthwith, and he shall be personally liable for the costs, if any shall be awarded in such proceedings.

HISTORY: CL 1915, 14734;—CL 1929, 16437;—CL 1948, 730.9.

BONDS OR FUNDS DEPOSITED WITH CLERK OF COURT TO SECURE PAYMENT OF JUDGMENT, COSTS, ETC.

730.10 Security for payment of judgment and costs.

Sec. 10. In all cases where a party is required or allowed by law to give a bond as a condition of commencing or prosecuting any suit, action or proceeding in such justices' courts, such party may execute and file such bond, or he may in the discretion of the court deposit with the clerk thereof the amount of the bond required in legal tender of the United States; and in garnishment proceedings the principal defendant may have any money or effects released which have been garnished by filing with the justice before whom the case is pending a bond approved by said justice in double the amount of plaintiff's claim stated in his affidavit, and not less than 50 dollars, or deposit with the clerk of the court an amount equal to such a bond in money, which money shall remain with said clerk until disposed of by the court according to law. A certificate of such deposit setting forth the case in which, the amount thereof, the person by whom, the purpose for which, and the time when deposited, shall be given to the party depositing the same with the clerk of said court. Upon the final disposition of the case, action or proceeding in which such deposit was made, in case the party making such deposit shall be adjudged liable to pay the costs of such suit or proceedings or to pay any other sum to secure the payment for which said deposit was made, then such funds so deposited shall under the direction of the court be applied in payment and satisfaction of the same. Should any surplus remain after satisfying such order of the court the same shall be returned to the party depositing it.

HISTORY: CL 1915, 14735;—CL 1929, 16438;—CL 1948, 730.10.

FINES, ETC., FOR CONTEMPT OF COURT.

730.11 Rules of practices; contempts; alias and pluries summons; rules.

Sec. 11. The justices of the peace mentioned herein shall have the power to make and adopt such rules of practice and decorum in their courts as to them may be deemed advisable for the purpose of facilitating the business of said courts, and any party violating any rule relating to decorum in said courts shall be guilty of contempt and may be so adjudged by the member of said court where such rule shall have been violated, and for such violation the said justice may fine the offender in a sum not to

exceed 50 dollars, or commit said offender to the common jail of the county wherein said court is located, for a period not exceeding 30 days. If only a fine be imposed in default of the payment thereof, said offender may be committed to said common jail until said fine is paid for a term not exceeding 30 days. Whenever the issuance of an alias or pluries summons is authorized by the general law, said summons shall be made returnable not more than 21 days from the date of issuance thereof. When it appears by the return of the constable that personal service of said summons was not obtained by the constable, alias or pluries summons may be issued by the clerk or any of his deputies, upon application to the clerk of said court by the plaintiff or his attorneys on or before the return day thereof. Any such alias or pluries summons shall be served at any time prior to 3 days before the return day of said alias or pluries summons. Constables shall file their returns with the clerk of said court at least 24 hours prior to the time mentioned for the appearance of any defendant in any process or summons. Rules may be adopted by the justices of said courts for the expeditious handling of the business of the court and especially all alias and pluries process by the clerk so as to relieve litigants and attorneys where legally possible of the routine and clerical work connected with the same. No new rules of practice shall hereafter be adopted by such justices and the same shall not be effective until they have been printed and placed in the hands of the clerk for distribution at least 10 days before the same come into effect. Copies of such rules with all amendments thereto, shall be furnished by the clerk to all applicants, to be paid for by the city in the same manner blanks and other supplies for said courts are furnished.

HISTORY: CL 1915, 14736;—Am. 1925, p. 496, Act 328, Eff. Aug. 27;—CL 1929, 16439;—CL 1948, 730.11.

WHEN JUSTICES MAY ACT AS POLICE JUDGE—COMPENSATION FOR SAME.

730.12 Justice as police judge; powers and jurisdiction; compensation.

Sec. 12. It shall be part of the duties of each of said justices of the peace to act as judge of the police court of the city wherein said justices' court is located, whenever, from any cause, the said judge of police court shall be unable to perform the duties of his office, and whenever there shall be a vacancy in said police court by reason of the death of the judge thereof, or otherwise, and for such service the said justice of the peace so serving shall receive as compensation the sum of \$3.00 per day in addition to his regular salary as such justice of the peace, 1/2 of which salary shall be paid by the county and 1/2 by the city wherein said court is located in like manner as the salary of said police judge is paid. The justices of the peace shall exercise all the powers, authority and jurisdiction of said police judge, as aforesaid, while acting in his place: Provided, however, That in cities having no police court, it shall be part of the duties of each of said justices of the peace to act as judge of the police court of the city wherein said justice court is located without additional salary or compensation. The justices of the peace shall exercise all powers, authority, and jurisdiction in all cases of offenses against the criminal laws of this state or against the charter, or ordinances of the city, and if the defendant shall plead guilty to the offense charged, or shall be found guilty thereof on trial by the justice or jury, judgment for costs accruing in the case may be rendered against said defendant in addition to the fine, penalty or forfeiture imposed.

HISTORY: CL 1915, 14737;—CL 1929, 16440;—Am. 1939, p. 794, Act 322, Imd. Eff. June 22;—CL 1948, 730.12.

JUSTICES MAY ACT IN ABSENCE OF THE CIRCUIT COURT COMMISSIONER.

730.13 Justice as assistant circuit court commissioner; compensation.

Sec. 13. Whenever, from any cause, the circuit court commissioner of the county wherein said justice court is located, shall be unable to perform the duties of his office,

and whenever there shall be any vacancy by reason of the death of said commissioner, or otherwise, either of said justices of the peace shall have full power, authority and jurisdiction to hear, try and determine all landlord and tenant cases pending in said commissioner's court, and to render judgment and issue writs thereon and to exercise all the powers, authority and jurisdiction of said commissioner in relation thereto, during such vacancy or disability and until his return or his successor is elected, appointed and qualified: Provided, however, That said jurisdiction of said justice shall extend only to the matter of landlord and tenant cases and not to the exercise of his jurisdiction as auxiliary to the circuit court. Such justice, when so acting as assistant circuit court commissioner, shall receive in addition to his salary as justice the sum of 3 dollars per diem to be paid in the same manner by the county wherein said court is located as the said commissioner is paid.

HISTORY: CL 1915, 14738;—CL 1929, 16441;—CL 1948, 730.13.

CIRCUIT COURT COMMISSIONER: Vacancy in office, see Compilers' § 800.1058.

REMOVAL OF JUSTICE FROM OFFICE.

730.14 Suspension or removal from office.

Sec. 14. Any justice of the peace provided for in this act may be suspended or removed from his office by the circuit court for the county wherein said justices' court is located, for inefficient or unfaithful performance of his duties, or for any official misconduct, on charges specially preferred by the common council, or any member or officer thereof, or by 3 electors of said city wherein said court is located, founded on affidavit filed in said circuit court, specifically stating the charges, a copy whereof shall be served upon such justice in such manner as said circuit court shall direct.

HISTORY: CL 1915, 14739;—CL 1929, 16442;—CL 1948, 730.14.

BOOKS, DOCKETS, ETC., KEPT BY CLERK OF COURT TO BE OPEN FOR INSPECTION, ETC.

730.15 Books and records of clerk; inspection, production.

Sec. 15. All dockets, papers and office books kept by the clerk of the justices' court shall at all times be subject to the inspection and examination by the common council or any member or officer thereof. It shall be the duty of said clerk to produce such dockets, papers and books at all times, whenever and wherever the common council shall direct, and if he shall refuse to so produce such dockets, papers or office books, as directed and required, the circuit court for the county wherein said court is located may on proper application being made, make an order requiring the same to be produced and enforce obedience thereto.

HISTORY: CL 1915, 14740;—CL 1929, 16443;—CL 1948, 730.15.

JUSTICES TO INSTRUCT IN JURY CASES.

730.16 Instruction to juries.

Sec. 16. It shall be the duty of said justices to instruct the jury in all jury cases as to the law applicable to the case, which instruction shall be received by the jury as the law of such case. Either party may present written requests to charge to the justice, who shall present the same to the jury as requested if he shall deem the same to correctly state the law applicable to the case.

HISTORY: CL 1915, 14741;—CL 1929, 16444;—CL 1948, 730.16.

JUSTICES EXERCISING CIVIL JURISDICTION DEEMED JUSTICES OF THE COUNTY.

730.17 Justices deemed justices of county in civil causes; appeals.

Sec. 17. The justices of the peace of said city exercising civil jurisdiction shall be deemed justices of the peace of the county wherein said justices of the peace are lo-

cated, and be subject to the general laws of the state in relation to civil causes before justices of the peace, and appeal from their judgment may be made to the circuit court for the county wherein said justices' courts are located, in the same manner as appeals from judgments of justices of the peace in towns are made, except as herein otherwise provided.

HISTORY: CL 1915, 14742;—CL 1929, 16445;—CL 1948, 730.17.

GENERAL LAW: See Compilers' § 600.6601 et seq. As to appeals, see Compilers' § 600.7701 et seq.

AUTHORITY OF JUSTICES IN CRIMINAL CASES.

730.18 Criminal jurisdiction.

Sec. 18. The justices of the peace of said cities shall have all of the authority of justices of the peace in towns in criminal matters as well as civil, and perform all the duties herein required of them either under the state law or by the provisions of this act.

HISTORY: CL 1915, 14743;—CL 1929, 16446;—CL 1948, 730.18.

CRIMINAL CASES: See Compilers' § 774.1 et seq.

CLERK OF JUSTICE COURT—HIS NOMINATION AND APPOINTMENT.

730.19 Clerk of justice court; qualifications, appointment, term, salary, deputy bonds, removal.

Sec. 19. There shall be 1 clerk of said justices, who shall be known as "the clerk of the justices' court of" (the city wherein said court is located.) He shall be an elector of said city wherein said court is located and shall be appointed by the mayor of said city, forthwith, upon the making and filing with him of the written recommendation of the justices of the peace provided for in this act holding office, on or before the first Monday of May in each alternate year. If, for any reason, such recommendation be not made and filed by the said date, then the said mayor shall make such appointment on his own motion. The term of said clerk shall be 2 years commencing on the first Monday of May of each alternate year. The clerk now in office shall hold said office until his successor is elected or appointed and qualified. Said clerk shall receive from the treasurer of the county wherein said court is located and from the treasurer of the city wherein said court is located an annual salary of not less than 2,500 dollars and such other amounts as the city commission or other legislative body of said city or board of supervisors of said county wherein said court is located may provide, to be paid him in monthly installments, as the other officers of said city and county are paid, such salary to be paid by said city and county wherein said court is located in equal portions. He shall have power to appoint a deputy or deputies and revoke any such appointments at pleasure; the compensation of such deputy or deputies shall be fixed by the city commission or other legislative body of such city wherein said court is located, and such deputy or deputies shall be paid in the same manner as other city employes are paid. Any deputies so appointed shall have the power to perform all of the duties of said clerk, and the said clerk shall be responsible for the acts of such deputy or deputies. Said clerk may require such bond or other security from such deputy or deputies as he may deem proper. The said clerk of said courts shall file in the office of the city clerk of said city wherein said court is located, a bond approved by the city commission or other legislative body of said city, in the penal sum of 3,000 dollars, with 2 or more sufficient sureties, conditioned that he shall well and truly perform his duties as clerk of said courts and account for and pay over all moneys which shall be received by him or his deputy to the person or persons lawfully entitled to receive the same.

The city commission or other legislative body of said city shall have power to remove said clerk at any time for inefficiency or unfaithful performance of his duties, or for any official misconduct, on written charges preferred by the justices of said court or any 3 electors of said city wherein said court is located.

HISTORY: CL 1915, 14744;—Am. 1921, p. 490, Act 262, Eff. Aug. 18;—Am. 1925, p. 497, Act 328, Eff. Aug. 27;—CL 1929, 16447;—CL 1948, 730.19.

CLERK OF JUSTICE COURTS—OFFICE HOURS, DUTIES, ETC.

730.20 Office hours of clerk; powers and duties, fees.

Sec. 20. The office of said clerk shall be open and he or his deputy be in attendance therein from 8 o'clock in the forenoon until noon and from 1 o'clock to 5 o'clock in the afternoon on all days when court is in session. It shall be the duty of said clerk to assist said justices in the preparation of process and to keep full and complete dockets of the proceedings before each of said justices in the manner provided by law. Said clerk shall file and safely keep all books and papers belonging to said offices. The said clerk and his deputy or deputies shall, by virtue of their offices, be empowered to administer oaths, and take disclosures in garnishment and other cases. The said clerk shall receive all fees, costs, fines and dues of every description that shall become due and payable on account of proceedings in said courts before said justices, except fees for the performance of marriage ceremonies, for taking acknowledgments and for administering oaths in matters not connected with suits or proceedings pending in said justice court, and shall keep an account of the same and pay over all such fees, costs, fines, penalties, forfeitures and dues (except such as are by law required to be paid to the clerk of the circuit court for the county wherein said court is located upon the removal of causes from such justices' courts to said circuit court and such as are required by law to be paid to the county treasurer of said county) to the treasurer of the city wherein said justice courts may be located, for the benefit of said city, such payments to be made at least weekly. Said clerk shall also receive all other moneys paid into such courts for or on account of proceedings therein and shall pay over all such moneys to the person or persons lawfully entitled thereto, or to his or their duly authorized agent or attorney.

HISTORY: CL 1915, 14745;—CL 1929, 16448;—CL 1948, 730.20.

FEEES TO BE PAID CLERK OF COURT.

730.21 Fees; entry, judgment, execution, adjournment.

Sec. 21. Before any civil action or proceedings shall be commenced in any of said justice courts there shall be paid to the clerk of said court by the party commencing the same, an entry fee of 1 dollar, and before the trial of any such case or proceedings shall be commenced, there shall be paid by the same party a judgment fee of 1 dollar, but in case of non-suit before the commencement of such trial, no judgment fee shall be required. Proceedings in garnishment shall be treated as an auxiliary action and no entry fee shall be paid to the clerk of said court by the party commencing the same, but when an issue of fact shall be joined in respect to the liability of the garnishee or garnishees, in such case a judgment fee of 1 dollar shall be paid before such trial shall commence. Upon the issuing of an execution upon any judgment rendered in said court there shall be paid to the clerk of said court the sum of 50 cents, which said sum together with other costs, shall be taxed in favor of the prevailing party in the suit. For all services and proceedings subsequent to the issuing of the execution or for the purpose of staying proceedings or removing causes to an appellate court, there shall be

paid to the said clerk the fees provided by law. Upon the adjournment of any cause there shall be paid to the clerk of said court the sum of 25 cents, except in cases herein provided.

HISTORY: CL 1915, 14746;—CL 1929, 16449;—CL 1948, 730.21.

730.22 Process; absence of justice; assignment of cases; docket.

Sec. 22. The process issued from said justice courts shall be signed by the justice before whom the causes in which it was issued was commenced or is pending, and said clerk shall assign said causes begun in said courts to the justices respectively, in regular rotation as nearly as practicable. If upon the return day or adjourn day of any cause the justice by whom the process was issued shall be absent at the time or is engaged in the trial of another cause pending in said court, the other justice thereof, if present, shall proceed therein as though it had been originally commenced before him. On the return day of any process before the justice of the peace before whom the cause had been assigned by the clerk, any party to said cause may have a new assignment of the same by presenting to such justice an affidavit therein made by himself, his agent or attorney, stating that the person making such affidavit has good reason to believe and does believe that said justice to whom said cause has been assigned is interested therein or is biased or prejudiced against the party in whose behalf the affidavit is made. Said justice shall thereupon transfer said cause to the other justice of said court who shall proceed therein as if the same had originally been commenced before him. In all cases where causes are transferred from 1 justice to the other, the docket entries therein shall be made in the docket of the justice by whom the original process shall have been issued. Docket entries of proceedings had before each of said justices shall be made by the clerk of said court and signed by the justice before whom such suit or proceedings were had.

HISTORY: CL 1915, 14747;—CL 1929, 16450;—CL 1948, 730.22.

730.23 Jurors; qualifications; challenges; jury fee.

Sec. 23. Juries in said justices' courts shall be composed of 6 persons, who shall be residents of the city wherein said court is located, and shall severally possess the lawful qualifications of jurors in circuit courts, and any challenges which are valid in said circuit court shall be valid and sufficient if made in the said justices' courts: Provided, however, That, but 2 peremptory challenges shall be allowed to the plaintiff and the like number to the defendant in all trials in said justices' courts. If any party demands a jury in any action in said justices' courts, he shall advance to the clerk the sum of \$5.00 as a jury fee, and the same shall belong to the county wherein said court is located, and shall be turned over by the clerk to the treasurer of said county: Provided, That in all cases where the amount involved does not exceed \$50.00, the jury fee shall be \$3.00: Provided, however, That the provisions of this section shall not apply to cities having no board of jury commissioners as created by Act No. 505 of the Local Acts of 1903, said act being amended by Act No. 347 of the Local Acts of 1905.

HISTORY: CL 1915, 14748;—CL 1929, 16451;—Am. 1939, p. 795, Act 322, Imd. Eff. June 22;—CL 1948, 730.23.

730.24 Jurors; selection, summoning, attendance, fee.

Sec. 24. The board of jury commissioners, as created by Act No. 505 of the Local Acts of 1903, said act being amended by Act No. 347 of the Local Acts of 1905, shall annually, or whenever required by the clerk of said justices' courts, in accordance with the method prescribed by said acts, select persons who shall be residents of the city wherein said court is located, to serve as jurors for the trial of causes, matters and proceedings in said justices' courts, and shall file a list of the persons so selected with the clerk of said justices' courts. Said lists shall not be public records and all other provisions of said Act No. 505 of the Local Acts of 1903, as amended by Act No. 347 of the Local Acts of 1905, shall apply to the practice in said justices' courts wherever appli-

cable. The number of names of said citizens to be selected by said jury commissioners on the fourth Monday in January of each year as provided by said acts shall be 250. After the filing of such list with the clerk of such justices' courts, the proceedings for selection, summoning and compelling the attendance of jurors and talesmen shall be, as far as practicable, the same as provided by law for like purposes in the circuit court for the county where said justices' court is located, except that the attendance of the sheriff shall not be required. Jurors shall be summoned for a term of 1 month, which shall be the calendar month next succeeding the drawing. Not less than 18 nor more than 32 jurors shall be drawn and summoned for a term, unless for a special reason the justices of said court or either of them shall in writing direct that a greater number be drawn and summoned. The persons so drawn shall be notified in writing of their liability to jury duty in the justices' courts for the calendar month to be specified, which notice shall be served personally if practicable upon each person so drawn by the sheriff of the county wherein said court is located, in the manner now provided by law for such service of notices to jurors, and a return in writing of the time and manner of such service shall be made and filed with the clerk of said justices' courts. Said jurors shall report for service to the clerk of said justices' courts. The actual attendance of the person so duly notified for jury service may be required and enforced according to law by the said justices or either of them in the same manner as jurors' attendance is enforced in the circuit courts. The persons so serving as jurors shall be entitled to receive from the county wherein such court is located, the sum of \$4.00 each for each day's actual attendance and on and after January 1, 1960, jurors shall be entitled to receive from the county, wherein such court is located, the sum of \$4.00 each for each half day's and \$8.00 each for each full day's actual attendance, which sum shall be paid by the county treasurer on certificate of the clerk of said justices' courts, and in the same manner as other jurors' fees are paid by the said county. Whenever by law a judge of the circuit court is required or directed to be present at and participate in any part of the proceedings to select jurors for that court, the clerk of said justices' courts shall perform like duty in like proceedings to select jurors for said justices' courts. Cities having no board of jury commissioners as created by Act No. 505 of the Local Acts of 1903, said act being amended by Act No. 347 of the Local Acts of 1905, upon demand for trial by jury, a jury shall be summoned in the same manner as is provided by the general laws of the state for the trial of civil and criminal cases before justices of the peace; but no jury shall be demanded except upon payment by the party demanding a jury of the fees provided by law for payment of the jury and for the summoning of the jury.

HISTORY: CL 1915, 14749;—Am. 1921, p. 491, Act 262, Eff. Aug. 18;—CL 1929, 16452;—Am. 1939, p. 795, Act 322, Imd. Eff. June 22;—CL 1948, 730.24;—Am. 1957, p. 79, Act 73, Eff. Sep. 27;—Am. 1959, p. 320, Act 218, Eff. Mar. 19, 1960.

NOTE: Local Act 505 of 1903, above referred to, was entitled "An act to create a board of jury commissioners consisting of five persons for courts of record in the county of Kent," and does not appear in this compilation. See note to Compilers' § 602.149.

FEES IN CRIMINAL CASES.

730.25 Justice's fee in criminal cases; disposition.

Sec. 25. In criminal cases the same justice fees may be collected and in the same manner as in such proceedings before justices of the peace in townships, except that the same shall be received by the said clerk and paid to the treasurer of the county wherein said court is located for the use and benefit of said county: Provided, however, That in all cities having no police court, the fines, penalties, and costs collected for violations of the ordinances or charter provisions of such city shall be paid to the city treasurer.

HISTORY: CL 1915, 14750;—CL 1929, 16453;—Am. 1939, p. 796, Act 322, Imd. Eff. June 22;—CL 1948, 730.25.

FEES: See Compilers' § 775.2.

730.26 Justice or clerk not to act as counsel; litigant may conduct own trial.

Sec. 26. It shall be unlawful for said justices of the peace or said clerk or any of his deputies to act as counsel, agent or attorney for any party in any matter, suit or proceedings within the jurisdiction of said court. Litigants and citizens may conduct their own cases, but no one except an attorney-at-law shall be permitted to try any other than his own suits in said courts.

HISTORY: CL 1915, 14751;—CL 1929, 16454;—CL 1948, 730.26.

JUSTICE AS COUNSEL: See also Compilers' § 730.1.

FEES OF CONSTABLES AND COURT OFFICERS.

730.27 Constables, election, term, bond, duties, fees.

Sec. 27. There shall be elected biennially from the various wards of the city wherein said court is located, 2 constables from each ward. They shall hold office for the term of 2 years from the 1st Monday in May next succeeding their election and shall give bond as now required by law for the faithful performance of their duties. Constables now in office shall continue to hold office until their successors are elected and qualified. Said constables shall be nominated and elected at the charter elections in their respective cities in the same manner now provided by the charter of said city, or that may be hereafter provided by the charter of said city for the nomination and election of public officials. Said constables shall keep order in said courts under the direction of said justices. It shall be the duty of any constable authorized by the justices or justice for that purpose to summon persons drawn as jurors on any jury in said courts, to have charge of said jurors or juries. Constables shall receive \$2.00 for summoning a jury and \$3.00 per half day and \$6.00 per day for attendance on the same to be paid by the county wherein said court is located, on the certificate of the clerk of the justices' courts in the same manner sheriffs and deputy sheriffs of said county are now paid: Provided, however, That in all cities having 1 ward, the council or legislative body of such city shall have power and it shall be their duty on the recommendation of the justices, to appoint 2 or more constables, who shall hold office during the pleasure of the council and shall be subject to the provisions of this section except as to election.

HISTORY: CL 1915, 14752;—Am. 1921, p. 492, Act 262, Eff. Aug. 18;—CL 1929, 16455;—Am. 1939, p. 796, Act 322, Imd. Eff. June 22;—CL 1948, 730.27;—Am. 1951, p. 143, Act 113, Eff. Sep. 28.

730.28 Action for work and labor, commence without payment of costs.

Sec. 28. If any person shall satisfy 1 of said justices by affidavit that he has a good and meritorious cause of action for personal work and labor against another within the jurisdiction of said court, and that he has made personal demand for payment thereof of the debtor, and that such payment has been refused, and that he is financially unable to pay the court costs, and shall also state the name and residence of the debtor, and the amount also due over and above all legal set-offs, the justice to whom the affidavit is presented, may, in his discretion, endorse on such affidavit direction to the said clerk to cause to be issued the writ in the cause returnable before the other justice, without charge for court fees, for the commencement of trial of said cause. If the plaintiff in such case recover judgment, he shall be entitled to recover his costs therein. Said courts [court] fees, however, shall be taxed in favor of the city wherein said court is located and when collected shall be paid to the treasurer of said city. If the defendant obtain judgment in said cause, the said court fees shall in like manner and for the like purpose be taxed against the plaintiff. Nothing herein contained shall be so construed as to prevent the circuit court on appeal of any such cause to require the appellant to give security in said court for costs as in other cases.

HISTORY: CL 1915, 14753;—CL 1929, 16456;—CL 1948, 730.28.

730.29 Repeal.

Sec. 29. Title XVII, "Justice Courts," sections 507 to 539, inclusive, of the Local Acts of 1905, entitled "An act to revise the charter of the city of Grand Rapids, including therein, also as part of such charter, the acts controlling the board of education and the board of library commissioners," approved June 6, 1905, all acts amendatory to said title XVII of said Act No. 539, Local Acts of 1905; and Act No. 4 of the Public Acts of 1917, entitled "An act to consolidate all courts of inferior jurisdiction in the city of Saginaw into a justice court, to define the powers and duties thereof and fix the compensation of the justice, constables, clerks and other officers therefor, and to provide for their election or appointment and to repeal title 12, 13, 14, 15, of Act No. 566 of the Local Acts of 1905, providing for a justice of the peace, recorder and recorder acting as police judge and all acts conflicting herewith upon approval by the electors of the city of Saginaw"; and all other acts or parts of acts so far as the same are inconsistent with the provisions of this act are hereby repealed.

HISTORY: CL 1915, 14754;—CL 1929, 16457;—Am. 1939, p. 796, Act 322, Imd. Eff. June 22,—CL 1948, 730.29.

COMPILERS' NOTE: The reference to section and act numbers is undoubtedly erroneous since the Grand Rapids charter is contained in Local Act 593 of 1905.

730.30 Declaration of necessity; saving clause; effect on salaries.

Sec. 30. This act is necessary for the public peace and safety: Provided, however, That all proceedings pending in the said courts at the time this act shall take effect under the law heretofore relating to justices of the peace and all judgments of said courts may be had and enforced under the provisions of this act and carried through hereunder: Provided further, That nothing herein contained shall be construed to affect the salary or emoluments of the officers herein mentioned during the term of office which they are now serving.

HISTORY: CL 1915, 14755;—CL 1929, 16458;—CL 1948, 730.30.

Act 269, 1933, p. 471; Eff. Oct. 17.

AN ACT to provide for a municipal court in any city having more than 1 justice of the peace paid a salary in lieu of fees, and a clerk; to prescribe the title and define the jurisdiction of and practice in such courts; to provide for a conciliation division of such courts; to define the powers and duties of the judges thereof; to authorize such courts to make and enforce rules governing the practice and procedure therein; to provide for a review of judgments rendered by such courts and the taking and filing of transcripts of such judgments; to provide for the issuance and service of process issued from such courts and the pleading and practice therein; to provide for the appointment of process server to serve process issued by such courts; and to repeal all acts or parts of acts inconsistent therewith. Am. 1937, p. 89, Act 68, Eff. Oct. 29.

The People of the State of Michigan enact:

730.101 Municipal courts of certain cities; consolidation of courts, jurisdiction.

Sec. 1. * [In] any city having more than 1 justice of the peace paid a salary in lieu of fees, and a clerk, may by its charter provide for a court, which shall be known as the municipal court of such city, and which shall have and exercise jurisdiction in all suits and proceedings, both civil and criminal, to the same extent as was had and exercised by the justices of the peace of such city immediately prior to the consolidation of the courts of said justices of the peace pursuant to the provisions of this act, except as is herein otherwise provided. All courts heretofore created under the terms of this act

shall nevertheless continue to be in full force and effect unless and until changed by law.

HISTORY: Am. 1937, p. 89, Act 68, Eff. Oct. 29;—CL 1948, 730.101.

*The word "in" is in brackets in the act signed by the governor.

NOTE: This act applies to the cities of Dearborn, Flint and Highland Park.

The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 730.101 to 730.159 are cited in § 730.501a.

730.102 Judges; continuance of justices, vacancies; election.

Sec. 2. All justices of the peace whose courts are consolidated under the provisions of this act are hereby constituted judges of the municipal court of the city wherein they were severally justices of the peace immediately prior to the taking effect of this act and shall hold office for the remainder of the respective terms for which they were elected justices of the peace. Whenever a vacancy shall occur in the office of any judge of any such court by death, resignation, removal from office or from any other cause, such vacancy shall be filled by appointment by the legislative body of such city. Each judge so appointed shall assume office immediately following his appointment, and shall hold the same until his successor has been elected and has qualified. Successors to any judge or judges so appointed shall be nominated and elected at the next spring election held in such city following such appointment, and such successor or successors shall hold office until the expiration of the term to which such judge or judges removed from office by death, resignation, or otherwise, was elected.

Additional judges; election; spring or general November election.

The municipal court of any city organized under the provisions of this act, which has a population of not less than 160,000 and not more than 225,000 inhabitants, shall have 4 municipal judges, unless the charter of such a city specifies a different number of judges. When additional judges are required by this act, they shall be elected at the spring election next following the effective date of this act, or at the spring election next following a federal census, the result of which would require an additional judge or judges.

The legislative body of a city subject to this act may provide for the election of the judges at general November elections or regular municipal elections for terms commencing on January 1 or July 4 after the election. In such case the terms of office of judges in office when such action is effective may be lengthened to adjust to the changed date for commencement of terms of office.

HISTORY: Am. 1937, p. 89, Act 68, Eff. Oct. 29;—CL 1948, 730.102;—Am. 1957, p. 4, Act 2, Imd. Eff. Mar. 5;—Am. 1965, p. 571, Act 295, Imd. Eff. Jul. 22.

730.102a Judges; leaves of absence, judge in armed service; appointment of person to serve until termination of leave.

Sec. 2a. Whenever a leave of absence has been granted to a judge of said court because of service in the United States military, naval, marine or aviation service, or in any other service of the United States government, the legislative body of said city may appoint a duly qualified person to serve as a judge of said court until such leave of absence has terminated, or the office vacated, but not to extend beyond the expiration of the term to which such judge was originally elected or appointed. Such person so appointed shall have the same powers and duties as were had by such judge granted a leave of absence.

This section shall expire 6 months after the termination of the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hostilities.

HISTORY: Add. 1943, p. 251, Act 178, Imd. Eff. April 17;—CL 1948, 730.102a.

730.103 Judges; qualifications, election, compensation; continuance of existing laws; practice and procedure.

Sec. 3. The qualifications, time and manner of election, compensation, jurisdiction, powers and duties of the judges of the municipal court of any city affected by the provisions of this act, and the practice and procedure in such municipal courts, shall be governed by the provisions of existing laws relating to justices of the peace in such cities, and to the practice and procedure in the courts of such justices of the peace, except so far as the same, or any part thereof, are expressly repealed by, or are inconsistent with, any of the provisions of this act: Provided, however, That no person shall be eligible to qualify for judge of any such court who is not a regularly licensed attorney and counselor at law licensed to practice in the state of Michigan, who has not had 5 years' experience in the practice of law, who has not resided in the county in which such city is located at least 3 years immediately preceding such election, and who is not a qualified elector of such city: Provided further, That no municipal judge, except associate municipal judges elected to serve on a part-time basis, shall either engage in the practice of law or have a partner engaged in the practice of law; and no such associate municipal judge shall practice law in the court to which he was elected.

HISTORY: Am. 1937, p. 90, Act 68, Eff. Oct. 29;—CL 1948, 730.103;—Am. 1949, p. 30, Act 36, Imd. Eff. Mar. 30.

730.104 Judges; term, oath of office.

Sec. 4. Each municipal judge hereafter elected under the provisions of this act shall be elected for a term of 6 years commencing on July 4 next after his election, except as otherwise provided pursuant to section 2. Each municipal judge so elected shall take and subscribe his oath of office before some officer authorized to administer oaths and file the same with the county clerk of the county in which such city is located, on or before the commencement of his term of office. Each municipal judge appointed as herein provided, or elected for a term less than 6 years, shall take, subscribe and file his oath of office as herein provided, within 10 days after notice of his appointment or election.

HISTORY: CL 1948, 730.104;—Am. 1949, p. 30, Act 36, Imd. Eff. Mar. 30;—Am. 1965, p. 571, Act 295, Imd. Eff. Jul. 22.

730.105 Judges; bonds.

Sec. 5. Each municipal judge, before he enters upon the duties of his office and within the time limited for filing his official oath, shall execute, with 1 or more sufficient sureties to be approved by the county clerk of the county, a bond in the penal sum of 1,000 dollars, conditioned for the faithful performance of his duties, and file the same with the county clerk. Such bond shall be in lieu of any bond or instrument in writing now required by law to be executed by justices of the peace and filed with the county clerk, as provided by section 1026 of the Compiled Laws of Michigan of 1929.

HISTORY: CL 1948, 730.105.

NOTE: CL 1929, 1026, above referred to, is Compilers' § 41.91.

730.106 Review of judgments; transcripts.

Sec. 6. Judgments rendered in the municipal court of any city affected by the provisions of this act, may be reviewed by appeal or certiorari within the same time and in the same manner in all respects as is provided by law for the review by appeal or certiorari of judgments rendered by justices of the peace, except as is herein otherwise provided. Transcripts of judgments rendered by the municipal court of any such city may be taken and filed in the same manner and within the same time and with like

force and effect as is provided by law with respect to transcripts of judgments rendered by justices of the peace in such city: Provided, however, That transcripts of judgments issued by any such court may be signed by the clerk of the court instead of by the judge before whom such judgment was taken.

HISTORY: CL 1948, 730.106.

730.107 Clerk of court; qualifications, residence, term, appointment.

Sec. 7. There shall be 1 clerk of the municipal court of any city affected by the provisions of this act. He shall be an elector of and shall have resided in such city for a period of not less than 3 years immediately preceding his appointment: Provided, however, That any city affected by the provisions of this act may by its charter provide that such clerk need not be an elector of or resident of such city. His term of office shall be 2 years commencing August 1, 1933, and August first of every second year thereafter. On or before July 25, 1933, and on or before July twenty-fifth of every second year thereafter, the legislative body of any such city shall appoint such clerk on the nomination of all of the full time municipal judges of such city acting jointly. Any clerk so appointed shall serve for a period of 2 years and until his successor has been appointed and has qualified.

HISTORY: CL 1948, 730.107;—Am. 1956, p. 14, Act 8, Eff. Aug. 11.

730.108 Clerk of court; oath and bond.

Sec. 8. Before any clerk appointed in pursuance of the provisions of this act shall enter upon the duties of his office he shall take and subscribe the constitutional oath of office before the city clerk of such city and furnish the city with a bond with such penalty as shall be fixed by the legislative body of such city, conditioned for the faithful performance of his duties and for paying over and accounting for all moneys received by him as clerk, which bond after its approval shall be filed with the city clerk.

HISTORY: CL 1948, 730.108.

730.109 Clerk of court; deputies; removal.

Sec. 9. The clerk of any such municipal court shall have sole power to appoint 1 or more deputy clerks, and may revoke any such appointment at pleasure. Any deputy clerk of any such municipal court so appointed shall have the power to perform all of the duties of said clerk, and the said clerk shall be responsible for the acts of such deputy or deputies. Said clerk may require such bond or other security from such deputies as he may deem proper. The legislative body of such city shall have the power to remove said clerk at any time for cause on written charges preferred by any municipal judge of such city.

HISTORY: CL 1948, 730.109.

730.110 Clerk of court; collection and disposition of fees and fines; audit.

Sec. 10. All fees in civil causes and all fines imposed in criminal causes and all moneys paid into court for security for costs, bail, or otherwise, shall be paid to and collected by such clerk, and he shall enter the record of the same in books kept by him for that purpose, and pay the same over to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law, and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and all moneys received have been properly accounted for.

HISTORY: CL 1948, 730.110.

730.111 Clerk of court; powers and duties; control.

Sec. 11. Each clerk and deputy clerk shall be empowered to take complaints and administer oaths to complainants in criminal cases cognizable by a municipal judge or justice of the peace and for violations of city ordinances; to administer oaths to per-

sons making affidavits for writs in civil causes, and for transcripts of judgment, and to issue and sign all civil process; to approve bonds in civil causes subject to the rules of the court; to take disclosures in garnishment cases, and to perform such other duties as shall be prescribed by ordinance. The clerk and all deputy clerks shall after their appointment be under the direction and control of the municipal judges of the city and subject to their orders. The clerk shall file and safely keep all files, records and dockets belonging to or appertaining to the municipal court of such city, and shall be the custodian thereof.

HISTORY: Am. 1937, p. 90, Act 68, Eff. Oct. 29;—Am. 1945, p. 352, Act 250, Imd. Eff. May 25;—CL 1948, 730.111.

730.112 Clerks of court; compensation, continuation of justices' clerks in office.

Sec. 12. The said clerk and deputy clerks shall be paid such salary as shall be fixed by the legislative body of the city. The clerk or clerks, and the deputy clerk or clerks, of the courts of justices of the peace in any city affected by the provisions of this act, shall be the clerk or clerks, and the deputy clerk or clerks of the municipal court of such city until a clerk is appointed as provided by this act.

HISTORY: CL 1948, 730.112.

730.113 Files, records and dockets of justices.

Sec. 13. All files, records and dockets belonging to or appertaining to the office of the justices of the peace in office in any city affected by the provisions of this act, shall be filed and safely kept in the office of the clerk of the municipal court of such city, and such files, records, and dockets shall in all respects and for all purposes constitute records of the municipal court of such city.

HISTORY: CL 1948, 730.113.

730.114 Judges as successors to justices; powers.

Sec. 14. The judges of any such municipal court shall in all respects be considered the successors in office of the several justices of the peace whose courts are consolidated by this act, and shall have and exercise the same powers and authority in respect of all judgments rendered and matters pending before such justices of the peace as is by law conferred upon successors in office of justices of the peace in such city.

HISTORY: CL 1948, 730.114.

730.115 Civil proceedings; status in court; writs and process.

Sec. 15. All civil suits and proceedings instituted in any such court shall be deemed to be pending in such court and not before a particular judge thereof and shall be numbered consecutively in the order in which the same are instituted. All writs of summons and other civil writs and process issuing out of any such court shall be entitled in the municipal court of such city and may be signed by the clerk of the court.

HISTORY: CL 1948, 730.115.

730.116 Writs of summons, attachments and replevin; form, contents, return day.

Sec. 16. Writs of summons, writs of attachment and writs of replevin, issued out of any such court, except in the conciliation division, may be in substantially the following form, to wit:

STATE OF MICHIGAN

THE MUNICIPAL COURT FOR THE CITY OF

To

You are hereby notified that a suit has been commenced against you by as plaintiff, and that a bill of particulars of said claim is hereto attached. You are further notified that if you wish to defend this suit, you are required to enter your appear-

ance in the office of the clerk of this court and file your plea therein on or before the day of, A.D. 19.....

Dated at, Michigan, 19.....

.....

Clerk

By

Deputy Clerk

Writs of attachment and writs of replevin shall in addition contain appropriate commands regarding the seizure or custody of property. The day mentioned in such writs as the last day upon which the defendant may enter his appearance and plead shall be not less than 6 nor more than 30 days after the date of the issuance of the writ, except as herein otherwise provided, and shall be known as the return day: Provided, however, That the judges of such court may by rule provide that the return day of such writs shall be not more than 6 months after the date of the issuance thereof, and that service of such writs may be made up to and including the return date thereof. Except as herein otherwise provided, service of such writs shall be made at least 6 days before the return day thereof. All writs of garnishment shall be returnable in not more than 6 days from the date thereof and shall be served at least 2 days before the time for appearance stated therein: Provided, however, That the judges of such court may by rule provide that service of such writs may be made up to and including the return day thereof. In case a writ of garnishment against any person for money owing a principal defendant on account of labor performed by him is issued at the time of the issuance of the original summons against such principal defendant or at or prior to the time of the issuance of an alias or pluries summons against such principal defendant the return day of such summons issued against the principal defendant shall not be more than 6 days after the date of issuance of such summons, and such summons shall be served at least 2 days before the return day mentioned therein: Provided, however, That the judges of such court may by rule provide that service of such writs may be made up to and including the return day thereof. The return day, time and method of service of process, and all proceedings in cases in summary proceedings to recover the possession of land and premises shall be governed by the general law pertaining thereto. Return or proof of service shall be filed in the office of the clerk of the court at least 1 day before the last day for appearance of the defendant.

HISTORY: Am. 1937, p. 90, Act 68, Eff. Oct. 29;—Am. 1939, p. 402, Act 212, Eff. Sept. 29;—Am. 1945, p. 352, Act 250, Imd. Eff. May 25;—CL 1948, 730.116.

730.117 Writs of summons; alias and pluries; cases in which issued.

Sec. 17. Alias and pluries writs of summons, of attachment, of replevin, and of garnishment, may be issued by the clerk of any such court, upon the request of the plaintiff or his agent or attorney, at any time after the last day on which personal service may be made upon defendant and until the expiration of 7 days after the return day: Provided, That no alias or pluries writs shall be issued until the last writ already issued, with the return of the officer thereon is filed with the clerk of such court. In addition to the original writ not more than 5 such writs shall be issued: Provided, however, That the judges of such court may by rule provide that no alias or pluries summons or writs shall be issued except in the following cases: Writs of garnishment, the principal case started at the time of issuing a writ of garnishment for money owing a principal defendant on account of labor performed by him; summary proceedings to recover the possession of land and premises; and actions of replevin as provided in section 40 of this act, and that such alias or pluries summons or writs may be issued by the clerk of such court at the request of the plaintiff or his agent or attorney at any time after the return day and until the expiration of 7 days thereafter. Alias and pluries writs shall be

returnable within the same time, service shall be made thereon in the same manner and time, and return of the officer or proof of service shall be made in the same manner and time, as is herein provided for in the case of the issuance, service and return of original writs.

HISTORY: Am. 1945, p. 353, Act 250, Imd. Eff. May 25;—CL 1948, 730.117.

730.118 Declaration and itemized statements; trial date; garnishment cases.

Sec. 18. In every civil action commenced in any such court, the plaintiff or his duly authorized agent or attorney shall, at the time of instituting such action, file with the clerk of such court a declaration, in such form and manner as shall be prescribed by rule of court and which shall include an itemized statement of the damages claimed. At the same time plaintiff or his agent or attorney shall provide a copy of such itemized statement for each defendant named in such suit, 1 of which copies shall be served on each defendant with the summons or writ issued. If such action be instituted by an attorney at law, the clerk shall make a note of the name and business address of such attorney. At the same time the clerk of such court shall fix a day for the trial of such cause, not less than 7 nor more than 15 days after the return day, except as herein otherwise provided. Where a writ of garnishment against any person for money owing a principal defendant on account of labor performed by him is issued prior to the return day of the principal summons, such case shall be set for trial upon the merits on the return day thereof and the date of trial shall not be less than 3 nor more than 7 days after such return day: Provided, however, That the judges of such court may by rule provide for the fixing of trial dates at the time of entry of appearance of the defendant, said dates to be not less than 7 nor more than 15 days after the date of such entry of appearance, except where a writ of garnishment against any person for money owing a principal defendant on account of labor performed by him is issued at the time of issuing the principal summons, such rules may provide that such principal case shall be set for trial upon the merits at the time of entry of appearance by the principal defendant not less than 3 nor more than 7 days after such entry of appearance.

HISTORY: Am. 1939, p. 402, Act 212, Eff. Sept. 29;—Am. 1945, p. 353, Act 250, Imd. Eff. May 25;—CL 1948, 730.118.

730.119 Pleadings of defendant; pleading filed with court; service on plaintiff; cross claims; written disclosure in garnishment actions.

Sec. 19. In every civil action commenced in such court, except garnishment proceedings, and summary proceedings to recover the possession of land and premises, each defendant in such action shall be required, after service upon him of summons or writ and on or before the return day thereof, to file or cause to be filed in the office of the clerk of the court a pleading, in such form and manner as the judges may by rule prescribe: Provided, however, That the judges of such court may by rule provide that in every civil action commenced in such court, except garnishment proceedings and summary proceedings to recover the possession of land and premises, each defendant in such action shall be required, within 15 days after the service of summons or writ upon him, to file or cause to be filed in the office of the clerk of the court a pleading, in such form and manner as the judges may by rule prescribe. A copy of such appearance, together with a copy of all pleadings filed, shall be served on the plaintiff's attorney if plaintiff is represented by an attorney, or on the plaintiff if he is not so represented, either in person or by mail, within 4 days after filing with the clerk of the court, and at least 3 days before the trial date.

If such defendant pleads set-off or recoupment, or files a cross declaration, an itemized statement of such set-off, recoupment or cross claim shall be filed with the clerk of such court within 4 days after pleading, and at least 1 day before the trial date. A

copy of such itemized statement shall be served on the plaintiff or his attorney as above provided for service of general appearance and plea.

The judges may by rule provide that in actions of garnishment the garnishee defendant shall be required to file a written disclosure in the office of the clerk of such court within 5 days after the service of the garnishment writ upon him.

HISTORY: Am. 1939, p. 403, Act 212, Eff. Sept. 29;—Am. 1945, p. 354, Act 250, Imd. Eff. May 25;—CL 1948, 730.119.

730.120 Defaults; proof of claim; new date for trial.

Sec. 20. If any defendant, having been duly served with process, shall fail to plead within the time allowed, as herein required, or within such further time as the presiding judge may allow, the clerk shall forthwith enter the default of such defendant and the plaintiff may at any time until and including the date set for trial as herein provided, prove his claim before the presiding judge of such court, in an amount not exceeding that set forth in the copy of the itemized statement served upon such defendant: Provided, however, That the judges of such court may by rule provide that the plaintiff may at any time within 15 days after the last day allowed for the appearance of the defendant, prove his claim before the presiding judge as above provided. When any other defendant in such suit shall have duly pleaded, judgment may be entered against the defendant in default upon the trial of the issue as to the remaining defendants. Further time to plead shall be granted only upon motion to be heard by the presiding judge and may be granted upon such terms as the judge may deem just. If such motion is granted, the judge granting same shall thereupon fix a new date for trial not less than 7 nor more than 15 days from the last day allowed for pleading.

HISTORY: Am. 1945, p. 354, Act 250, Imd. Eff. May 25;—CL 1948, 730.120.

730.121 Process servers; bond, fees, salary, badge; service outside county.

Sec. 21. The legislative body of any city affected by the provisions of this act shall appoint, upon the nomination of the municipal judges acting jointly, a sufficient number of qualified persons to serve and execute civil process issued by the municipal court of said city not exceeding 1 for each 10,000 population or major fraction thereof, for the term of 2 years. Any duly elected constable in any such city shall be a process server under this act until the expiration of the term for which he was elected constable. Any person so appointed shall before he enters upon the duties of his office, make and file with the city clerk a bond in the sum of \$2,000.00 with 1 or more sufficient sureties to be approved by the city clerk, conditioned for the faithful performance of his duties. Such person so appointed and no others shall have authority to serve or execute civil process issued by any such municipal court, except as herein otherwise provided, and may summon and attend juries for the trial of civil and criminal cases in said court, and in summoning and attending such juries, and in the service and execution of such civil process shall possess all the powers of a constable or deputy sheriff and shall be entitled to the same fees for similar services. The legislative body of any city may provide a salary for the process servers in addition to fees. The bond shall be paid for by the person appointed as process server. Any process server may be removed at any time by the legislative body of the city upon the request of any 1 or more of the municipal judges, or by all of the municipal judges of such city acting jointly, without the action of the legislative body. The presiding judge may appoint any disinterested person of suitable age and discretion to serve civil process not requiring the seizure of property or the body of the defendant, on the request of the plaintiff, issued by any such municipal court. Any such person shall be entitled to receive the legal fees for such services and costs therefor may be taxed. Process servers shall be authorized to wear a badge of office with the words "Authorized Process Server, Municipal Court, City of, Michigan" thereon, and the city clerk shall furnish to each process server a badge and a card signed and authenticated by the city

clerk, stating that such person is authorized to serve and execute civil process issued by such municipal court, and giving the date of expiration of his term of office. Such badge shall remain the property of the city in which he was appointed and shall be surrendered to the city clerk upon his removal by death, resignation, or removal for cause. Process issued by any such municipal court may be served outside of the county in which such court is located, in the same manner and under the same circumstances as is provided by law for the service of process issued by a justice of the peace.

HISTORY: Am. 1937, p. 91, Act 68, Eff. Oct. 29;—Am. 1945, p. 355, Act 250, Imd. Eff. May 25;—CL 1948, 730.121;—Am. 1954, p. 467, Act 192, Eff. Aug. 13;—Am. 1967, p. 236, Act 173, Imd. Eff. Jun. 30.

730.121a May proceed to trial after hour set.

Sec. 21a. When any cause or matter shall be set for trial, hearing, or the taking of any action, at a certain hour, it shall not be necessary to wait any length of time after said hour before proceeding to trial, hearing, or the taking of action, in such cause or matter.

HISTORY: Add. 1945, p. 355, Act 250, Imd. Eff. May 25;—CL 1948, 730.121a.

730.122 Jury trial; demand and payment of fees.

Sec. 22. Civil jury trials. In any civil action brought in the regular division of any municipal court affected by the provisions of this act, either party desiring a jury trial shall file with the clerk of the court a written demand therefor and pay to the said clerk the legal jury fees for 1 day's attendance and the legal officers' fees for 1 day's attendance, not less than 3 days before such case is tried. Unless such demand is made and fees paid in the time and manner above set forth, the right to a jury trial shall be deemed to have been waived.

HISTORY: CL 1948, 730.122.

730.123 Jurors; method of selection.

Sec. 23. Selection of juries. In addition to any other method of selection of a jury for the trial of a civil or criminal case in the municipal court of any city affected by the provisions of this act, a jury may be selected and drawn in any manner which may be agreed upon between the parties in open court.

HISTORY: CL 1948, 730.123.

730.124 Adjournments by motions and stipulations.

Sec. 24. Adjournments. All civil cases shall be tried on the date set for trial unless adjourned for cause upon motion before 1 of the judges of such court: Provided, That the parties to the cause or their attorneys may stipulate in writing for not to exceed 2 adjournments of such cause, such stipulation to be filed with the clerk of the court. No further or other adjournments shall be granted except upon motion and after cause shown under oath. The judge granting an adjournment may in his discretion require the payment by 1 party to any adverse party of all costs and losses sustained by reason of such adjournment, whether witness fees, loss of wages, or otherwise, and including a motion fee of 5 dollars if the party allowed such costs is represented by an attorney at law, as in his opinion is just, and may in his discretion require that such costs be paid forthwith as a condition of adjournment: Provided, That any case may be adjourned upon the motion of the court from day to day or from time to time if on account of other trials or business it cannot be tried on the date set.

HISTORY: CL 1948, 730.124.

730.125 Rule making power of judges.

Sec. 25. Rules. In any city affected by the provisions of this act, the judges of the municipal court of such city shall have the right, and it shall be their duty, to adopt rules governing the form of all summons, writs and other process issued by such court, the time and manner of filing and serving pleadings and the forms thereof, the dismissal and adjournment of causes, the entry and setting aside of defaults and default

judgments, the extension of time for pleading, the method of selecting the presiding judge and the period of time he shall act as such, and all other matters of pleading, practice and procedure not inconsistent with the provisions of this act or of the law. They may by rule provide that the clerk of such court or any of his deputies, may sign dockets and executions, and may approve any bond required in any civil action.

HISTORY: CL 1948, 730.125.

730.125a Joint action of judges.

Sec. 25a. Wherever in the provisions of this act, joint action is required of the municipal judges in the making of court rules, nominations of process servers, appointments and recommendations in the administration of the municipal courts, such joint action shall be only by all of the full-time municipal judges or a majority thereof.

HISTORY: Add. 1959, p. 122, Act 120, Eff. Mar. 19, 1960.

730.126 Presiding judge; appointment, absence.

Sec. 26. Presiding judge, appointment of. When this act becomes effective in any city, the judges of the municipal court of such city shall designate 1 of their number to act as presiding judge for such time as may be fixed by rule. In any city which has 2 municipal judges, they shall alternate as presiding judge, for such periods of time as may be fixed by rule, and in the absence or inability of the presiding judge, the other shall act as such: Provided, however, That in any such city having 2 municipal judges, 1 of whom is an associate elected on a part-time basis, the 1 elected on a full-time basis shall be the presiding judge of said court. In any city which has more than 2 municipal judges, they shall be designated in such manner, and serve for such periods of time, as shall be fixed by rule. The presiding judge may designate some other judge of such court to act as such during his absence.

HISTORY: Am. 1937, p. 91, Act 68, Eff. Oct. 29;—CL 1948, 730.126.

730.127 Presiding judge; powers and duties.

Sec. 27. Presiding judge, powers and duties. The presiding judge of any such municipal court shall, in addition to having and exercising all powers and duties appertaining to his office as judge of such court, have general superintendence of the civil business of the court. He shall have the power to assign and reassign for trial, or other necessary disposition, at such time and in such manner as he shall determine, to any of the judges of such court any civil suit, motion, proceeding, or matter of business instituted or pending in such court. In all civil suits and proceedings hereafter instituted or pending in any such municipal court, the presiding judge thereof or such other judge as he may designate, shall have power to hear and determine all motions made therein, to approve all bonds required by law to be approved by a justice of the peace, to enter and set aside defaults and default judgments upon such terms and conditions as he may deem just, and in general to dispose of any interlocutory and miscellaneous matter arising in any such suit. Such presiding judge shall also have such other powers and duties not inconsistent with the provisions of this act as the judges of such court may by rule provide.

HISTORY: CL 1948, 730.127.

730.128 Motions; filing; service of copy and notice of hearing on opposite party.

Sec. 28. Motions. The judges of such court may by rule require that all motions made in such court shall be in writing. All written motions shall be filed with the clerk of the court who shall set a date for hearing thereon before the presiding judge, or some other judge to whom the presiding judge may assign the hearing and disposition of such matters, in accordance with the rules and practice of such court. The moving party shall cause to be served upon the opposite parties or their attorneys copies of

such motions and notices of hearing thereof within the time and in the manner fixed by the rules and practice of such court.

HISTORY: CL 1948, 730.128.

730.129 New trials in civil or criminal causes; procedure.

Sec. 29. In any city affected by the provisions of this act, the judge before whom any civil or criminal cause was tried, shall have the same power to set aside a verdict or judgment and grant a new trial thereon, upon legal cause therefor, as circuit courts of the state possess: Provided, That a motion therefor be made in writing and filed with the clerk of the court within 5 days after rendition of the verdict or judgment in said cause, setting forth plainly and briefly the reasons upon which it is made. Affidavits setting forth the facts relied upon shall be filed with said motion. A copy of such motion with the supporting affidavits shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof. Such motion shall be submitted and heard within 1 week after the date of filing, and shall be determined within 2 days after it shall have been submitted and heard. The time for taking an appeal from the judgment or verdict, in case such motion be not granted, shall begin to run from the day such motion is over-ruled. In no case shall the pendency of such motion stay the issuing and levy of an execution, but in case of a levy under execution pending such motion, no sale of the property so levied upon shall be advertised or made until the final determination of such motion. If such motion be granted, any property levied upon shall be returned forthwith to the adverse party. In case of the absence of the judge before whom such case was tried, the presiding judge or any other judge designated by the presiding judge, shall have the authority to hear and determine any such motion.

HISTORY: Am. 1947, p. 385, Act 264, Eff. Oct. 11;—CL 1948, 730.129.

730.130 Instructions to jury; requests.

Sec. 30. Instructions to jury. In any city affected by the provisions of this act, it shall be the duty of the judge presiding in all jury trials, to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of such case. Either party may present written requests to charge to the judge, who shall present all of such requests to the jury as he shall deem to correctly state the law applicable to the case.

HISTORY: CL 1948, 730.130.

730.131 Directed verdicts.

Sec. 31. Directed verdicts. In any city affected by the provisions of this act, the judge presiding in any jury trial shall have the same power to direct a verdict for either party as is or may be possessed by judges of the circuit courts of the state.

HISTORY: CL 1948, 730.131.

730.132 Reserved decision; judgment notwithstanding verdict.

Sec. 32. Judgment notwithstanding verdict. In any city affected by the provisions of this act, in all civil jury trials in such municipal court, if either party shall at the close of the testimony, and before the case is submitted to the jury, request a directed verdict in his favor, the judge presiding may reserve his decision thereon, and submit the case to the jury under proper instructions as to the law applicable to such case. After the case is thus submitted to the jury, and after receiving and recording the verdict of the jury and before judgment is entered in said cause, the judge may hear arguments of counsel for and against said request, but in all cases he shall receive and record the verdict of the jury as rendered. If the judge shall then decide as a matter of law that

the party requesting the directed verdict was entitled thereto, and if the verdict of the jury is adverse to the party making such request, the judge shall enter his decision and give judgment in accordance with such decision notwithstanding the verdict entered.

HISTORY: CL 1948, 730.132.

730.133 Judgment in case of disagreement of jury.

Sec. 33. Entering judgment after disagreement of jury. In any city affected by the provisions of this act, in all civil jury trials in which the jury disagrees and is discharged by the judge, either party may on motion and notice to the opposite party request the entry of judgment upon the evidence and proofs taken, within 7 days after the discharge of such jury, and if the judge before whom such case was tried shall decide as a matter of law that a verdict should have been directed for either party, he shall enter judgment accordingly.

HISTORY: CL 1948, 730.133.

730.134 Civil process; service anywhere in county.

Sec. 34. Where process may be served. In any city affected by the provisions of this act, any civil process issued out of the municipal court of such city may be served in any part of the county in which such city is located.

HISTORY: CL 1948, 730.134.

730.135 Original and concurrent civil jurisdiction; increase.

Sec. 35. The municipal court of any city affected by the provisions of this act shall have original jurisdiction in all civil actions wherein the debt or damages claimed does not exceed the sum of \$100.00, and concurrent jurisdiction in all civil actions wherein the debt or damages claimed does not exceed the sum of \$500.00, and shall have original jurisdiction in all actions of replevin wherein the value of the property involved does not exceed the sum of \$100.00 and concurrent jurisdiction in all such actions wherein the value of the property involved does not exceed the sum of \$500.00: Provided, however, That any city affected by the provisions of this act may by its charter provide that such court shall have concurrent jurisdiction in all civil actions wherein the debt or damages claimed does not exceed the sum of \$1,000.00 and concurrent jurisdiction in all actions of replevin wherein the value of the property involved does not exceed the sum of \$1,000.00.

HISTORY: Am. 1937, p. 92, Act 68, Eff. Oct. 29;—Am. 1947, p. 395, Act 264, Eff. Oct. 11;—CL 1948, 730.135;—Am. 1949, p. 78, Act 74, Eff. Sep. 23.

730.136 Appeals in criminal cases.

Sec. 36. Appeals in criminal cases may be taken as a matter of right from the municipal court of any such city to the circuit court of the county in which such city is located in the same manner and time as is provided by law for appeals in criminal cases from justice courts or as otherwise provided by law.

HISTORY: CL 1948, 730.136;—Am. 1963, 2nd Ex. Ses., p. 56, Act 41, Imd. Eff. Dec. 27.

730.137 Attachment; affidavit, bond, dissolution.

Sec. 37. Attachments. The plaintiff in an attachment case shall file the affidavit and bond required by law with the clerk of such municipal court, and the clerk may be authorized by rule of court to approve such bond and any bonds required or authorized by law in attachment cases, and to sign writs of attachment. It shall be lawful for the defendant or any other person not a party to the suit whose property has been attached by virtue of a writ of attachment, to apply to the presiding municipal judge of such city for a dissolution of such attachment, and the proceedings thereon and there-

after shall be the same as is now or may hereafter be provided by law for the dissolution of attachments in justice courts, and said judge shall have the same power to dissolve attachments as is possessed by circuit court commissioners and circuit judges.

HISTORY: CL 1948, 730.137.

730.138 Civil warrants; affidavit, signature, procedure.

Sec. 38. Civil warrants. The plaintiff in any case who is entitled to and desires a civil warrant shall make and file the affidavit required by law with the clerk of such municipal court, and any municipal judge of such court may sign any such civil warrant, and the procedure thereafter shall be the same as is provided by law in such cases.

HISTORY: CL 1948, 730.138.

730.139 Replevin; affidavit, procedure.

Sec. 39. Replevin. Except as is herein otherwise provided, the practice and procedure in replevin cases brought in any such municipal court shall be governed by the provisions of law applicable to actions of replevin brought in the circuit courts of this state: Provided, That the affidavit shall in addition to other requirements state the value of the property mentioned therein, and shall also state whether or not the defendant is an officer having possession of such property by virtue of an execution or writ of replevin.

HISTORY: CL 1948, 730.139.

730.140 Replevin; bond, property in possession of officer.

Sec. 40. Replevin. If the value of the property sought to be replevined does not exceed the sum of 100 dollars the presiding judge may in his discretion authorize a writ of replevin commanding the officer serving the same to take and retain possession of such property subject to the further order of the court, without the giving of any bond by plaintiff. If the defendant is an officer in possession of such property by virtue of an execution or writ of replevin, the writ issued shall command the defendant officer to retain such property in his possession pending the further order of the court, and in such case no bond need be given by plaintiff.

HISTORY: CL 1948, 730.140.

730.141 Replevin; storage charges.

Sec. 41. Replevin. In the cases mentioned in the preceding section, the presiding judge may from time to time order the plaintiff to deposit with the clerk of such court such sum or sums of money as may be necessary to pay storage on the property in the possession of the officer pending disposition of the case. Upon failure of plaintiff to deposit any such sum or sums within 48 hours or within such further time as may be allowed, the case may be dismissed. Any money so deposited may be paid to the person entitled thereto, upon an order issued by the presiding judge or the judge hearing the case, and the balance, if any, shall be returned to plaintiff. If the plaintiff prevails, any such storage charges necessarily incurred may be taxed in his favor, in addition to other costs.

HISTORY: CL 1948, 730.141.

730.142 Writs of replevin; return day.

Sec. 42. In the cases mentioned in section 40 of this act, the return day of the writ issued shall be not less than 3 nor more than 14 days after the date of issue, and shall be served at least 2 days before the return day, and the clerk shall fix the date for trial not less than 3 nor more than 7 days after the return day: Provided, however, That the judges of such court may by rule provide that the return day of such writs shall be not more than 1 month after the date of issue, and the trial day to be fixed by the clerk of the court at the time of entry of appearance by the defendant shall be not less than 3

nor more than 7 days after such appearance. The procedure thereafter shall be the same as in other replevin cases.

HISTORY: Am. 1937, p. 92, Act 68, Eff. Oct. 29;—Am. 1945, p. 355, Act 250, Imd. Eff. May 25;—CL 1948, 730.142.

730.143 Attorney fees; determination.

Sec. 43. In all cases where a contested trial takes place, and in all cases where an appearance has been entered by an attorney at law in behalf of the opposite party, if the prevailing party, if he be the plaintiff and was represented by a regularly licensed attorney and counselor, such party shall be entitled to tax the sum of \$10.00 in case of rendition of a judgment of \$300.00 or under, \$15.00 in the case of rendition of a judgment of over \$300.00 but not more than \$500.00, and \$25.00 in case of rendition of a judgment of over \$500.00; and, if the defendant was the prevailing party, he shall be entitled to tax the sum of \$10.00 in case the plaintiff sought in his pleadings to recover a judgment of \$300.00 or less, \$15.00 in case the plaintiff sought in his pleadings to recover a judgment of over \$300.00 but not more than \$500.00, and \$25.00 if the plaintiff in his pleadings sought to recover a judgment of over \$500.00, as an attorney fee.

HISTORY: CL 1948, 730.143;—Am. 1949, p. 104, Act 98, Eff. Sep. 23.

730.144 Matters returnable before presiding judge.

Sec. 44. All writs, summons, proceedings, or matters of any kind, which by law are made returnable before a justice of the peace and are not herein otherwise provided for, shall be returnable before the presiding judge of the municipal court of any city affected by the provisions of this act.

HISTORY: CL 1948, 730.144.

730.145 Conduct of trial by litigants or attorneys; contempt for violation.

Sec. 45. Individual litigants may conduct the trial of their own causes in the municipal court of any city affected by the provisions of this act, but it shall be unlawful for any one excepting an attorney and counselor at law to conduct the trial of other than their own individual suits in any such court. Any person violating the provisions of this section shall be guilty of contempt of court and may be punished therefor by any judge of the municipal court or any circuit judge of the county in which such city is located, by a fine of not more than 50 dollars or by imprisonment in the county jail of such county for a period of not more than 30 days or by both such fine and imprisonment in the discretion of the court.

.HISTORY: CL 1948, 730.145.

730.146 Bail; recognizances and examinations in criminal cases.

Sec. 46. When a warrant has been issued by a judge of the municipal court of any city affected by the provisions of this act, for a criminal offense not cognizable by a justice of the peace, the person charged with such offense may be brought before any judge of such municipal court, who may fix the amount of bail or let such person to bail or both, and set a date for the examination as provided by law. If the person charged with such offense shall waive examination, he may fix the amount of bail or let him to bail or both, and bind him to appear before the circuit court of the county or any court having jurisdiction of said cause, for trial: Provided, That the offense is one for which a justice of the peace has power to let to bail. When a warrant has been issued by any such municipal judge for an offense against the laws of the state of Michigan cognizable by a justice of the peace, and the person charged has been arraigned and the amount of bail has been set, a recognizance for the appearance of the person charged to answer for such offense may be taken and entered into by any clerk or deputy clerk of such court.

HISTORY: CL 1948, 730.146;—Am. 1955, p. 118, Act 75, Eff. Oct. 14.

730.147 Conciliation and regular division of court; power of clerks.

Sec. 47. There may be a conciliation division of the municipal court of any city affected by the provisions of this act, in which civil actions wherein the debt or damages claimed does not exceed the sum of 35 dollars, excepting replevin suits, suits commenced by writ of attachment, and suits commenced by civil warrant, shall, except as hereinafter provided, be brought and settled in an informal manner, and a division which shall be known as the regular division in which all other civil and criminal actions shall be brought. The judges of any such municipal court are hereby constituted conciliators of such conciliation division, and shall act as such as part of their official duties. Any municipal judge may authorize any clerk or deputy clerk of such court to act as conciliator in any case.

HISTORY: Am. 1937, p. 92, Act 68, Eff. Oct. 29;—CL 1948, 730.147.

730.148 Conciliation division; statements of claimant, trial date, notices, fees.

Sec. 48. Any person having a claim within the jurisdiction of the conciliation division of any such court may appear before any clerk or deputy clerk of such court and state his claim without formality or written pleadings. The clerk shall thereupon set the case for trial at as early a date as practicable, not less than 6 nor more than 28 days from the date of making the claim, and may if the plaintiff so desires notify defendant by telephone or by registered or unregistered mail, or may issue a summons as herein provided and cause such summons to be served by a process server. In every case in which the clerk notifies defendant by telephone or by mail, the plaintiff shall at the time of making claim pay the clerk for the use of the city the sum of 25 cents for such service.

HISTORY: Am. 1937, p. 92, Act 68, Eff. Oct. 29;—CL 1948, 730.148;—Am. 1964, p. 70, Act 64, Eff. Aug. 28.

730.149 Appearances by attorneys; parties and agents.

Sec. 49. No party shall be represented by an attorney, and parties shall in all cases appear in person, excepting where a corporation is a party in which case such corporation may appear by personal representative and excepting also that any person who has written authority to settle or compromise the controversy may appear as agent for such party to effect settlement, in which case such written authority shall be filed with the conciliator.

HISTORY: CL 1948, 730.149.

730.150 Defaults; hearings, adjournments.

Sec. 50. If the defendant consents, the hearing may be had within 3 days. If the defendant does not appear at the date and time set, no judgment shall be taken unless service was had upon him by summons, and the case may be adjourned and summons issued and served as above provided. If the defendant has been served with summons as herein provided, and does not appear at the date and time set, the clerk shall forthwith enter his default, and the plaintiff may at any time within 5 days thereafter prove his claim before the presiding judge of such court. Hearings shall be informal and may be private. The person acting as conciliator may suspend rules of evidence and may dispense with the swearing of witnesses. There shall be no adjournments without the consent of both parties, or unless in the opinion of the conciliator an adjournment is necessary to prevent a miscarriage of justice.

HISTORY: Am. 1937, p. 93, Act 68, Eff. Oct. 29;—CL 1948, 730.150.

730.151 Judgments and settlements.

Sec. 51. Any judgment rendered in such conciliation division may provide for its satisfaction by payment to the clerk of the court of either a lump sum or installments in such amounts and at such times as the conciliator may deem just and reasonable under the circumstances. The parties may at the hearing make a settlement upon such terms

as they may agree upon, in which case it shall be reduced to writing and signed by the parties, and such settlement shall in all respects be considered as a judgment rendered by such conciliator. The conciliator hearing the case or in his absence the presiding municipal judge, may for good cause shown alter the amount of installments and times of payments of any such judgment, or may order any such installments payable forthwith, and authorize execution or garnishment to issue thereon, but no execution or garnishment shall be issued on any judgment rendered in the conciliation division of any such municipal court unless authorized as provided.

HISTORY: CL 1948, 730.151.

730.152 Demand and fees for jury trial; transfer of cases to regular division.

Sec. 52. Any plaintiff having a claim within the jurisdiction of the conciliation division of any such court and desiring a jury trial, shall at the time suit is instituted, make such demand and pay forthwith to the clerk of the court the legal jury fees for 1 day's attendance and the legal officers' fees for 1 day's attendance. If the defendant wishes a jury trial he shall make the demand and pay to the clerk of the court the fees above mentioned, before proceeding to a hearing or before any adjournment. Unless such demand is made and the fees paid in the time and manner above set forth, the right to a jury trial shall be deemed to have been waived. If the above conditions are complied with by plaintiff the case shall be commenced in the regular divisions, and if complied with by defendant it shall be transferred to the regular division, and the procedure thereafter shall be the same as in cases not within the jurisdiction of the conciliation division, except as otherwise provided herein. Any case which in the opinion of the conciliator should be transferred to the regular division may be so transferred and the procedure thereafter shall be the same as in cases commenced in the regular division, except as otherwise provided herein.

HISTORY: CL 1948, 730.152.

730.153 Dockets.

Sec. 53. The clerk of any such municipal court shall keep a separate docket for cases commenced in the conciliation division, and cases shall be numbered consecutively. When a case is transferred to the regular division it shall be redocketed in the docket of such division.

HISTORY: CL 1948, 730.153.

730.154 Summons; form, contents and service of summons.

Sec. 54. Summons issued in causes commenced in the conciliation division of any such court may be in substantially the following form:

STATE OF MICHIGAN
THE MUNICIPAL COURT FOR THE CITY OF

To

You are notified that (name of plaintiff) has commenced suit against you for (state nature of claim and amount).

Be in the above court on the day of, 19....., at o'clock in the noon, or judgment will be taken against you.

Bring witnesses and papers if any. Be prepared for trial on that day.

.....
Clerk.
By
Deputy Clerk.

Such summons shall notify defendant to appear for trial at a certain time and place not less than 3 nor more than 14 days from the date of issue, and shall be served at least 2 days before the date set therein for trial.

HISTORY: Am. 1937, p. 93, Act 68, Eff. Oct. 29;—CL 1948, 730.154.

730.155 Judgments of regular divisions.

Sec. 55. In any civil action tried in the regular division of any such municipal court, whether commenced in the regular division by plaintiff, or transferred on the request of plaintiff, excepting replevin suits, suits commenced by writ of attachment, or suits commenced by civil warrant, in which the judgment or verdict of a jury is for 35 dollars or less in favor of plaintiff, the judge before whom the cause is tried may if he finds from the evidence in the case that plaintiff knew or should have known that his debt or damage did not exceed the sum of 35 dollars, render a judgment payable in installments, as in cases commenced in the conciliation division, which judgment shall in all respects be considered a judgment rendered in the conciliation division and to which the provisions of this act relative to judgments rendered in the conciliation division shall be applicable, and in such cases no attorney fee shall be taxed in favor of plaintiff.

HISTORY: CL 1948, 730.155.

730.156 Application of statute and charter provisions.

Sec. 56. All the provisions of general statutes, local or special acts, or charter provisions, relating to justices of the peace and to justice courts in any such city, shall apply to the municipal judges and to the municipal court of any city affected by the provisions of this act except so far as such provisions may be inconsistent with the provisions thereof.

HISTORY: CL 1948, 730.156.

730.157 Judgments three months after return day; invalidity, reinstatement of case.

Sec. 57. Any judgment rendered in the municipal court of any city affected by the provisions of this act more than 3 months after the return day of the last summons issued in said cause shall be void, but the parties or their attorneys may by written stipulation filed in said cause agree to a later trial of said cause, and in such case the presiding judge may in his discretion reinstate such case, and a valid judgment may be rendered therein provided trial is had.

HISTORY: CL 1948, 730.157.

730.158 Civil causes before justices; continuation.

Sec. 58. No civil cause pending before any justice of the peace in any city affected by the provisions of this act when it takes effect shall be affected thereby, but the justice before whom any such cause may be pending and who by the terms of this act is constituted a municipal judge, shall continue to act in such cause until judgment, but execution issued thereon may be signed by the clerk of the court.

HISTORY: CL 1948, 730.158.

730.159 Judgments; signing by judges.

Sec. 59. Judgment rendered in any such municipal court shall be signed by the judge by or before whom such cause was tried.

HISTORY: CL 1948, 730.159.

Sec. 60. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 61. (This was a repeal section.)

HISTORY: Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 171, 1911, p. 291; Eff. Aug. 1.

AN ACT to provide for clerks for justice courts in cities of over 25,000 and under 100,000 inhabitants, where the justices of the peace are paid a salary.

The People of the State of Michigan enact:

730.201 Clerks for justice courts in certain cities; appointment.

Sec. 1. In any city of this state of over 25,000 and under 100,000 inhabitants, where the justices of the peace are paid a salary the legislative body thereof may provide a clerk for each of the justices of the peace therein. Such clerks shall be appointed by the legislative body of the city, on the nomination of all of the justices of the peace of the city acting jointly, and after their appointment they shall be under the control and direction of said justices of the peace and subject to their orders.

HISTORY: CL 1915, 14756;—CL 1929, 16493;—CL 1948, 730.201.

730.202 Clerks; oath, bond, salary.

Sec. 2. Before any clerk appointed in pursuance of the provisions of the preceding section shall enter upon the duties of his office, he shall take and subscribe the constitutional oath of office and furnish to the city a bond with such penalty as shall be fixed by the legislative body of that city, with sufficient sureties to be approved by such legislative body, conditioned on the faithful performance of his duties and for the paying over and accounting for all moneys received by him as such clerk, which bond after its approval shall be filed with the city clerk. Each clerk so appointed shall receive such salary as shall be fixed by the legislative body appointing him.

HISTORY: CL 1915, 14757;—CL 1929, 16494;—CL 1948, 730.202.

CONSTITUTION: For form of oath, see Const. XI, 1.

SALARIES: See also Act 151 of 1919, being Compilers' §§ 600.7635 to 600.7645.

730.203 Clerks; powers.

Sec. 3. Each clerk appointed under the provisions of this act is hereby empowered to take complaints in criminal causes and swear the complaining witnesses thereto. They shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and issue all civil processes and test the same in the name of either or any of the justices of the peace of the city.

HISTORY: CL 1915, 14758;—CL 1929, 16495;—CL 1948, 730.203.

730.204 Clerks; collection of fees and fines.

Sec. 4. All fees in civil causes and all fines imposed in criminal causes shall be collected by such clerks, and all such fees and fines received by each shall be entered in a book kept by him for that purpose and by him paid over to the city treasurer of the city at least once in each week, and at the close of each fiscal year the legislative body of the city shall cause an audit of the books of each of such clerks to be made for the purpose of ascertaining the correctness of the books kept, and the payment to the city treasurer of the moneys collected by him.

HISTORY: CL 1915, 14759;—CL 1929, 16496;—CL 1948, 730.204.

Act 288, 1929, p. 748; Eff. Aug. 28.

AN ACT to provide for terms for the trial of jury cases in justice courts in cities; to provide for the selection of jurors to try such cases; and to provide for the rights, powers and duties of justices of the peace in such cases.

The People of the State of Michigan enact:

730.251 Terms for trial of jury cases; adoption of law.

Sec. 1. Any city may by charter or ordinance establish terms for the trial of jury cases in the justice court of such city, and may provide that jury cases may be set for trial upon 1 or more certain days of each month or as soon thereafter as such trial can be reached. Any city so providing for terms for the trial of jury cases and having a justice court clerk who acts as clerk for all of the justices of the peace in such city, may by an ordinance passed by a 3/4 vote of the legislative body of said city, adopt the provisions of this act as the method of the selection of jurors for the trial of jury cases. In such ordinance it shall not be necessary to embody the terms of this act but the same may be adopted by reference only. After this act has once been adopted, such adoption may be rescinded by an ordinance passed by a 3/4 vote of the legislative body of such city.

HISTORY: CL 1929, 16497;—CL 1948, 730.251.

730.252 Board of jury commissioners; members.

Sec. 2. A board of jury commissioners is hereby created for each city adopting the provisions hereof, which shall consist of the city treasurer, the city clerk and the city assessor, or if more than 1 city assessor then such one as shall be designated by a majority of the assessors.

HISTORY: CL 1929, 16498;—CL 1948, 730.252.

730.253 Jury lists; duty of commissioners; qualification and term of jurors.

Sec. 3. The said board shall within 15 days after the adoption of this act in any city and during the month of November of every year thereafter, make and file with the clerk of the justice court a list of persons to serve for the succeeding calendar year as justice court jurors equal to 1 for each 200 inhabitants of the city, computed according to the last preceding census: Provided, That in no case shall it be necessary to file a list of more than 400 electors. If the names on such list shall be exhausted prior to the end of such calendar year, the justices of the peace shall order said board to make and file an additional list of persons to serve as jurors for the remainder of such year and it shall be the duty of said board to make and file such list. All persons selected for jury service by said board shall be qualified electors of the city and shall be drawn from the city at large and shall not be required to serve in any 1 year for a period of more than 1 jury term.

HISTORY: CL 1929, 16499;—CL 1948, 730.253.

730.254 Jury lists; qualifications of persons chosen.

Sec. 4. The said board in making such selection shall file the names of such only as are not exempt from serving on juries, who are in possession of their natural faculties, not infirm or decrepit, of good character, of approved integrity, of sound judgment, and well informed and conversant with the English language, and free from all legal exceptions, and who have not made, and in whose behalf there has not been made to the members of said board, any application to be selected and returned as jurors.

HISTORY: CL 1929, 16500;—CL 1948, 730.254.

730.255 Jury lists; persons not to be chosen.

Sec. 5. In making such selection said board shall avoid, as far as practicable, selecting any of the persons who were actually drawn and who served as jurors on any regular justice court panel during the preceding year.

HISTORY: CL 1929, 16501;—CL 1948, 730.255.

730.256 Jury lists; duplicates, filing; duty of clerk of justice court.

Sec. 6. Such list of jurors shall be made in duplicate and 1 copy filed in the office of the city clerk and the other copy filed in the office of the clerk of the justice court.

Upon receiving and filing such list, the clerk of the justice court shall write down the names contained therein on separate pieces of paper, of the same size and appearance as nearly as may be, and shall fold up each of said pieces of paper so as to conceal the names thereon.

HISTORY: CL 1929, 16502;—CL 1948, 730.256.

730.257 Jurors; term of service.

Sec. 7. The persons whose names shall be returned as jurors shall serve as jurors for 1 year and until other lists shall be returned and filed.

HISTORY: CL 1929, 16503;—CL 1948, 730.257.

730.258 Drawing of jurors; time, number.

Sec. 8. At least 10 days and not more than 20 days before the holding of any term for the trial of jury cases in the justice court in any such city, the clerk of the justice court shall draw the names of 10 persons and any additional number that may be ordered by the justices of the peace of the city. Additional jurors may be drawn from time to time to fill vacancies in the jury panel for any term of court upon the order of the justices of the peace.

HISTORY: CL 1929, 16504;—CL 1948, 730.258.

730.259 Drawing of jurors; justice and chief of police to be present; adjournment.

Sec. 9. Such drawing shall be made in the presence of at least 1 of the justices of the peace and the chief of police, or in the event of his absence or inability to attend, then in the presence of the officer at the time being in command of the police department of the city. The clerk of the justice court shall notify the justices of the peace of said city and the chief of police, personally or by registered mail, of the time and place of making such drawing by depositing such notice in the United States mails at least 3 days prior to such drawing, enclosed in an envelope addressed to such persons at their respective addresses. If the persons required to be present at such drawing do not appear the clerk of the justice court may adjourn such drawing from time to time. It is hereby made the duty of the justices of the peace and the chief of police, or in his absence or inability, the commanding officer of the police department, to attend such drawing.

HISTORY: CL 1929, 16505;—CL 1948, 730.259.

730.260 Drawing of jurors; procedure, record.

Sec. 10. The clerk of the justice court shall conduct such drawing as follows:

(a) He shall place in a box prepared for that purpose all of the names contained in the list of jurors returned by the board of jury commissioners, except the names of those persons who have been previously drawn on a jury panel during the current year, each name appearing upon a separate slip of paper as above provided. He shall then shake the box so as to mix the slips of paper upon which names were written, as much as possible.

(b) He shall publicly draw out of such box 1 slip of paper and hand the same to 1 of the attending justices of the peace, whose duty it shall be to keep a minute of the names drawn. When such justice shall have made a minute of the names so drawn, the clerk of the justice court shall proceed in the same manner to draw other names from said box until the required number of jurors has been selected.

(c) A minute of the drawing shall be kept by such attending justice of the peace in which shall be entered the name contained on every slip of paper so drawn before any other slip shall be drawn.

(d) If after drawing the required number of justice court jurors, the name of any person shall appear to have been drawn who is dead, insane, or who has permanently

removed from the city, to the knowledge of the clerk of the justice court or any other attending officer, an entry of such fact shall be made in the minutes of the drawing and the slip of paper containing such name shall be destroyed. Another name shall then be drawn from the box in the manner above provided and entered in the minutes of the drawing. The same proceeding shall be had as often as may be necessary until the whole number of jurors required shall have been drawn.

(e) The minutes of the drawing shall then be signed by the clerk of the justice court and the attending justice of the peace and filed in the office of the clerk of the justice court.

HISTORY: CL 1929, 16506;—CL 1948, 730.260.

730.261 Venire delivered to constable; notice to jurors, return.

Sec. 11. The clerk of the justice court shall deliver to 1 of the constables, or in their absence, to a deputy sheriff, a venire containing the names and places of residence of the several jurors and specify for what term of court said jurors were drawn. The constable or deputy sheriff to whom such venire shall have been delivered, shall serve a personal notice upon each of the persons whose names are contained in such venire by making out a written notice to each such person and enclosing the same in a sealed envelope addressed to such person at his last known place of residence, which written notice enclosed in said envelope and addressed to the person summoned, shall be sent to his last known place of residence by registered mail at least 5 days before the first day of the term of court for which he is to serve, with a demand in writing on said envelope for a return registry receipt. Said constable or deputy sheriff shall make and file a return with the clerk of the justice court at the opening of the term for which said jurors have been summoned, specifying to whom said notice has been sent and attaching to his said return the returned registry receipts demanded and received from the persons so summoned.

HISTORY: CL 1929, 16507;—CL 1948, 730.261.

730.262 Exemptions and excuses from jury service.

Sec. 12. All persons who are exempt from service on juries in the circuit courts of this state shall be exempt from service on juries in justice courts of cities adopting this act. Likewise all persons who are entitled to be excused from service on juries in circuit courts in this state shall be entitled to be excused from service as jurors in justice courts in cities adopting this act. In such cases the same proceedings shall be taken as in circuit courts.

HISTORY: CL 1929, 16508;—CL 1948, 730.262.

EXEMPTIONS AND EXCUSES: See Compilers' §§ 600.1218 and 600.1219.

730.263 Compensation of jurors and constables.

Sec. 13. Each justice court juror shall be entitled to receive \$6.00 for each day's attendance, and \$3.00 for each half day's attendance upon any term of justice court, to be paid out of the city treasury of the city on the certificate or order of the clerk of the justice court: Provided, There shall be deducted therefrom the amount of any certificate issued to such juror on account of services performed as a juror in a case brought for a violation of the criminal laws of the state. The constable, or deputy sheriff, summoning said jurors, shall be entitled to receive the sum of 50 cents for each summons so served, and the constable shall be entitled to \$4.00 per day for each day's attendance and \$2.00 for each half day's attendance upon the jury at any such jury term, to be paid out of the city treasury on the certificate or order of the clerk of the justice court. Any city may by ordinance increase the compensation of jurors and constables to a sum not exceeding \$6.00 for each day's attendance and \$3.00 for each half day's attendance.

HISTORY: CL 1929, 16509;—CL 1948, 730.263;—Am. 1957, p. 306, Act 247, Eff. Sep. 27.

730.264 Demand for jury trial.

Sec. 14. When any cause shall become at issue, any party thereto shall be entitled to a jury trial by filing with the justice of the peace a demand for a jury, and in case said cause be a civil action, by depositing with the clerk of the justice court the sum of 12 dollars, which sum shall be taxed as costs if the party depositing the same shall prevail on the trial of said cause; and said sum will be returned to the person depositing the same if said cause shall be disposed of without a trial thereof by a jury.

HISTORY: CL 1929, 16510;—CL 1948, 730.264.

730.265 Trial of jury cases; discharge of jurors.

Sec. 15. At each jury term all jury cases set for trial at said term shall be tried in the order in which they become at issue unless for good cause shown a continuance shall be granted until the next term of court or until a subsequent date during the same term. The jurors impaneled for such term shall be discharged from further attendance as jurors when all cases ready for trial shall have been disposed of, and all cases not ready for trial shall stand adjourned until the next succeeding jury term of court unless otherwise disposed of.

HISTORY: CL 1929, 16511;—CL 1948, 730.265.

730.266 Justice may order jury impaneled.

Sec. 16. Nothing in this act contained shall prevent any justice of the peace, when no jury is in attendance, in his discretion and in order to avoid hardship, from delay, from ordering a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships.

HISTORY: CL 1929, 16512;—CL 1948, 730.266.

JURY: Order for impaneling in townships, see Compilers' § 800.7025 et seq.

730.267 Drawing of jury; challenges.

Sec. 17. As the cases shall be called for trial during each jury term, each jury shall consist of 6 persons and shall be drawn from the list of jurors impaneled for the term in the manner provided by the general laws of the state for drawing juries in the circuit court, as near as may be, and no person so drawn shall be excused from serving except for causes recognized in the trial of cases in the circuit court; except that the plaintiff and defendant in each civil action may respectively challenge peremptorily not more than 2 jurors, and in each criminal action and action for violation of ordinances, the attorney representing the people may challenge peremptorily not more than 2 jurors and the defendant may challenge peremptorily not more than 4 jurors. No jurors shall be disqualified by reason of having sat as juror on any number of cases during any 1 term for the trial of jury cases.

HISTORY: CL 1929, 16513;—CL 1948, 730.267.

730.268 Failure to attend as juror; penalty.

Sec. 18. Any person who shall fail to attend and continue in attendance at the justice court room in the city as a juror for the term for which he shall have been selected and duly summoned, as herein provided, without the consent of the justice presiding on that particular day or that particular term, shall be punished by a fine of not exceeding 100 dollars, or by imprisonment in the Detroit house of correction or in the county jail of the county for a period not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court trying the offender.

HISTORY: CL 1929, 16514;—CL 1948, 730.268.

730.269 Presiding justice.

Sec. 19. If in any city adopting this act there is more than 1 justice of the peace, such city may by charter or ordinance provide for the selection of a presiding justice by the justices of the peace of such city, and in such case the action of the presiding

justice as to any matter herein required shall be deemed the action of the justices of the peace of such city.

HISTORY: CL 1929, 16515;—CL 1948, 730.269.

730.270 Instructions to jury.

Sec. 20. It shall be the duty of said justices to instruct the jury in all cases as to the law applicable to the case, which instruction shall be received by the jury as the law of such case. Either party may present written requests to charge to the justice, who shall present the same to the jury as requested if he shall deem the same to correctly state the law applicable to such case.

HISTORY: CL 1929, 16516;—CL 1948, 730.270.

730.271 Directed verdicts.

Sec. 21. The justices shall have the same power to direct a verdict for either party as is had by judges of circuit courts of this state in similar cases.

HISTORY: CL 1929, 16517;—CL 1948, 730.271.

Act 41, 1947, p. 48; Imd. Eff. Apr. 16.

AN ACT to authorize justices of the peace and municipal judges to act in the place of and for justices of the peace or other judicial officers having the jurisdiction of justices of the peace, in cities, under certain conditions; and to authorize cities to fix by ordinance the compensation to be paid such justices, and the procedure to be followed in authorizing them to act in such cities and in paying them for services.

The People of the State of Michigan enact:

730.301 Justice of the peace or municipal judge; absence, disability or disqualification; substitute.

Sec. 1. In case of the absence, disability, or disqualification of any justice of the peace, municipal judge, or other judicial officer having the jurisdiction of a justice of the peace, in a city, or having jurisdiction to hear and determine violations of the ordinances of such city, or both, any other justice of the peace or municipal judge of the county in which such city is located shall be qualified to act in the place of and for such judicial officer in the performance of any of the duties imposed upon him by law in all matters civil and criminal and in all matters pertaining to violations of the ordinances of such city, under the conditions and in the manner hereinafter set forth; and shall, when called upon in the manner and under the conditions hereinafter set forth, so act.

HISTORY: CL 1948, 730.301.

730.302 Compensation; city ordinance.

Sec. 2. Any city may by ordinance fix the compensation to be paid justices for such services, the procedure to be followed in calling upon them so to act and the time and manner of payment of compensation, and, unless a city shall so provide by ordinance and shall authorize a justice to act in accordance with the provisions of such ordinance, no such justice shall so act or be entitled to compensation therefor.

HISTORY: CL 1948, 730.302.

Act 109, 1947, p. 146; Eff. Oct. 11.

AN ACT to grant to any city having a justice or municipal court, or any court in which the justice or judge, or justices or judges, as the case may be, have jurisdiction equal to or greater than that of justices of the peace, or have jurisdiction to hear and determine violations of the ordinances of the city, or both, and in which the justices or

judges are paid a salary in lieu of fees, the power to provide by charter or by ordinance for the election of 1 or more associate justices or associate judges of such court; to determine the compensation to be paid such associate justices or judges, the time they shall be required to devote to the duties of the office, and the procedure to be followed in calling upon them to serve.

The People of the State of Michigan enact:

730.321 Associate municipal judge or justice; charter or ordinance.

Sec. 1. Any city having a justice or municipal court, or any court in which the justice or judge, or justices or judges, as the case may be, have jurisdiction equal to or greater than that of justices of the peace, or have jurisdiction to hear and determine violations of the ordinances of the city, or both, and in which the justices or judges are paid a salary in lieu of fees, may, by charter or by ordinance provide for the election of 1 or more associate justices or associate judges of such court.

HISTORY: CL 1948, 730.321.

730.322 Associate municipal judge or justice; definition.

Sec. 2. An associate justice or associate judge is hereby defined as one who is required to devote such part of his time, but not necessarily his full time, to his official duties as the work of the court shall require or as may be required by law or ordinance.

HISTORY: CL 1948, 730.322.

730.323 Associate and judge; definitions.

Sec. 3. When used in this act the word "associate" shall be construed to mean "associate justice" or "associate judge," as the case may be; when the word "judge" is used it shall be construed to mean a full time justice or judge; and the singular shall include the plural, and vice versa.

HISTORY: CL 1948, 730.323.

730.324 Associate judge; qualifications, term, jurisdiction, oath, bond.

Sec. 4. An associate shall possess all the qualifications of, and shall be elected in the same manner, for the same term, and shall have the same jurisdiction and powers as a judge in such city; and shall take the same oath of office and file the same bond or bonds.

HISTORY: CL 1948, 730.324.

730.325 Associate judge; election.

Sec. 5. In any city having 1 judge, or having more than 1 judge all of whom are elected at the same time, associates shall be elected at the same time as the judge or judges. In any city having more than 1 judge not all of whom are elected at 1 time, associates shall first be elected at the first general election held in such city more than 60 days after the election at which the charter was amended or an ordinance was adopted to provide for the election of an associate or associates.

HISTORY: CL 1948, 730.325.

730.326 Associate judge; compensation.

Sec. 6. The compensation of associate judges, the time and manner of payment of same, the funds from which same shall be paid and the time or times they shall be required to devote to the duties of the office, may be determined either by charter or ordinance.

HISTORY: CL 1948, 730.326.

730.327 Associate judge; appointment, vacancies.

Sec. 7. The legislative body of any city whose charter is amended to provide for the election of 1 or more associate judges as provided for in this act or which shall by ordinance provide therefor shall appoint an associate judge or judges to serve until such are elected. Vacancies in the office caused by death, resignation or otherwise shall be filled by appointment by the legislative body of such city, and the appointee shall serve until the next general election, held not less than 60 days after the vacancy occurs, when a successor shall be elected to serve the remainder of the unexpired term.

HISTORY: CL 1948, 730.327.

730.328 Associate judge; practice of law.

Sec. 8. An associate judge who is an attorney is not disqualified thereby to practice law but shall not sit in any case in which either he or his business partner is attorney or of counsel for any party in such case.

HISTORY: CL 1948, 730.328.

Act 103, 1947, p. 136; Eff. Oct. 11.

AN ACT to authorize the commission or governing bodies of certain cities to change the name of justice court to municipal court; and to prescribe the powers, duties and functions of such courts.

The People of the State of Michigan enact:

730.351 Justice courts in certain cities; change of name to municipal court; resolution of governing body; laws not affected.

Sec. 1. In all cities of not less than 80,000 population, as determined by the last census or by any federal census hereafter taken, whose justice courts are not provided for in their present charter, except a provision for the election of said officials, the city commission or governing body of said city may by majority vote of said commission or governing body change the name of their present justice court to municipal court. Said change when so made shall in no way affect or change the present laws and statutes of the state, especially Act No. 229 of the Public Acts of 1911 and Act No. 322 of the Public Acts of 1939, except that after said change has been made the word "municipal" shall replace "justice" with full force and effect and with like intent whenever or wherever said word "justice" appears in said acts of general or special laws of the state or municipal charter of said city with reference to justice courts or justices of the peace.

HISTORY: CL 1948, 730.351.

COMPILERS' NOTE: The reference to Act No. 229 of the Public Acts of 1911 should have been to Act No. 299 of the Public Acts of 1911, being Compilers' 730.1 et seq.

730.352 Resolution; adoption, filing.

Sec. 2. Said resolution when passed shall be filed with the clerk of said city who, within 10 days of said filing, shall file a certified copy of said resolution with the clerk of the justice court now functioning or operating in said city.

HISTORY: CL 1948, 730.352.

730.353 Duties of clerk; notice, publication; name of court judges; entitling writs and process; pending litigation.

Sec. 3. It shall be the duty of the clerk of said justice court to set a date for the court to start using the new designation "municipal" not more than 90 days from the date said notice is so received and said clerk shall give public notice of said changes and the date thereof. Said notice shall be given by public notice printed in some newspaper of general circulation in said city. After said date said court shall be designated and

known as the municipal court of the city passing such resolution. The judges of said court shall bear the title and be known as municipal judges of said court, and all process, writs and other papers and documents shall be entitled in said municipal court to the same effect and purpose as though the title or term justice were in continued use. Nothing contained herein shall in any way affect pending litigation, past records or dockets, except future process, executions, writs and documents necessary to the proper functioning of said court shall be in the new name of the court, viz. the municipal court of the city adopting said resolution.

HISTORY: CL 1948, 730.353.

730.354 Justice of the peace; change of name, resolution.

Sec. 4. In all cities whose charter provides for the election of justice or justices of the peace for said city, said resolution shall provide for the change of name from justice or justices to municipal and they shall henceforth be so designated on all ballots and matter pertaining to their election and qualification for that office.

HISTORY: CL 1948, 730.354.

Act 179, 1951, p. 226; Eff. Sep. 28.

AN ACT to provide an optional method of drawing juries in justice courts or in any court having the civil and criminal jurisdiction of a justice court, in civil and criminal cases, in cities, and in which a court clerk is provided for by law.

The People of the State of Michigan enact:

730.401 Juries in justice courts; impaneling and drawing.

Sec. 1. Juries in civil and criminal cases in justice courts or in any court having the civil and criminal jurisdiction of justices of the peace, in cities, and having a clerk, may be impaneled and drawn in the manner prescribed in this act.

HISTORY: New 1951, p. 226, Act 179, Eff. Sep. 28.

730.402 Juries; duties of city clerk and assessing officer.

Sec. 2. The city clerk and city assessor or other assessing officer shall, on or before October first of each year, prepare a list in duplicate of the names and addresses of not less than 1 resident of the county for each 1,000 inhabitants of such county, according to the last federal census taken previous to the preparation of any such list, and in no case shall less than 100 names be placed on such list. The above named officials shall then sign each copy and shall certify thereon that every person whose name and address appears thereon is to the best of his knowledge legally qualified and that such list is a true list of the names and addresses of the persons selected. The said officials shall then, on or before October first, file 1 copy with the city clerk and 1 copy with the clerk of the court; and juries may be drawn during the ensuing calendar year from the said list in the manner and under the conditions hereinafter set forth.

HISTORY: New 1951, p. 226, Act 179, Eff. Sep. 28.

730.403 Juries; additional list of names and addresses, disposition.

Sec. 3. At any time the judge or justice, or judges or justices, as the case may be, shall so request of the city clerk in writing, the aforesaid officials shall prepare and file an additional list of names and addresses of persons having the qualifications prescribed by this act, within such time and containing the number of names specified in

such request; and the names of persons listed therein shall be placed by the clerk of the court in the box hereinafter provided for in receptacles as herein provided for, and with the names already in such box, used in the drawing of juries during the balance of the calendar year.

HISTORY: New 1951, p. 226, Act 179, Eff. Sep. 28.

730.404 Juries; qualifications; persons over 70 years of age.

Sec. 4. The officials preparing jury lists shall select only residents of and qualified and registered electors of the county in which such city is situated; and in making such selection they shall take the names of such only as are not exempt from serving on juries, by the provisions of this act, who are in possession of their natural faculties, and are not infirm or decrepit, of good character, of approved integrity, of sound judgment, and well informed in and conversant with the English language, and free from all legal exceptions: Provided, That the name of any person more than 70 years of age who is otherwise eligible may be placed on a list, but such a person if drawn as a juror shall be excused upon his request, and the fact that such person is more than 70 years of age shall not be ground for challenge for cause.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.405 Juries; exemption from serving.

Sec. 5. Any person shall be exempt from serving on a jury drawn in accordance with the provisions of this act if such person is exempt from serving on juries in the circuit courts of the state, except as is otherwise provided by this act.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.406 Juries; reasons for exemption.

Sec. 6. Any person shall be entitled to be excused from serving on a jury drawn in accordance with the provisions of this act for the same reasons he would be entitled to be excused from serving as a juror in the circuit courts of the state, except as is herein otherwise provided.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.407 Juries; slips, receptacles; custody.

Sec. 7. The clerk of the court shall write the name and address of each person named on any list, on a separate slip of paper, together with such other information as may aid in communicating with such person. Each slip shall then be placed in a separate receptacle so designed as to conceal the information contained on the slip, and all the receptacles containing the slips shall then be placed in a box to be kept for that purpose, which shall be kept locked when not being used to draw a jury. The clerk of the court shall be the custodian of the slips, receptacles, box, lock, and key.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.408 Juries; drawing, method; compelling appearance.

Sec. 8. When a jury is to be drawn, the clerk of the court shall bring said box into open court, and draw therefrom such names, one at a time, as may be needed to impanel the jury, and the parties or their attorneys may be present. Any person whose name is drawn may be compelled to appear by subpoena, or the justice or judge may in his discretion communicate with such person by telephone or in any other manner, or cause such person to be so communicated with. If in the discretion of the judge or justice before whom such trial is held, any person whose name is drawn cannot be reached or brought into court with sufficient promptness or within a reasonable time, he may order such name passed and another drawn: Provided, however, That no per-

son shall be adjudged guilty of contempt of court for failure or refusal to appear as a juror under the provisions of this act unless he has been duly served with a subpoena to appear signed by the judge or justice.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.409 Juries; slips, replacing.

Sec. 9. All slips drawn shall be replaced in the receptacle and returned to the box, after the drawing of a jury has been completed, whether or not any or all of the persons named on said slips served on such jury, and used with the names already in the box in the drawing of subsequent juries.

HISTORY: New 1951, p. 227, Act 179, Eff. Sep. 28.

730.410 Juries; alphabetical list kept.

Sec. 10. The clerk of the court shall keep an alphabetical list of the names and addresses of all persons who have served on juries drawn under this act, together with the date such persons served, and whether a civil or criminal trial; if a criminal trial the name of the respondent; if a civil trial the file number and the names of plaintiff and defendant.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.411 Deputy clerk; authority.

Sec. 11. Any deputy clerk of any court affected by the provisions of this act is hereby authorized to perform all duties and is granted all powers, so far as the duties imposed and powers granted by this act are concerned, which the clerk is herein authorized and enjoined to perform.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.412 Number of jurors.

Sec. 12. Juries in all cases drawn in accordance with the provisions of this act shall consist of 6 persons, or less if agreed to by both parties.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.413 Charge of jury.

Sec. 13. Any deputy sheriff of the county or police officer of the city in which a court drawing a jury by virtue of the provisions of this act is situated, or any duly authorized process server of such court, may be authorized by the justice or judge conducting the trial to have charge of the jury. Before entering upon such duty, the justice or judge shall administer to such officer the same oath that a person having charge of a jury in a jury trial in justice court in this state is or may by law be required to take.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.414 Excusing from service; challenge.

Sec. 14. No person shall be required to serve as a juror more than twice within 1 year. Any person who has served in said court as a juror 4 or more times within a year shall be excused by the court upon his request, and may be challenged for cause by any party to a cause.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.415 Challenging; time.

Sec. 15. Any person drawn as a juror by virtue of the provisions of this act may be challenged either at the time of drawing or at the time of trial for cause for the same reasons he could be challenged for cause if drawn as a juror on a jury drawn in accordance with the statutes providing for jury trials in justice courts in townships, in addition to the grounds for challenge for cause provided for in this act, unless inconsistent with the provisions of this act.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.416 Peremptory challenges.

Sec. 16. In a criminal trial the people and the respondent shall each be entitled to 4 peremptory challenges and no more. In a civil trial the plaintiff and the defendant shall each be entitled to 2 peremptory challenges and no more.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.417 Laws governing.

Sec. 17. The provisions of existing laws relative to civil and criminal juries and jury trials in justice courts in townships shall govern in jury trials in which the jury is drawn in accordance with the provisions of this act, unless contrary to the provisions of this act or to the provisions of other laws or charter provisions to which such court is subject: Provided, That the only qualifications necessary to being placed on a jury list and serving as a juror are those stated in section 4 of this act.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.418 Optional method of drawing juries.

Sec. 18. This act shall not be construed to repeal the provisions of any other law in effect in a particular city providing a method of drawing juries, but the justice or judge conducting a trial may in any case order a jury drawn according to the provisions of this act or in any other way permitted by law, and this act shall be an optional method of drawing juries.

HISTORY: New 1951, p. 228, Act 179, Eff. Sep. 28.

730.419 List filed before act effective.

Sec. 19. This act shall not go into effect in any city to which it applies unless the judge or judges, or justice or justices, notify the city clerk and city assessor or assessing officer in writing to prepare and file lists of names as is provided for herein. The first list shall be filed as soon as it is prepared and may be used to draw juries at the expiration of 2 months from the date of filing and until the first regular annual list provided for herein goes into effect.

HISTORY: New 1951, p. 229, Act 179, Eff. Sep. 28.

Act 5, 1956, p. 6; Eff. Aug. 11.

AN ACT to establish and promote a uniform system of municipal courts in cities; to consolidate justice courts in cities into a system of municipal courts; to change the name of existing justice courts and justices of the peace in cities to municipal courts and municipal judges; to promote uniformity in practice and procedure in such courts; to prescribe the powers, duties and functions of such courts; and to provide for substitute municipal judges in cities in cases of death, absence, disability or removal of the regularly elected or appointed municipal judges and in cases where temporary judicial assistance is needed in such courts. Am. 1957, p. 210, Act 179, Eff. Sep. 27.

The People of the State of Michigan enact:

730.501 Municipal courts; salaried judges, designation.

Sec. 1. (1) In any city in this state now or hereafter having a population of 15,000 or more, according to the latest or each succeeding federal decennial census, having a justice court with 1 or more justices of the peace who are paid a salary in lieu of fees, whether said justices and justice courts are provided for by city charters or by any statutes of this state, such courts shall hereafter be designated as municipal courts and the justices thereof as municipal judges; said change shall in no way affect or change the present laws and statutes of this state, except that the word "municipal" shall replace "justice" with full force and effect and with like intent whenever and wherever the

said word "justice" appears in said acts or general or special laws of the state or the municipal charter of any such city with reference to justice courts or justices of the peace.

Adoption of act by ordinance.

(2) Any city having a population of less than 15,000 and a justice of the peace who is paid a salary in lieu of fees and required to be an attorney may adopt by ordinance the provisions of this act and such court shall be deemed a municipal court under this act for all purposes while said ordinance is in effect.

Adoption of act by charter provision.

(3) Any city may provide in its charter, whether in the first instance or by amendment or revision, for a municipal court under the provisions of this act. If any city provides in its charter for a municipal court to come into being at the end of the term or terms of its incumbent justices of the peace, it shall provide that each municipal judge, including the first incumbent, shall be an attorney at law as required in section 8 of this act.

HISTORY: New 1956, p. 6, Act 5, Eff. Aug. 11;—Am. 1957, p. 211, Act 179, Eff. Sep. 27;—Am. 1959, p. 310, Act 209, Imd. Eff. Jul. 30.

730.501a Uniform municipal court act; definitions.

Sec. 1a. The term "municipal court" or "municipal judge" whenever used in this act shall be deemed to include all municipal courts and judges heretofore or hereafter established or authorized under the provisions of Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948, and Act No. 269 of the Public Acts of 1933, as amended, being sections 730.101 to 730.159 of the Compiled Laws of 1948; and all of the provisions of this act shall be deemed to apply to such courts, in addition to and not in derogation of the provisions of the statutes and charters under which such courts have been or may hereafter be organized.

HISTORY: Add. 1957, p. 121, Act 101, Eff. Sep. 27.

730.502 Name of court; title of judges, entitlement of papers.

Sec. 2. It shall be the duty of the clerk or judge of each of said justice courts to start using the new designation "municipal court" and "municipal judge" upon the effective date of this act, and said clerk or judge shall give public notice of said changes by public notice printed in some newspaper of general circulation in said city at least 10 days prior to the effective date hereof. Said court shall hereafter be designated and known as the municipal court of said city, and the judge or judges thereof shall bear the title and be designated as municipal judges of said court; and all process, writs and other papers and documents shall be entitled in said municipal court to the same effect and purpose as though the title or term "justice" were in continued use. Nothing herein contained shall in any way affect pending litigation, past records or dockets, except future process, executions and documents necessary to the proper functioning of said court shall be in the name of the municipal court of said city.

HISTORY: New 1956, p. 6, Act 5, Eff. Aug. 11.

730.503 Candidates; designation; incumbency designation.

Sec. 3. In all cities affected by this act, candidates for election to such courts shall henceforth be designated as candidates for the office of municipal judge. An incumbent who is a candidate, upon his request in writing, may have printed below his name on the ballot the designation "municipal judge".

HISTORY: New 1956, p. 7, Act 5, Eff. Aug. 11;—Am. 1959, p. 310, Act 209, Imd. Eff. Jul. 30.

730.504 Incumbent judges or justices; nonapplication of act.

Sec. 4. This act shall in no way affect the term of office of any municipal judge or justice of the peace now holding office under the provisions of any city charter or any of the statutes of this state.

HISTORY: New 1956, p. 7, Act 5, Eff. Aug. 11.

730.505 Incumbent judges or justices; continuation, vacancies.

Sec. 5. All justices of the peace whose courts are affected by this act are hereby constituted judges of the municipal court of the city wherein they were severally justices of the peace immediately prior to the taking effect of this act and shall hold office for the remainder of the respective terms for which they were elected justices of the peace. Whenever a vacancy shall occur in the office of any judge of such court by death, resignation, removal from office or from any other cause, such vacancy shall be filled in the same manner as heretofore under the provisions of the respective city charters or the general laws of this state.

HISTORY: New 1956, p. 7, Act 5, Eff. Aug. 11.

730.506 Substitute judges; assistance of other judges.

Sec. 6. In case of the absence, disability or disqualification of any municipal judge in any court affected by this act, or in any other court organized under any other municipal court act of this state, in which the judge is paid a salary in lieu of fees and is required to be an attorney at law, and having the jurisdiction of a justice of the peace, in a city, or having jurisdiction to hear and determine violations of the ordinances of said city, or both, any other municipal judge of any city in this state, under this act or any other municipal court act of this state, who is paid a salary in lieu of fees and who is an attorney at law, shall be qualified to act in the place of and for such municipal judge in the performance of any of the duties imposed upon him by law in all matters civil and criminal and in all matters pertaining to violations of the ordinances of such city, under the conditions and in the manner hereinafter set forth; and such substitute judge shall, when called upon in the manner and under the conditions set forth, so act: Provided, That in case any municipal judge of any of the foregoing courts shall be unable to hear and determine cases pending in his court without unreasonable delay, because of the volume of cases awaiting determination, he may request and obtain the assistance of any other municipal judge of any city in this state, as above defined, to assist him in the trial of cases and the performance of the duties imposed upon him by law in all matters criminal and civil and in all matters pertaining to violations of the ordinances of such city, under the conditions and in the manner hereinafter set forth.

HISTORY: New 1956, p. 7, Act 5, Eff. Aug. 11.

730.507 Substitute judges; compensation.

Sec. 7. Any city may by ordinance fix the compensation to be paid substitute municipal judges for such services, the procedure to be followed in calling upon them to act, and the time and manner of compensation: Provided, however, That the legislative body of any city may provide in its budget an appropriation for the payment of substitute judges, and when such appropriation is provided, the municipal judge of such city may engage the services of such substitute judges as may be necessary to carry out the duties of the court, and upon presentation of a voucher for such services, approved by the municipal judge requesting such services, such substitute judge shall be compensated from the appropriation so made: Provided further, That unless a city shall provide by ordinance for the compensation of substitute judges, or make an appropriation in its budget for such substitute judicial services, no such substitute judge shall be entitled to compensation from such city.

HISTORY: New 1956, p. 7, Act 5, Eff. Aug. 11.

730.508 Judges; qualifications, terms, election; compensation, jurisdiction, practice and procedure.

Sec. 8. The qualifications, term of office, time and manner of election, compensation, jurisdiction, powers and duties of the judges of the municipal court of any city affected by the provisions of this act, and the practice and procedure in such municipal courts, shall be governed by the provisions of existing laws relating to justices of the peace in such cities, and to the practice and procedure in the courts of such justices of the peace, except so far as the same or any part thereof are expressly repealed by or are inconsistent with any of the provisions of this act: Provided, however, That no person shall be eligible to qualify for judge of any such court who is not a regularly licensed attorney and counselor at law licensed to practice in the state of Michigan: Provided further, That any incumbent justice at the effective date of this act who is not an attorney at law shall be eligible for reelection as municipal judge of such court: Provided further, That no municipal judge, associate municipal judge or any partner of such judge or associate judge shall practice law in the court to which he was elected or appointed.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.509 Files, records and dockets.

Sec. 9. All files, records and dockets belonging to or appertaining to the office of the justices of the peace in office in any city affected by the provisions of this act shall be filed and safely kept in the office of the clerk of the municipal court of such city, and such files, records and dockets shall in all respects and for all purposes constitute records of the municipal court of such city.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.510 Jurisdiction of successor judges.

Sec. 10. The judges of any such municipal court shall in all respects be considered the successors in office of the several justices of the peace whose courts are consolidated by this act, and shall have and exercise the same powers and authority in respect to all judgments rendered and matters pending before such justices of the peace as is by law conferred upon successors in office of justices of the peace in such city.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.511 Set time for trial; hearing or action.

Sec. 11. When any cause or matter shall be set for trial, hearing, or the taking of any action, at a certain time, it shall not be necessary to wait any length of time after said set time before proceeding to trial, hearing, or the taking of action, in such cause or matter.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.512 Judges; rule making power.

Sec. 12. In any city affected by the provisions of this act, the judges of the municipal court of such city shall have the right to adopt rules governing the form of all summons, writs and other process issued by such court, the time and manner of filing and serving pleadings and the forms thereof, the dismissal and adjournment of causes, the entry and setting aside of defaults and default judgments, the extension of time for pleading, the method of selecting the presiding judge and the period of time he shall act as such, and all other matters of pleading, practice and procedure not inconsistent with the provisions of this act or of the law. They may by rule provide that the clerk of such court or any of his deputies, may sign dockets and executions, and may approve any bond required in any civil action.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.513 Presiding judge; designation, term, absence.

Sec. 13. When this act becomes effective in any city, the judges of the municipal court of such city shall designate 1 of their number to act as presiding judge for such time as may be fixed by rule. In any city which has 2 municipal judges, they shall alternate as presiding judge, for such periods of time as may be fixed by rule, and in the absence or inability of the presiding judge, the other shall act as such. In any city which has more than 2 municipal judges, they shall be designated in such manner, and serve for such periods of time, as shall be fixed by rule, and in the absence or inability of the presiding judge, another shall act as such: Provided, however, That in any such city having 2 municipal judges, 1 of whom is an associate elected on a part-time basis, the one elected on a full-time basis shall be the presiding judge of said court. In any city which has more than 2 municipal judges, they shall be designated in such manner and serve for such periods of time as shall be fixed by rule. The presiding judge may designate some other judge of such court to act as such during his absence.

HISTORY: New 1956, p. 8, Act 5, Eff. Aug. 11.

730.514 Presiding judge; powers and duties, motions, bonds, defaults, rule powers.

Sec. 14. The presiding judge of any such municipal court shall, in addition to having and exercising all powers and duties appertaining to his office as judge of such court, have general superintendence of the civil business of the court. He shall have the power to assign and reassign for trial, or other necessary disposition, at such time and in such manner as he shall determine, to any of the judges of such court any civil suit, motion, proceeding or matter of business instituted or pending in such court. In all civil suits and proceedings hereafter instituted or pending in any such municipal court, the presiding judge thereof, or such other judge as he may designate, shall have power to hear and determine all motions made therein, to approve all bonds required by law to be approved by a justice of the peace, to enter and set aside defaults and default judgments upon such terms and conditions as he may deem just, and in general to dispose of any interlocutory and miscellaneous matter arising in any such suit. Such presiding judge shall also have such other powers and duties not inconsistent with the provisions of this act as the judges of such court may by rule provide.

HISTORY: New 1956, p. 9, Act 5, Eff. Aug. 11.

730.515 Motions; form, filing, hearing, notices.

Sec. 15. The judges of such court may by rule require that all motions made in such court shall be in writing. All written motions shall be filed with the clerk of the court who shall set a date for hearing thereon before the presiding judge, or some other judge to whom the presiding judge may assign the hearing and disposition of such matters, in accordance with the rules and practice of such court. The moving party shall cause to be served upon the opposite parties or their attorneys copies of such motions and notices of hearing thereof within the time and in the manner fixed by the rules and practice of such court.

HISTORY: New 1956, p. 9, Act 5, Eff. Aug. 11.

730.516 Setting aside verdict or judgment; new trial; procedure.

Sec. 16. In any city affected by the provisions of this act, the judge before whom any civil or criminal cause was tried shall have the same power to set aside a verdict or judgment and grant a new trial thereon, upon legal cause therefor, as circuit courts of the state possess: Provided, That a motion therefor be made in writing and filed with the clerk of the court within 5 days after rendition of the verdict or judgment in said cause, setting forth plainly and briefly the reasons upon which it is made. Affidavits setting forth the facts relied upon shall be filed with said motion. A copy of such motion with the supporting affidavits shall be served upon the adverse party or his attor-

ney at least 2 days before the hearing thereof. Such motion shall be submitted and heard within 1 week after the date of filing, and shall be determined within 2 days after it shall have been submitted and heard. The time for taking an appeal from the judgment or verdict, in case such motion be not granted, shall begin to run from the day such motion is overruled. In no case shall the pendency of such motion stay the issuing and levy of an execution, but in case of a levy under execution pending such motion, no sale of the property so levied upon shall be advertised or made until the final determination of such motion. If such motion be granted, any property levied upon shall be returned forthwith to the adverse party. In case of the absence of the judge before whom such case was tried, the presiding judge or any other judge designated by the presiding judge shall have the authority to hear and determine any such motion.

HISTORY: New 1956, p. 9, Act 5, Eff. Aug. 11.

730.517 Instructions to jury; requests to charge.

Sec. 17. In any city affected by the provisions of this act, it shall be the duty of the judge presiding in all jury trials to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of such case. Either party may present written requests to charge to the judge, who shall present all of such requests to the jury as he shall deem to correctly state the law applicable to the case.

HISTORY: New 1956, p. 9, Act 5, Eff. Aug. 11.

730.518 Directed verdicts; condition.

Sec. 18. In any city affected by the provisions of this act the judge presiding in any jury trial shall have the same power to direct a verdict for either party as is or may be possessed by judges of the circuit courts of the state.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11.

730.519 Directed verdicts; reserved decision in civil cases, judgment notwithstanding verdict.

Sec. 19. In any city affected by the provisions of this act, in all civil jury trials in such municipal court, if either party shall at the close of the testimony, and before the case is submitted to the jury, request a directed verdict in his favor, the judge presiding may reserve his decision thereon, and submit the case to the jury under proper instructions as to the law applicable to such case. After the case is thus submitted to the jury, and after receiving and recording the verdict of the jury and before judgment is entered in said cause, the judge may hear arguments of counsel for and against said request, but in all cases he shall receive and record the verdict of the jury as rendered. If the judge shall then decide as a matter of law that the party requesting the directed verdict was entitled thereto, and if the verdict of the jury is adverse to the party making such request, the judge shall enter his decision and give judgment in accordance with such decision notwithstanding the verdict entered.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11.

730.520 Judgment in case of disagreement of jury.

Sec. 20. In any city affected by the provisions of this act, in all civil jury trials in which the jury disagrees and is discharged by the judge, either party may on motion and notice to the opposite party request the entry of judgment upon the evidence and proofs taken, within 7 days after the discharge of such jury, and if the judge before whom such case was tried shall decide as a matter of law that a verdict should have been directed for either party, he shall enter judgment accordingly.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11.

730.521 Civil process; service anywhere in county.

Sec. 21. In any city affected by the provisions of this act, any civil process issued out of the municipal court of such city may be served in any part of the county in which such city is located.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11.

730.522 Concurrent jurisdiction; replevin.

Sec. 22. In addition to all the general jurisdiction of justices of the peace, every municipal court affected by the provisions of this act shall have concurrent jurisdiction in all civil actions wherein the debt or damages claimed does not exceed \$1,500.00, and in all actions of replevin wherein the value of the property involved does not exceed \$1,500.00. This section shall apply notwithstanding any jurisdictional limitations contained in any charter or statute under which any such municipal courts heretofore have been created and established.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11;—Am. 1961, p. 314, Act 196, Eff. Sep. 8;—Am. 1965, p. 233, Act 147, Imd. Eff. Jul. 12.

730.523 Appeals in criminal cases.

Sec. 23. Appeals in criminal cases may be taken as a matter of right from the municipal court of any such city to the circuit court of the county in which such city is located in the same manner and time as is provided by law for appeals in criminal cases from justice courts or as otherwise provided by law.

HISTORY: New 1956, p. 10, Act 5, Eff. Aug. 11;—Am. 1963, 2nd Ex. Sess., p. 71, Act 54, Imd. Eff. Dec. 27.

730.524 Attorney fees taxable.

Sec. 24. In all cases of contested trials, where an appearance has been entered by an attorney in behalf of the opposite party, the prevailing party, if he be the plaintiff and was represented by a regularly licensed attorney, shall be entitled to tax the sum of \$10.00 in case of rendition of a judgment of \$300.00 or under, \$15.00 in the case of rendition of a judgment of over \$300.00 but not more than \$500.00, and \$25.00 in case of rendition of a judgment of over \$500.00; and if the defendant is the prevailing party, he shall be entitled to tax the sum of \$10.00 in case the plaintiff sought in his pleadings to recover a judgment of \$300.00 or less, \$15.00 in case the plaintiff sought in his pleadings to recover a judgment of over \$300.00 but not more than \$500.00, and \$25.00 if the plaintiff in his pleadings sought to recover a judgment of over \$500.00, as an attorney fee.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11.

730.525 Matters returnable before presiding judge.

Sec. 25. All writs, summons, proceedings or matters of any kind, which by law are made returnable before a justice of the peace and are not herein otherwise provided for, shall be returnable before the presiding judge of the municipal court of any city affected by the provisions of this act.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11.

730.526 Conduct of trial by litigants or attorneys; contempt for violation.

Sec. 26. Individual litigants may conduct the trial of their own causes in the municipal court of any city affected by the provisions of this act, but it shall be unlawful for any one excepting an attorney at law to conduct the trial of other than their own individual suits in any such court. Any person violating the provisions of this section shall be guilty of contempt of court and may be punished therefor by any judge of the municipal court or any circuit judge of the county in which such city is located, by a fine of not more than \$50.00 or by imprisonment in the county jail of such county for a period of not more than 30 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11.

730.527 Bail; preliminary examinations, recognizances in criminal cases.

Sec. 27. When a warrant has been issued by a judge of the municipal court of any city affected by the provisions of this act, for a criminal offense not cognizable by a justice of the peace, the person charged with such offense may be brought before any judge of such municipal court, who may fix the amount of bail or let such person to bail, or both, and set a date for the examination provided by law before the judge who signed such warrant, and if the person charged with such offense shall waive examination, he may fix the amount of bail or let him to bail, or both, and bind him to appear before the circuit court of the county or any court having jurisdiction of said cause for trial, provided the offense is one for which a justice of the peace has power to let to bail. When a warrant has been issued by any such municipal judge for an offense against the laws of the state of Michigan cognizable by a justice of the peace and the person charged has been arraigned and the amount of bail has been set, a recognizance for the appearance of the person charged to answer for such offense may be taken and entered into by any clerk or deputy clerk of such court.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11.

730.528 Application of statutes and charters; fees.

Sec. 28. All the provisions of general statutes, local or special acts, or charter provisions, relating to justices of the peace and to justice courts in any such city, shall apply to the municipal judges and to the municipal court of any city affected by the provisions of this act. The legislative body of any city may provide for a fixed fee not exceeding \$5.00, in all civil cases in lieu of the fees for justices which are provided by statute. Nothing herein shall be deemed to change the fees for jurors, witness fees and mileage, attorney fees or constable's fees and mileage which are provided by statute.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11;—Am. 1957, p. 86, Act 79, Eff. Sep. 27.

730.529 Judgments; signing by judges.

Sec. 29. Judgments rendered in any such municipal court shall be signed by the judge by or before whom such cause was tried.

HISTORY: New 1956, p. 11, Act 5, Eff. Aug. 11.

730.530 Conciliation division; judges, clerks.

Sec. 30. Any municipal court affected by the provisions of this act may provide for a conciliation division of such court in which civil actions wherein the debt or damages claimed do not exceed the sum of \$100.00, excepting replevin suits, suits commenced by writ of attachment and suits commenced by civil warrant, except as hereinafter provided, shall be brought and settled in an informal manner. The judges of the court are hereby constituted conciliators of the conciliation division, and shall act as such as part of their official duties. Any municipal judge may authorize any clerk or deputy clerk of the court to act as conciliator in any case.

HISTORY: Add. 1957, p. 121, Act 101, Eff. Sep. 27.

730.531 Conciliation division; summons, default, hearings, adjournment.

Sec. 31. Any person having a claim within the jurisdiction of the conciliation division of any such court may appear before the clerk or any deputy clerk of such court and state his claim without formality or written pleadings. The clerk shall thereupon issue a summons in substantially the following form:

STATE OF MICHIGAN

The municipal court for the City of To

You are notified that (name of plaintiff) has commenced suit against you for (state nature of claim and amount).

Be in the above court on the day of, 19...., at o'clock in the.....

noon, or judgment will be taken against you. Bring witnesses and papers if any. Be prepared for trial at that time.

..... Clerk

By Deputy Clerk.

The summons shall notify the defendant to appear for trial at a certain time and place not less than 6 nor more than 14 days from the date of issue, and shall be served at least 2 days before the date set therein for trial. The clerk or deputy clerk, on request of the plaintiff, may notify the defendant by telephone or by mail, in which case the clerk's fee for such service shall be 25 cents, for the use of the city. If the defendant does not appear at the date and time set, no judgment shall be taken unless service was had upon him by summons, and the case may be adjourned and summons issued and served personally upon the defendant. If the defendant does not appear at the date and time set, after personal service of the summons upon him, the clerk shall forthwith enter his default, and the plaintiff may thereupon or at any time within 15 days thereafter prove his claim before a conciliator of the court. Hearings shall be informal and may be private. The conciliator may suspend rules of evidence and may dispense with the swearing of witnesses. There shall be no adjournments unless in the opinion of the conciliator an adjournment is necessary to prevent a miscarriage of justice.

HISTORY: Add. 1957, p. 121, Act 101, Eff. Sep. 27.

730.532 Conciliation division; settlement; judgment, payment.

Sec. 32. The parties prior to or at the hearing may make a settlement upon such terms as they may agree upon, in which case it shall be reduced to writing and signed by the parties, and the settlement shall be filed in the cause and in all respects shall be considered as a judgment rendered by the conciliator. Any judgment rendered in such conciliation division may provide for its satisfaction by payment to the clerk of the court or to the plaintiff of either a lump sum, or by installments in such amounts and at such times as the conciliator may deem just and reasonable under the circumstances. The presiding municipal judge or the conciliator in the cause thereafter for good cause shown may alter the amount of installment payments and the time of payment of such judgments, and authorize execution or garnishment to issue thereon where it appears that the defendant has not paid according to the terms of the agreement or order.

HISTORY: Add. 1957, p. 122, Act 101, Eff. Sep. 27.

730.533 Conciliation division; transfer to regular division; costs.

Sec. 33. Either party to a suit in the conciliation division shall be entitled to make demand, before the commencement of the hearing in his cause, to transfer the cause to the regular division; the conciliator shall then transfer the cause to the regular division of the court. At the termination of the suit, the judge hearing the same shall have discretion to save the opposite party harmless from costs caused by the transfer to the regular division, if in his opinion the cause should have been heard in the conciliation division.

HISTORY: Add. 1957, p. 122, Act 101, Eff. Sep. 27.

730.534 Michigan uniform municipal court act; short title.

Sec. 34. This act shall be known and may be cited as the "Michigan uniform municipal court act".

HISTORY: Add. 1957, p. 122, Act 101, Eff. Sep. 27.

Act 184, 1956, p. 340; Eff. Aug. 11.

AN ACT to provide that municipal courts of the state in counties now or hereafter having a population of 395,000 or more according to the latest or each succeeding federal decennial census, and having a salaried judge or judges, shall have concurrent jurisdiction of all prosecutions and proceedings for all misdemeanors arising under the laws of this state and committed within the corporate limits of any such city, where the maximum penalty does not exceed a fine of \$500.00 and a jail sentence of 1 year.

The People of the State of Michigan enact:

730.551 Municipal courts; criminal jurisdiction, saving clause.

Sec. 1. In addition to such jurisdiction as previously conferred upon them, municipal courts of the state in counties now or hereafter having a population of 395,000 or more according to the latest or each succeeding federal decennial census, and having a salaried judge or judges, shall have original and concurrent jurisdiction of all prosecutions and proceedings in behalf of the people of this state for all crimes, misdemeanors and offenses arising under the laws of this state and committed within the corporate limits of the cities in which said courts are located, and for which the maximum penalty does not exceed a fine of \$500.00 and a jail sentence of 1 year, and shall have power to issue all lawful writs and process, and to do all lawful acts which may be necessary and proper to carry into effect the jurisdiction given by this act. This act shall not in any way affect the jurisdiction of the circuit courts of the counties in which such cities are located or any case pending in such circuit courts when this act shall take effect, nor the validity of any recognizance heretofore made to such circuit courts.

HISTORY: New 1956, p. 341, Act 184, Eff. Aug. 11.

Act 42, 1961, p. 43; Eff. Sep. 8.

AN ACT to define the jurisdiction, powers and procedures of municipal courts or justice of the peace courts in any city composed of territory lying in 2 or more counties.

The People of the State of Michigan enact:

730.571 Courts in cities lying in 2 or more counties; jurisdiction.

Sec. 1. Notwithstanding the provisions of the city charter, the municipal court or the justice of the peace court in any city now or hereafter having a population of not less than 20,000 nor more than 30,000 and lying in 2 or more counties shall have jurisdiction, both civil and criminal, in each of the counties, and any judge or justice of such court may hear, try and determine all causes, civil or criminal in nature, arising in any county in which any part of such city lies, to the same extent as though such city were wholly located in such county, any other provision of law to the contrary notwithstanding.

HISTORY: New 1961, p. 43, Act 42, Eff. Sep. 8.

730.572 Fines and costs; disposition.

Sec. 2. All fines and costs in cases arising out of the violation of the penal laws of the state collected by a municipal court or justice of the peace court shall be transmitted to the treasurer of the county in which the crime was committed. Payments to the mu-

municipal court or justice of the peace court on account of services rendered in cases arising out of a violation of the penal laws of the state shall be made by the county in which the crime was committed.

HISTORY: New 1961, p. 43, Act 42, Eff. Sep. 8.

730.573 Appeals.

Sec. 3. Appeals in criminal cases shall be taken to the circuit court of the county in which the crime was committed. Return on the appeal shall be made to the circuit court of such county. Returns of the municipal court or justice of the peace court on examination shall be made to the circuit court of the county in which the crime was committed. Appeals in civil cases and in cases arising out of the violation of municipal ordinances may be taken to the circuit court of any county in which the city lies, and the return of the municipal court or justice of the peace court on such appeal shall be filed in the office of the clerk of the county to which appeal is taken.

HISTORY: New 1961, p. 43, Act 42, Eff. Sep. 8.

730.574 County officers.

Sec. 4. The sheriff, prosecuting attorney, and their deputies or assistants, of each county in which any part of the city lies shall have jurisdiction and shall perform their respective duties before the municipal court or justice of the peace court of such city, whether said court is held in the same county in which they were elected or appointed or in another county, as to any offense occurring within the county in which they were elected or appointed.

HISTORY: New 1961, p. 43, Act 42, Eff. Sep. 8.

730.575 Scope of residence.

Sec. 5. Persons who are residents of any city lying in 2 or more counties shall be deemed to have residence in all counties in which the city is located for the purposes of (1) determining venue in civil actions before the municipal court of such city; (2) service of process issued out of the municipal court of such city; (3) qualifying for the office of municipal judge or justice of the peace; and (4) service on juries in any municipal or justice of the peace court in said city.

HISTORY: New 1961, p. 44, Act 42, Eff. Sep. 8.

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Act 328, 1931, p. 624; Eff. Sep. 18.

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

The People of the State of Michigan enact:

750.1 Michigan penal code; short title.

Sec. 1. Short title—This act shall be known and may be cited as “The Michigan Penal Code”.

HISTORY: CL 1948, 750.1.

FORMER ACTS: See acts listed under section 567 of this act. Also in running down the former acts of any particular section, reference should be made to the citation, including notes, set forth in the antecedent history of the section.

NOTE: Code of criminal procedure, see Compilers' § 760.1 et seq.

The catchlines following the act section numbers were incorporated as part of the act as enacted.

750.2 Rule of construction.

Sec. 2. Rule of construction—The rule that a penal statute is to be strictly construed shall not apply to this act or any of the provisions thereof. All provisions of this act shall be construed according to the fair import of their terms, to promote justice and to effect the objects of the law.

HISTORY: CL 1948, 750.2.

CONSTRUCTION OF STATUTES: See Compilers' § 8.3.

750.3 Civil rights or remedies not affected.

Sec. 3. Civil rights or remedies not affected—The provisions of this act are not to be deemed to affect any civil rights or remedies existing at the time when this act takes effect, by virtue of the common law or of any provision of statute.

HISTORY: CL 1948, 750.3.

750.4 Civil remedies preserved.

Sec. 4. Civil remedies preserved—The omission to specify or affirm in this act any liability to damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered, or enforced in any civil action or proceeding, for any act or omission declared punishable herein does not affect any right to recover or enforce the same.

HISTORY: CL 1948, 750.4.

CHAPTER I

DEFINITIONS

750.5 Crime; definition.

Sec. 5. Crime—A “crime” is an act or omission forbidden by law, and punishable upon conviction by any 1 or more of the following:

1. Death;
2. Imprisonment;
3. Fine;
4. Removal from office;
5. Disqualification to hold any office of trust, honor or profit under the state;
6. Other penal discipline.

HISTORY: CL 1948, 750.5.

750.6 Division of crime.

Sec. 6. Division of crime—A crime is:

1. A felony; or
2. A misdemeanor.

HISTORY: CL 1948, 750.6.

750.7 Felony; definition.

Sec. 7. Felony—The term “felony” when used in this act, shall be construed to mean an offense for which the offender, on conviction may be punished by death, or by imprisonment in state prison.

HISTORY: CL 1948, 750.7.

750.8 Misdemeanor; definition.

Sec. 8. Misdemeanor—When any act or omission, not a felony, is punishable according to law, by a fine, penalty or forfeiture, and imprisonment, or by such fine, penalty or forfeiture, or imprisonment, in the discretion of the court, such act or omission shall be deemed a misdemeanor.

HISTORY: CL 1948, 750.8. This section supersedes Sec. 11 of Ch. XXXV of Act 314 of 1915, being CL 1915, 13403;—CL 1929, 15150.

750.9 Misdemeanor; definition.

Sec. 9. Misdemeanor—When the performance of any act is prohibited by this or any other statute, and no penalty for the violation of such statute is imposed, either in the same section containing such prohibition, or in any other section or statute, the doing of such act shall be deemed a misdemeanor.

HISTORY: CL 1948, 750.9. This section supersedes Sec. 26 of Ch. 156 of the R.S. 1846, being CL 1857, 5845;—CL 1871, 7678;—How. 9280;—CL 1897, 11330;—CL 1915, 14997;—CL 1929, 16588.

750.10 Miscellaneous; definition.

Sec. 10. Miscellaneous—In this act:

The singular number includes the plural and the plural includes the singular.

The masculine gender includes the feminine and neuter genders.

The words “person”, “accused”, and similar words include, unless a contrary intention appears, public and private corporations, copartnerships, and unincorporated or voluntary associations.

The term “act” or “doing of an act” includes “omission to act”.

The word “property” includes any matter or thing upon or in respect to which any offense may be committed.

The word “indictment” includes information, presentment, complaint, warrant and any other formal written accusation.

The word “indictment”, unless a contrary intention appears, includes any count thereof.

The term “writing”, “written”, and any term of like import includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

HISTORY: CL 1948, 750.10.

750.10a Sexually delinquent persons; definition.

Sec. 10a. The term “sexually delinquent person” when used in this act shall mean any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16.

HISTORY: Add. 1952, p. 80, Act 73, Eff. Sep. 18.

CHAPTER II

ABDUCTION

750.11 Taking a woman and compelling her to marry; felony, penalty.

Sec. 11. Taking a woman and compelling her to marry—Any person who shall take any woman unlawfully and against her will, and by force, menace, or duress, compel her to marry him or any other person, or to be defiled, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

HISTORY: CL 1948, 750.11. This section supersedes Sec. 22 of Ch. 153 of the R.S. 1846, being CL 1857, 5732;—CL 1871, 7531;—How. 9096;—CL 1897, 11491;—CL 1915, 15213;—CL 1929, 16729.

750.12 Taking woman with intent to compel her to marry; felony, penalty.

Sec. 12. Taking a woman with intent to compel her to marry—Any person who shall take any woman unlawfully and against her will with intent to compel her by force, menace or duress, to marry him or any other person, or to be defiled, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.12. This section supersedes Sec. 23 of Ch. 153 of the R.S. 1846, being CL 1857, 5733;—CL 1871, 7532;—How. 9097;—CL 1897, 11492;—CL 1915, 15214;—CL 1929, 16730.

750.13 Enticing away female under sixteen; felony, penalty.

Sec. 13. Enticing away female under 16 years for purpose of marriage, etc.—Any person who shall take or entice away any female under the age of 16 years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of prostitution, concubinage, sexual intercourse or marriage, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.13. This section supersedes Sec. 24 of Ch. 153 of the R.S. 1846, being CL 1857, 5734;—CL 1871, 7533;—How. 9098;—CL 1897, 11493;—CL 1915, 15215;—CL 1929, 16731.

CHAPTER III

ABORTION

750.14 Miscarriage; administering with intent to procure; felony, penalty.

Sec. 14. Administering drugs, etc., with intent to procure miscarriage—Any person who shall wilfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, shall be guilty of a felony, and in case the death of such pregnant woman be thereby produced, the offense shall be deemed manslaughter.

In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed.

HISTORY: CL 1948, 750.14. This section supersedes Sec. 34 of Ch. 153 of the R.S. 1846, being CL 1857, 5744;—CL 1871, 7543;—How. 9106;—CL 1897, 11503;—CL 1915, 15225;—CL 1929, 16741; and Sec. 35 of Ch. 153 of the R.S. 1846, Add. 1867, p. 87, Act 61, Eff. June 27;—CL 1871, 7544;—How. 9109;—CL 1897, 11504;—CL 1915, 15226;—CL 1929, 16742.

750.15 Abortion, drugs or medicine; advertising or sale to procure; misdemeanor.

Sec. 15. Selling drugs, etc., to produce abortion—Any person who shall in any manner, except as hereinafter provided, advertise, publish, sell or publicly expose for sale any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion, shall be guilty of a misdemeanor.

Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same.

HISTORY: CL 1948, 750.15. This section supersedes and merges Sec. 1 of Act 138 of 1873, being How. 9312;—CL 1897, 11729;—CL 1915, 15523;—CL 1929, 16885; and Sec. 3 of Act 138 of 1873, being How. 9314;—CL 1897, 11731;—CL 1915, 15525;—CL 1929, 16887; and re-enacts Sec. 2 of Act 138 of 1873, being How. 9313;—CL 1897, 11730;—CL 1915, 15524;—CL 1929, 16886.

CHAPTER IV

ADULTERATING AND MISBRANDING

750.16 Adulteration; drugs or medicine, injurious to health; misdemeanor, penalty.

Sec. 16. Adulterating drugs or medicines in manner injurious to health—Any person who shall fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to render the same injurious to health, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.16. This section supersedes Sec. 3 of Ch. 159 of the R.S. 1848, being CL 1857, 5688;—CL 1871, 7728;—How. 9318;—CL 1897, 11406;—CL 1915, 15124;—CL 1929, 16693.

750.17 Repealed. 1968, p. 75, Act 39, Eff. Jan. 1, 1969.

Section related to adulteration and misbranding of food.

750.18 Adulteration; drugs or medicine; quality; misdemeanor.

Sec. 18. Adulterating drugs or medicines so as to injuriously affect quality—Any person who shall, except for the purpose of compounding in the necessary preparation of medicine, mix, color, stain or powder or order or permit any other person to mix, color, stain or powder any drug or medicine with any ingredient or ingredients or materials so as to affect injuriously the quality or potency of such drug or medicine, with intent to sell the same; and any person who shall sell or offer for sale any such drug or medicine so mixed, colored, stained or powdered, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.18. This section supersedes Sec. 2 of Act 254 of 1881, being How. 9325;—CL 1897, 11427;—CL 1915, 15145;—CL 1929, 16697.

NOTE: See note under Sec. 16.

750.19-750.24 Repealed. 1968, p. 75, Act 39, Eff. Jan. 1, 1969.

Sections related to adulteration of food, drink; candy; grain or feed; honey; maple sugar, molasses and syrup and to misbranding of same.

750.25 Adulteration of butter and cream.

Sec. 25. Adulteration of butter and cream—Any person, his agent or servant who shall, within this state, have in his possession with intent to sell, or offer or expose for sale, or sell as butter or as cream, any product which is adulterated within the meaning of this section, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by fine of not more than 500 dollars.

Butter shall be deemed to be adulterated within the meaning of this section:

1. If the fat content is not exclusively derived from cow's milk;
2. If it contains less than 80 per cent of milk fat;

Cream shall be deemed to be adulterated within the meaning of this section if it contains less than 18 per cent of milk fat or is not that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, or is not clean.

HISTORY: Am. 1937, p. 40, Act 32, Imd. Eff. May 7;—CL 1948, 750.25. This section as originally enacted superseded and merged Sec. 1 of Act 78 of 1925, being CL 1929, 5361; and Sec. 2 of Act 78 of 1925, being CL 1929, 5362; and Sec. 4 of Act 78 of 1925, being CL 1929, 5364; and re-enacts Sec. 3 of Act 78 of 1925, being CL 1929, 5363.

ADULTERATED BUTTER: See also Compilers' § 289.84.

Sec. 26.

HISTORY: Rep. 1933, p. 447, Act 259, Eff. Oct. 17. This section as originally enacted superseded Sec. 1 of Act 151 of 1913, being CL 1915, 6509;—CL 1929, 5464; and Sec. 2 of Act 151 of 1913, being CL 1915, 6510;—CL 1929, 5465; and Sec. 3 of Act 151 of 1913, being CL 1915, 6511;—Am. 1927, p. 127, Act 91, Eff. Sept. 5;—CL 1929, 5466; and Sec. 4 of Act 151 of 1913, being CL 1915, 6512;—CL 1929, 5467.

This section provided penalties for adulteration of sausage.

750.27 Adulterated cigarettes.

Sec. 27. Adulterated cigarettes—Any person within the state who manufactures, sells or gives to any one, any cigarette containing any ingredient deleterious to health or foreign to tobacco, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.27. This section supersedes Sec. 1 of Act 228 of 1909, being CL 1915, 5181;—CL 1929, 12830.

750.28 Cereal beverage with alcoholic content; furnishing to minors, penalty.

Sec. 28. Any person who shall sell, give or furnish to a minor, except upon authority of and pursuant to a prescription of a duly licensed physician, any cereal beverage of any alcoholic content under the name of "near beer", or "brew", or "bru", or any other name which is capable of conveying the impression to the purchaser that the beverage has an alcoholic content, shall be guilty of a misdemeanor.

HISTORY: Add. 1957, p. 392, Act 283, Eff. Sep. 27.

Original section 28 of Act 328 of 1931, p. 624, provided penalties for adulteration of coal or kerosene oil, and was repealed by Act 114 of 1939.

CHAPTER V

ADULTERY

750.29 Adultery; definition.

Sec. 29. Definition—Adultery is the sexual intercourse of 2 persons, either of whom is married to a third person.

HISTORY: CL 1948, 750.29. This section supersedes Sec. 2 of Ch. 158 of the R.S. 1846, being CL 1857, 5857;—CL 1871, 7692;—How. 9278;—CL 1897, 11689;—CL 1915, 15463;—CL 1929, 16818.

750.30 Adultery; punishment.

Sec. 30. Punishment—Any person who shall commit adultery shall be guilty of a felony; and when the crime is committed between a married woman and a man who is unmarried, the man shall be guilty of adultery, and liable to the same punishment.

HISTORY: CL 1948, 750.30. This section supersedes Sec. 1 of Ch. 158 of the R.S. 1846, being CL 1857, 5856;—CL 1871, 7691;—How. 9277;—CL 1897, 11688;—CL 1915, 15462;—CL 1929, 16817.

750.31 Adultery; complaint and time of prosecution.

Sec. 31. Complainant and time prosecution to be commenced—No prosecution for adultery, under the preceding section, shall be commenced, but on the complaint of the husband or wife; and no such prosecution shall be commenced after 1 year from the time of committing the offense.

HISTORY: CL 1948, 750.31. This section supersedes Sec. 3 of Ch. 158 of the R.S. 1846, being CL 1857, 5858;—CL 1871, 7693;—How. 9279;—CL 1897, 11690;—CL 1915, 15464;—CL 1929, 16819.

750.32 Adultery; cohabitation of divorced parties.

Sec. 32. Cohabitation by divorced parties—If any persons after being divorced from the bonds of matrimony for any cause whatever, shall cohabit together, they shall be liable to all the penalties provided by law against adultery.

HISTORY: CL 1948, 750.32. This section re-enacts Sec. 33 of Ch. 84 of the R.S. 1846, being CL 1857, 3254;—CL 1871, 4765;—How. 6253;—CL 1897, 8645;—CL 1915, 11421;—CL 1929, 12752.

CHAPTER VI

ADVERTISING

750.33 False advertising; penalty, excepted participants in publication.

Sec. 33. Any person, who with intent to sell, purchase or in anywise dispose of or acquire merchandise, securities, service or anything offered or sought by such person, directly or indirectly, to or from the public for sale, purchase or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before or communicated to the public in this state, in a newspaper or by radio broadcast, television, telephone or telegraph or other mode of communication or publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter or communication, including communication by telephone or telegraph to 2 or more persons, or in any other way, in advertisement of any sort regarding merchandise, securities, service or anything so offered

to or sought from the public, or regarding the motive or purpose of a sale, purchase, distribution or acquisition which advertisement contains any assertion, representation or statement or illustration, including statements of present or former sale price or value, which is untrue, deceptive or misleading, or calculated to subject any person to disadvantage or injury through the publication of false or deceptive statements or as part of a plan or scheme with the intent, design or purpose not to sell the merchandise, commodities or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities or service so advertised shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$500.00: Provided, however, That the provisions of this section shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular, or of a radio station or television station, who in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published or takes part in the publication of such advertisement: Provided further, That with respect to use of a telephone by subscribers or users, the provisions of this section shall not apply to any person, firm or corporation providing telephone service as a public utility.

HISTORY: Am. 1941, p. 588, Act 340, Eff. Jan. 10, 1942;—CL 1948, 750.33;—Am. 1955, p. 267, Act 176, Eff. Oct. 14;—Am. 1957, p. 211, Act 180, Eff. Sep. 27.

This section as originally enacted superseded and merged Sec. 1 of Act 245 of 1899, being CL 1915, 15340;—CL 1929, 16666; and Sec. 2 of Act 245 of 1899, being CL 1915, 15341;—being CL 1929, 16669; and superseded Sec. 1 of Act 319 of 1925, being CL 1929, 16690.

750.33a Character or extent of business misrepresentation; penalty.

Sec. 33a. Any person who states, in an advertisement of his goods, that he is a producer, manufacturer, processor, wholesaler or importer, or that he owns or controls a factory or other source of supply of goods, when such is not the fact, or in any other manner knowingly misrepresents the character, extent, volume or type of his business, is guilty of a misdemeanor.

HISTORY: Add. 1965, p. 136, Act 105, Eff. Mar. 31, 1966.

750.34 Immoral advertising.

Sec. 34. Immoral advertising—Any person who shall advertise in his own name or in the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, periodical or other written or printed paper, or the owner, publisher or manager of any newspaper or periodical who shall permit to be published or inserted in any newspaper or periodical owned or controlled by him, an advertisement of the treating or curing of venereal diseases, the restoration of “Lost manhood” or “Lost vitality or vigor”, or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual vice, self-abuse or in any diseases of like cause, or shall advertise in any manner any medicine, drug, compound, appliance or any means whatever whereby sexual diseases of men or women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.34. This section supersedes Sec. 1 of Act 62 of 1911, being CL 1915, 15512;—CL 1929, 16677.

CITED IN OTHER SECTIONS: Sections 750.34 to 750.36 are cited in § 338.53.

750.35 Immoral advertising; publishing and distributing.

Sec. 35. Publishing and distributing immoral advertising—Any person publishing, distributing or causing to be distributed or circulated any of the advertising matter described in the next preceding section either in newspaper or other printed or written forms, shall be guilty of a misdemeanor and punished as provided in said next preceding section.

HISTORY: CL 1948, 750.35. This section supersedes in part Sec. 2 of Act 62 of 1911, being CL 1915, 15513;—CL 1929, 16678.

750.36 Immoral advertising; evidence.

Sec. 36. Prima facie evidence of guilt—Any advertisement found in any newspaper, pamphlet or circular containing the words “Lost manhood”, “Lost vitality or vigor” or other expressions synonymous therewith, shall be prima facie evidence of the guilt of the party or parties subscribing to the said advertisements, their agents or representatives, and the same penalties shall apply to the publishers of papers containing the same as prescribed in the next preceding section.

HISTORY: CL 1948, 750.36. This section supersedes Sec. 3 of Act 62 of 1911, being CL 1915, 15514;—CL 1929, 16679.

750.37 Immoral advertising; penalty.

Sec. 37. Penalty construed—The next 3 preceding sections of this chapter shall not be construed as creating a penalty in addition to that specified in Act No. 237 of the Public Acts of 1899, as amended, being sections 6737 to 6747, inclusive, of the Compiled Laws of 1929, for the acts made unlawful therein.

HISTORY: CL 1948, 750.37.

NOTE: Act 237, 1899, above referred to, is Compilers' §§ 338.51-338.60.

750.38 Personal violence or human form; displaying.

Sec. 38. Displaying, etc., pictures, etc., representing personal violence or human form—Any person who shall post, place or display on any sign board, bill board, fence, building, sidewalk, or other object, or in any street, road, or other public place, any sign, picture, printing or other representation of murder, assassination, stabbing, fighting or of any personal violence, or of the commission of any crime, or any representation of the human form in an attitude or dress which would be indecent in the case of a living person, if such person so appeared in any public street, square or highway, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.38. This section supersedes Sec. 1 of Act 209 of 1885, being How. 9314f;—Am. 1889, p. 169, Act 148, Eff. Oct. 2;—CL 1897, 11724;—CL 1915, 15515;—CL 1929, 16680; and supersedes and merges Sec. 3 of Act 209 of 1885, being How. 9314h;—CL 1897, 11726;—CL 1915, 15517;—CL 1929, 16682.

750.39 Patent medicines; publication in immoral or ambiguous language.

Sec. 39. Publication of virtues of patent medicines in immoral or ambiguous language—Any person who shall print, stamp, or engrave on any cards, bills or posters for public display or advertisement, or publish in any newspaper in the state of Michigan, the virtues or applications and its or their effects of any patent and other simple or compound medicine, in language of immoral tendency or of ambiguous character, shall be guilty of a misdemeanor. Each day that such publication appears shall be deemed a separate offense under this section.

HISTORY: CL 1948, 750.39. This section supersedes Sec. 1 of Act 106 of 1869, being CL 1871, 7724;—How. 9310;—CL 1897, 11727;—CL 1915, 15521;—CL 1929, 16683.

750.40 Private diseases; conceptive preventatives; publication of cures.

Sec. 40. Publication in indecent language of cures for private diseases and conceptive preventatives—The publication or sale within this state of any circular, pamphlet or book containing recipes or prescriptions in indecent or obscene language for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compounds designed to prevent conception, or tending to produce miscarriage or abortion is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be guilty of a misdemeanor.

HISTORY: CL 1948, 750.40. This section supersedes Sec. 2 of Act 106 of 1869, being CL 1871, 7725;—How. 9311;—CL 1897, 11728;—CL 1915, 15522;—CL 1929, 16684.

750.41 Criminal news; sale and distribution of printed material; minor child.

Sec. 41. Sale and distribution of printed matter devoted primarily to publication of criminal news—Any person who sells, lends, gives away or shows, or has in his posses-

sion with intent to sell, give away or to show, advertise or otherwise offers for loan, gift or distribution, any book, pamphlet, magazine, newspaper or other printed paper devoted to the publication or principally made up of criminal news, police reports or accounts of criminal deeds or pictures, stories of deeds of bloodshed, lust or crime; and any person, who in any manner, hires, uses or employs any minor child, to sell or give away, or in any manner to distribute, or who having the care, custody or control of any minor child, permits such child to sell, give away, or in any other manner to distribute any book, magazine, pamphlet, newspaper, or other printed matter coming within the description of the articles and matter mentioned in this section, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.41.

750.42 Deceased ex-presidents; reference used advertising intoxicating liquors.

Sec. 42. Advertisements of intoxicating liquors referring to deceased ex-presidents of the United States—Any person who shall distribute or post or cause or procure to be distributed or posted any advertisement of any form or nature whatsoever of spirituous or intoxicating liquors, which advertisement contains any reference whatever to any deceased ex-president of the United States of America, either by the use of his name, his picture, quotations from his writings or utterances, scenes purporting to be from his life or otherwise, shall be guilty of a misdemeanor: Provided, That nothing herein contained shall be held to apply to political advertising or reproductions of legal documents signed by or issued to said persons.

HISTORY: CL 1948, 750.42. This section supersedes and merges Sec. 1 of Act 201 of 1915, being CL 1915, 7078;—CL 1929, 9210, and Sec. 2 of Act 201 of 1915, being CL 1915, 7079;—CL 1929, 9211.

CHAPTER VII

AIRCRAFT AND AERONAUTICS

750.43 Aircraft and aeronautics; definitions.

Sec. 43. Definitions—Whenever the word “aircraft” is used in this chapter it shall mean any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air except a parachute or other contrivance designed and used primarily for safety equipment. “Passenger” means any person not the pilot or member of the crew of any aircraft. “Aeronaut” includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

HISTORY: CL 1948, 750.43. This section supersedes Sec. 1 of Act 224 of 1923, being CL 1929, 4811.

NOTE: Penalties under aeronautics code, see Compilers' § 259.176 et seq.

750.44 Trick or acrobatic flying.

Sec. 44. Trick or acrobatic flying—Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering, within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop or release any object or thing which may endanger life or injure property except when necessary to the personal safety of the aeronaut or passenger, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: Am. 1937, p. 88, Act 67, Eff. Oct. 29;—CL 1948, 750.44. This section as originally enacted superseded Sec. 9 of Act 224 of 1923, being CL 1929, 4819.

AERONAUTICS CODE: See Compilers' § 259.180.

750.45 Open air assemblies; flying over, altitude.

Sec. 45. Open air assemblies, flying over—Any person who shall operate any aircraft over open air assemblies of people at a height of less than 1,500 feet from the ground, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not

more than 1 year or by fine of not more than 500 dollars: Provided, That this section shall not apply to groups assembled for the purpose of witnessing aerial exhibitions and stunt flying, nor to groups assembled at a flying field.

HISTORY: CL 1948, 750.45. This section supersedes and merges Sec. 1 of Act 9 of 1926, Ex. Ses., being CL 1929, 4822, and Sec. 2 of Act 9 of 1926, Ex. Ses., being CL 1929, 4823.

CHAPTER VIII

ANARCHY AND CRIMINAL SYNDICALISM

750.46 Anarchy and criminal syndicalism; definition.

Sec. 46. Criminal syndicalism defined—Criminal syndicalism is hereby defined as the doctrine which advocates crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political reform. The advocacy of such doctrine, whether by word of mouth or writing, is a felony punishable as provided in this chapter.

HISTORY: CL 1948, 750.46. This section supersedes Sec. 1 of Act 255 of 1919, being CL 1929, 16559.

CITED IN OTHER SECTIONS: The above section is cited in § 28.56.

750.47 Advocacy of criminal syndicalism; penalty.

Sec. 47. Any person who by word of mouth or writing, advocates or teaches the duty, necessity or propriety of crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political reform; or prints, publishes, edits, issues or knowingly circulates, sells, distributes or publicly displays any book, paper, document, or written matter in any form, containing or advocating, advising, or teaching the doctrine that industrial or political reform should be brought about by crime, sabotage, violence or other unlawful methods of terrorism; or openly, wilfully and deliberately justifies by word of mouth or writing, the commission or the attempt to commit crime, sabotage, violence or other unlawful methods of terrorism with intent to exemplify, spread or advocate the propriety of the doctrines of criminal syndicalism; or organizes or helps to organize, or becomes a member of or voluntarily assembles with any society, group or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism, or who commits or attempts to commit crime, sabotage, violence or other unlawful methods of terrorism for the purpose of accomplishing industrial or political reform, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than \$5,000.00.

HISTORY: CL 1948, 750.47.—Am. 1950, 1st Ex. Ses., p. 126, Act 41, Eff. Sep. 8.

This section supersedes Sec. 2 of Act 255 of 1919, being CL 1929, 16560.

750.48 Red flag; display.

Sec. 48. Display of red flag—Any person who shall display a red flag in any public assembly, parade or demonstration in this state is guilty of a felony.

The use of such a flag at any such assembly, parade or demonstration shall be considered as prima facie evidence of its use as an emblem of anarchy.

HISTORY: CL 1948, 750.48. This section supersedes and merges Sec. 1 of Act 104 of 1919, being CL 1929, 16561; and Sec. 2 of Act 104 of 1919, being CL 1929, 16562.

CHAPTER IX

ANIMALS

750.49 Animals; fighting, baiting or shooting.

Sec. 49. Keeping or using animals for fighting, etc.—Any person who shall keep or use any bull, bear, dog, cock, or other animal or fowl or bird, except English sparrows and pigeons, for the purpose of fighting, baiting or as a target to be shot at, as a test of skill in marksmanship; and any person who shall be a party to or be present as a spectator at any such fighting, baiting or shooting of any bear, dog, cock or other animal, or

fowl or bird, except English sparrows and pigeons, and any person who shall rent any building, shed, room, yard, ground or premises, for the purpose of fighting, baiting or shooting any animal, fowl or bird, except English sparrows and pigeons, as aforesaid, or shall knowingly suffer or permit the use of any building, shed, room, yard, ground or premises belonging to him or under his control, for either or any of the purposes aforesaid, shall be guilty of a misdemeanor: Provided, That no bounty shall be paid for any English sparrow that may be killed when used as a target or to be shot at as a test of skill in marksmanship: Provided further, That it shall not be lawful for any person or persons to engage in the propagation of English sparrows for the purpose allowed in this section, or for any other purpose.

HISTORY: CL 1948, 750.49. This section supersedes Sec. 2 of Act 70 of 1877, being How. 9392;—Am. 1893, p. 51, Act 48, Imd. Eff. April 27;—CL 1897, 11740;—Am. 1899, p. 366, Act 234, Eff. Sept. 23;—CL 1915, 15536;—CL 1929, 17067.

750.50 Animals; cruelly working, transporting, abandoning.

Sec. 50. Cruelly working, transporting and abandoning animals—Every owner, possessor or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or who shall carry or cause to be carried on or upon any vehicle or otherwise any live animal having the feet or legs tied together, or in any other cruel and inhuman manner, or shall carry or cause to be carried any live animal in or upon any vehicle or otherwise without providing suitable racks, cars, crates or cages, in which such animal may stand or lie down during transportation, and while awaiting slaughter, or who shall abandon any diseased, maimed, hopelessly sick, infirm or disabled animal, in any place, or who shall wilfully or negligently permit and allow any aged, diseased, maimed, hopelessly sick or disabled animal to suffer unnecessary torture or pain, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.50. This section supersedes Sec. 3 of Act 70 of 1877, being How. 9393;—CL 1897, 11741;—Am. 1913, p. 605, Act 321, Eff. Aug. 14;—CL 1915, 15537;—CL 1929, 17068.

CRUELTY TO ANIMALS: See also Compilers' § 752.21.

750.51 Animals; confining on railroad cars.

Sec. 51. Confining animals on railroad cars—No railroad company, in the carrying or transportation of animals, shall permit the same to be confined in cars for a longer period than 36 consecutive hours without unloading the same for rest, water, and feeding, for a period of at least 5 consecutive hours, unless prevented from so unloading by storm, or other accidental causes. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received shall be included, it being the intention to prevent their continuous confinement beyond the period of 36 hours, except on contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered, and sheltered during such rest, by the owner or person having the custody thereof, or, in case of his default in so doing, then the railroad company transporting the same, at the expense of said owner or person in custody thereof; and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals.

Any company, owner or custodian of such animals, who shall fail to comply with the provisions of this section, shall, for each and every such offense, be liable for, and forfeit, and pay a penalty of not less than 100 dollars nor more than 500 dollars: Provided, however, That when animals shall be carried in cars in which they can and do have proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

HISTORY: CL 1948, 750.51. This section supersedes Sec. 4 of Act 70 of 1877, being How. 9394;—CL 1897, 11742;—CL 1915, 15538;—Am. 1919, Ex. Ses., p. 25, Act 14, Eff. Sept. 25;—CL 1929, 17069.

750.52 Duty of public officers.

Sec. 52. Duty of public officers—It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen and public officers, to arrest and prosecute all persons of whose violation of the provisions of the preceding sections of this chapter they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 750.52. This section is similar to Compilers' § 752.28.

750.53 Arrest of persons; seizure of animals.

Sec. 53. Arrest of persons and seizure of animals—Persons found violating any of the provisions of the preceding sections of this chapter may be arrested and held without warrant, in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use in violation of any of the provisions of the preceding sections of this chapter, and the person making such seizure shall cause such animals or fowls to be at once delivered to a poundmaster of the city, village or township in which the same may be, and it shall be the duty of such poundmaster to receive such animals or fowls, and to hold the same and proceed in regard to them in all respects as provided by law in other cases of animals impounded.

HISTORY: CL 1948, 750.53. This section is similar to Compilers' § 752.25.

750.54 Search warrants.

Sec. 54. Search warrant—When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of the preceding sections of this chapter are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of the preceding sections of this chapter, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested, the owner of said article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

HISTORY: CL 1948, 750.54. This section is similar to Compilers' § 752.26.

750.55 Incorporated society; representative deputy sheriff.

Sec. 55. Any society incorporated in this state for the purpose of preventing cruelty to animals may designate 1 or more persons in each county of the state to discover and prosecute all cases of the violation of the provisions of this chapter; and the sheriff of such county may appoint each person so designated a deputy sheriff, provided such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in the enforcement of the provi-

sions of this chapter. The sheriff shall not be responsible for any of the acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

HISTORY: CL 1948, 750.55;—Am. 1968, p. 159, Act 105, Imd. Eff. Jun. 7.

This section is similar to Compilers' Sec. 752.27.

750.56 Definitions.

Sec. 56. Definitions—In the preceding sections of this chapter the word “animal” or “animals” shall be held to include all brute creatures, and the words “owner”, “person”, and “whoever” shall be held to include corporations as well as individuals, and the knowledge and acts of agents of any persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

HISTORY: CL 1948, 750.56. This section is similar to Compilers' § 752.30.

750.57 Burial of dead animals.

Sec. 57. Burial of dead animals—Any person or persons who shall put any dead animal or part of the carcass of any dead animal, into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow or common, or in any place within 1 mile of the residence of any person or persons, except the same and every part thereof be buried at least 4 feet under ground, and the owner or owners thereof who shall knowingly permit the same to remain in any of the aforesaid places, to the injury of the health, or to the annoyance of the citizens of this state, or any of them, shall be guilty of a misdemeanor; and every 24 hours said owner may permit the same to remain after such conviction, shall be deemed an additional offense against the provisions of this section, a misdemeanor, punishable by a fine of not less than 50 dollars nor more than 100 dollars, or by imprisonment of not less than 30 days nor more than 90 days.

HISTORY: CL 1948, 750.57. This section supersedes Sec. 1 of Act 70 of 1867, being CL 1871, 7734;—How. 9323;—CL 1897, 11432;—CL 1915, 15150;—CL 1929, 5306.

750.58 Horses; unhitching and driving away.

Sec. 58. Unhitching and driving away horses without authority—Any person who shall wilfully and maliciously or wantonly, and without authority unhitch any horse or team belonging to another, and lawfully hitched or standing in any street, alley or other place, or who in like manner shall ride or drive such horse or team away shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.58. This section supersedes Sec. 1 of Act 97 of 1885, being How. 9199a;—CL 1897, 11602;—CL 1915, 15360;—CL 1929, 16968.

750.59 Animals unfit for work; disposition and use.

Sec. 59. Disposition and use of animals permanently unfit for work—Any person who shall offer for sale or sell or trade any horse or mule which by reason of debility, disease, lameness, injury or for any other cause is permanently unfit for work, except to a person or corporation operating a horse hospital, animal retreat farm or other institution or place designed or maintained for the humane keeping, treatment or killing of horses, mules or other live stock, shall be guilty of a misdemeanor.

Any person who shall lead, drive or ride any horse or mule, which by reason of debility, disease, lameness or injury, or for other causes is permanently unfit for work, on any public way for any purpose, except that of conveying such animal to a proper place for its humane keeping, or killing or for medical or surgical treatment shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.59. This section supersedes and merges Sec. 1 of Act 354 of 1913, Am. 1915, p. 215, Act 129, Eff. Aug. 24, being CL 1915, 15546;—CL 1929, 17077; and Sec. 2 of Act 354 of 1913, being CL 1915, 15547;—CL 1929, 17078; and Sec. 3 of Act 354 of 1913, being CL 1915, 15548;—CL 1929, 17079.

750.60 Horses' tails; docking.

Sec. 60. Docking horses tails—Any person who shall cut the bone of the tail of any horse for the purpose of docking the tail, or any person who shall cause or knowingly permit it to be done upon the premises of which he is the owner, lessee, proprietor or user, or any person who shall assist in or be present at such cutting, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year or by a fine of not more than 500 dollars: Provided, That such cutting of the bone of the tail of any horse for the purpose of docking the tail shall be lawful when a certificate of a regularly qualified veterinary surgeon shall first be obtained certifying that such cutting is necessary for the health or safety of such horse.

If a horse shall be found with its tail so cut and with the wound resulting from such cutting unhealed, upon the premises of any person, such facts shall be prima facie evidence that the person occupying or using the premises on which such horse is so found has committed the offense described in this section.

If a horse shall be found with its tail so cut and with the wound resulting therefrom unhealed, in the charge or custody of any person, such fact shall be prima facie evidence that the person having the charge or custody of such horse has committed the offense charged in this section.

HISTORY: CL 1948, 750.60. This section supersedes Sec. 1 of Act 45 of 1901, Am. 1905, p. 499, Act 322, Imd. Eff. June 20, being CL 1915, 15549;—CL 1929, 17080; and re-enacts Sec. 2 of Act 45 of 1901, being CL 1915, 15550;—CL 1929, 17081; and Sec. 3 of Act 45 of 1901, being CL 1915, 15551;—CL 1929, 17082.

750.61 Docked horses; registration, bringing into state.

Sec. 61. Importation, etc., of unregistered docked horses—It shall be unlawful for any person or persons to import or bring into this state any docked horse or horses, or to drive, work, use, race or deal in any docked horse or horses within this state, unless the same shall be registered as provided for in the succeeding section of this chapter.

HISTORY: CL 1948, 750.61. This section re-enacts, except changing word "act" to "chapter", Sec. 4 of Act 45 of 1901, being CL 1915, 15552;—CL 1929, 17083.

750.62 Docked horses; registration.

Sec. 62. Registration of docked horses—Within 90 days after this act shall take effect, every owner or user of any docked horse within this state shall register such docked horse or horses by filing in the office of the county clerk of the county in which such docked horse or horses may be kept, a certificate which shall contain the name or names of the owner or owners, together with his or their post office address, together with a full description of the color, age, size and the use made of such docked horse or horses, which certificate shall be signed by the owner or the owners, or his or their agent. The county clerk shall number such certificates consecutively and shall record the same in a book kept for that purpose, and shall receive as a fee for the recording of such certificate the sum of 50 cents: Provided, This section shall not apply to or make necessary the re-registration of docked horses which have been registered pursuant to Act No. 45 of the Public Acts of 1901, as amended, being sections 17080 to 17086 inclusive of the Compiled Laws of 1929.

HISTORY: CL 1948, 750.62. This section re-enacts without proviso, Sec. 5 of Act 45 of 1901, being CL 1915, 15553;—CL 1929, 17084.

NOTE: Act 45, 1901, above referred to, is superseded by this section.

750.63 Docked horses; unlawful docking, evidence.

Sec. 63. Prima facie evidence of unlawful docking—The driving, working, keeping, racing or using of any unregistered docked horse or horses subsequent to 90 days after this act shall take effect shall be deemed prima facie evidence of the fact that the party driving, working, keeping, racing or using such unregistered docked horse or horses, unlawfully docked the tail of such horse or horses.

HISTORY: CL 1948, 750.63. This section supersedes Sec. 6 of Act 45 of 1901, being CL 1915, 15554;—CL 1929, 17085.

750.64 Docked horses; failure to register.

Sec. 64. Penalty for failing to register docked horses—Any person or persons violating any of the provisions of this chapter by failing to register any docked horse or horses, as herein provided, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by a fine of not more than 250 dollars.

HISTORY: CL 1948, 750.64. This section supersedes Sec. 7 of Act 45 of 1901, being CL 1915, 15555;—CL 1929, 17086.

750.65 Bull; at large on highway or unenclosed land.

Sec. 65. Any person being the owner of a bull 6 months or more of age or having the same in charge, who shall permit said bull to run at large upon any highway or unenclosed lands shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 30 days or by a fine of not more than \$100.00, or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1947, p. 38, Act 30, Eff. Oct. 11;—CL 1948, 750.65. This section as originally enacted superseded Sec. 1 of Act 185 of 1863, being CL 1871, 2089;—How. 2133;—CL 1897, 5657;—CL 1915, 7347;—Am. 1919, p. 53, Act 29, Imd. Eff. March 28;—Am. 1921, p. 8, Act 4, Eff. Aug. 18;—Am. 1923, p. 78, Act 55, Imd. Eff. April 20;—CL 1929, 5202.

The original Sec. 65 was repealed by Act 123, 1943, p. 161, Imd. Eff. April 13. This section prohibited importation of diseased and undipped sheep. For present law on this subject, see Compilers' §§ 287.16a and 287.19.

Sec. 66.

HISTORY: Rep. 1943, p. 161, Act 123, Imd. Eff. April 13. This section as originally enacted superseded Sec. 2 of Act 185 of 1863, being CL 1871, 2070;—How. 2134;—CL 1897, 5658;—CL 1915, 7348;—Am. 1919, p. 54, Act 29, Imd. Eff. March 28;—CL 1929, 5203.

This section prohibited running at large and sale of diseased sheep. For present law, see Compilers' §§ 287.16a and 287.19.

750.67 Domestic animals or fowl on cemetery grounds, landing fields, airports.

Sec. 67. Domestic animals or fowl on cemetery grounds, landing fields and airports—Any owner or keeper of any domestic animal or fowl, who shall allow any domestic animal or fowl to run at large and enter or be upon any premises constituting a cemetery, landing field or airport in this state, shall be guilty of a misdemeanor.

HISTORY: Am. 1933, p. 225, Act 155, Imd. Eff. June 22;—CL 1948, 750.67. This section as originally enacted superseded and merged Sec. 1 of Act 34 of 1915, being CL 1915, 11198;—CL 1929, 9045; and Sec. 2 of Act 34 of 1915, being CL 1915, 11199;—CL 1929, 9046.

Similar provisions as to landing fields and airports, see Compilers' § 259.182.

750.68 Brand of animals.

Sec. 68. Changing, etc., brand of animals—Any person who shall mark or brand, or alter or deface the mark or brand of any domestic animal, the property of another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, shall be guilty of felony, and any person who shall mark or brand, or alter or deface the mark or brand of any domestic animal whether the property of himself or another with intent to sell, ship, trade or give away contrary to law any animal which has given the positive reaction to the bovine tuberculosis test or the blood test for Bang's disease or with intent to avoid any lawful quarantine of such animal, shall be guilty of a misdemeanor.

HISTORY: Am. 1937, p. 71, Act 57, Imd. Eff. May 27;—CL 1948, 750.68. This section as originally enacted superseded Sec. 3 of Act 122 of 1893, being How. 2074c;—CL 1897, 5662;—CL 1915, 7352;—CL 1929, 5292.

750.69 Rescuing animals.

Sec. 69. Rescuing animals—Any person who shall rescue any cattle, horse, mule, sheep, swine or goat when impounded, or while being driven or taken to the pound or other place of custody by any officer or person in charge of such animals, or while such animals are shut up by and in the custody of any person for trespassing upon premises, or for running at large contrary to law, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.69. This section supersedes Sec. 9 of Act 248 of 1879, Add. 1881, p. 233, Act 196, Eff. Sept. 10, being How. 3076;—CL 1897, 5621;—CL 1915, 7301;—CL 1929, 9055.

RESTRAINT OF ANIMALS: See Compilers' § 433.1 et seq.

750.70 Impounding animals unlawfully.

Sec. 70. Unlawfully impounding animals—Any person who shall take any animal mentioned in the next preceding section not running at large contrary to law from the stable, pasture, or any enclosure or other place where such animals are lawfully and rightfully kept, or may be, and any person who shall drive, or let them out, or untie, or unloose the same, or shall knowingly seize or take the same from the custody of any person driving or taking the same on the public highway or streets to or from a pasture or to or from any other place where the same may be lawfully taken or driven, for the purpose of impounding such animals contrary to law, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.70. This section supersedes Sec. 10 of Act 248 of 1879, Add. 1881, p. 233, Act 196, Eff. Sept. 10, being How. 3077, —CL 1897, 5622;—CL 1915, 7302;—CL 1929, 9056.

RESTRAINT OF ANIMALS: See Compilers' § 433.1 et seq.

CHAPTER X

ARSON AND BURNING

750.71 Arson and burning; definitions.

Sec. 71. Definition of "burn"—The term "burn" as used in this chapter shall mean setting fire to, or doing any act which results in the starting of a fire, or aiding, counseling, inducing, persuading or procuring another to do such act or acts.

HISTORY: CL 1948, 750.71. This section re-enacts, changing word "act" to "chapter", Sec. 1 of Act 38 of 1927, being CL 1929, 16933.

INDICTMENT: See Compilers' § 767.44.

750.72 Burning dwelling house.

Sec. 72. Burning dwelling house—Any person who wilfully or maliciously burns any dwelling house, either occupied or unoccupied, or the contents thereof, whether owned by himself or another, or any building within the curtilage of such dwelling house, or the contents thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

HISTORY: Am. 1945, p. 374, Act 260, Eff. Sept. 6;—CL 1948, 750.72. This section as originally enacted superseded Sec. 2 of Act 38 of 1927, Am. 1929, p. 671, Act 272, Eff. Aug. 28, being CL 1929, 16934.

750.73 Burning of other real property.

Sec. 73. Burning of other real property—Any person who wilfully or maliciously burns any building or other real property, or the contents thereof, other than those specified in the next preceding section of this chapter, the property of himself or another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years.

HISTORY: Am. 1945, p. 375, Act 260, Eff. Sept. 6;—CL 1948, 750.73. This section as originally enacted superseded Sec. 3 of Act 38 of 1927, Am. 1929, p. 671, Act 272, Eff. Aug. 28, being CL 1929, 16935.

750.74 Burning of personal property.

Sec. 74. Burning of personal property—Any person who wilfully and maliciously burns any personal property, other than that specified in the preceding sections, owned by himself or another shall, if the value of the personal property burned or intended to be so burned be \$50.00 or less, be guilty of a misdemeanor. If the value of the personal property burned or intended to be so burned be more than \$50.00, such person shall be guilty of a felony.

HISTORY: Am. 1945, p. 375, Act 260, Eff. Sept. 6;—CL 1948, 750.74. This section as originally enacted superseded Sec. 4 of Act 38 of 1927, Am. 1929, p. 671, Act 272, Eff. Aug. 28, being CL 1929, 16936.

750.75 Burning of insured property.

Sec. 75. Burning of insured property—Any person who shall wilfully burn any building or personal property which shall be at the time insured against loss or damage

by fire with intent to injure and defraud the insurer, whether such person be the owner of the property or not, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.75. This section supersedes Sec. 5 of Act 38 of 1927, being CL 1929, 16937.

750.76 Applicability of preceding sections.

Sec. 76. Applicability of preceding sections—The preceding sections of this chapter shall apply to a married woman who may commit any of the offenses herein described although the property burnt may belong partly or wholly to her husband; and said preceding sections shall also apply to a married man although the property burnt may belong partly or wholly to his wife; and although said property may be occupied by such married man or married woman, or by such married man and wife as a residence.

HISTORY: CL 1948, 750.76. This section supersedes with additions Sec. 6 of Act 38 of 1927, being CL 1929, 16939.

750.77 Wilfully and maliciously setting fire.

Sec. 77. Preparation to burn—Any person who shall in any manner use, arrange, place, devise or distribute any inflammable, combustible or explosive material, liquid or substance, or any device in or about any building or property mentioned in the foregoing sections of this chapter, with intent to wilfully and maliciously set fire to or burn the same, or who aids, counsels, induces, persuades or procures another to do such act or acts, shall, if the property intended to be so burned be personal property of the value of \$50.00 or less, be guilty of a misdemeanor. If such property be personal property of the value of more than \$50.00, or real property of any value, he shall be guilty of a felony.

HISTORY: Am. 1945, p. 375, Act 260, Eff. Sept. 6;—CL 1948, 750.77.

750.78 Wilfully or negligently setting fire to woods, prairies or grounds.

Sec. 78. Wilfully setting fire to woods, etc.—Any person who shall wilfully or negligently set fire to any woods, prairies or grounds, not his property, or shall wilfully permit any fire to pass from his own woods, prairies or grounds, to the injury or destruction of the property of any other person, shall be guilty of a felony.

HISTORY: CL 1948, 750.78. This section supersedes Sec. 1 of Ch. 45 of the R.S. of 1846, being CL 1857, 5924;—CL 1871, 7790;—How. 9402;—CL 1897, 11653;—CL 1915, 15424;—CL 1929, 16942.

750.79 Clearing of land and disposing of refuse in townships.

Sec. 79. Clearing land by fire and disposing of refuse materials in townships—Whenever in pursuance of the authority given by law, any township board shall, by order, rule or regulation, designate a period during which it shall be unlawful to set forest fires or fires for the purpose of clearing lands, and disposing by burning of refuse material and waste matter within its respective jurisdiction or any part thereof, any person who shall be found guilty of violating the orders, rules and regulations of such board by setting any such fire in such township contrary to the provisions thereof shall be guilty of a felony: Provided, That any person desiring to dispose of refuse material by burning the same during the time prohibited by the board of such township, may do so after first procuring permission in writing, signed by the supervisor and township clerk, or by a majority of such township board, and the said supervisor and township clerk, or a majority of the said board are hereby authorized to grant such permission in their discretion, under such conditions as they may prescribe, upon application made in writing for such purpose: Provided further, That said board is hereby authorized at any time to repeal by resolution any order, rule or regulation herein mentioned.

HISTORY: CL 1948, 750.79. This section supersedes Sec. 5 of Ch. 45 of the R.S. of 1846, Add. 1897, p. 245, Act 189, Eff. Aug. 30, being CL 1897, 11657;—CL 1915, 15428;—CL 1929, 16946.

NOTE: As to regulatory power, see Compilers' § 320.394.

750.80 Setting fire to mines and mining material.

Sec. 80. Setting fire to mines and mining materials—Any person who shall wilfully and maliciously burn or set fire to or cause to be burned or set fire to any wood, timber, or other material in any part of a mine under ground, or shall wilfully and maliciously set fire to or burn any shaft house or other structure or materials built or placed over, or upon a shaft, adit, level or other opening into any mine, such mine being then in use or operation, shall be guilty of felony, and be punishable by imprisonment in the state prison for life or for any term of years.

HISTORY: CL 1948, 750.80. This section re-enacts, except first word "that" and word "deemed" in penalty, Sec. 1 of Act 4 of 1899, being How. 9209c;—CL 1897, 11652;—CL 1915, 15423;—CL 1929, 16941.

CHAPTER XI

ASSAULTS

750.81 Assault; assault and battery.

Sec. 81. Assault and assault and battery—Any person who shall be convicted of an assault or an assault and battery where no other punishment is prescribed shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.81. This section supersedes Sec. 29 of Ch. 153 of the R.S. 1846, being CL 1857, 5739;—CL 1871, 7538;—Am. 1879, p. 157, Act 167, Eff. Aug. 30;—How. 9103;—CL 1897, 11498;—CL 1915, 15220;—Am. 1929, p. 95, Act 54, Eff. Aug. 25;—CL 1929, 16736.

INDICTMENT: See Compilers' § 767.44.

750.81a Assault; infliction of serious injury.

Sec. 81a. Any person who shall assault another without any weapon and inflict serious or aggravated injury upon the person of another without intending to commit the crime of murder, and without intending to inflict great bodily harm less than the crime of murder, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail or the state prison for a period of not more than 1 year, or fine of \$500.00, or both.

HISTORY: Add. 1939, p. 445, Act 237, Eff. Sept. 29;—CL 1948, 750.81a.

750.82 Felonious assault.

Sec. 82. Felonious assault—Any person who shall assault another with a gun, revolver, pistol, knife, iron bar, club, brass knuckles or other dangerous weapon, but without intending to commit the crime of murder, and without intending to inflict great bodily harm less than the crime of murder, shall be guilty of a felony.

HISTORY: CL 1948, 750.82. This section supersedes Sec. 1 of Act 232 of 1913, Am. 1915, p. 428, Act 241, Eff. Aug. 24, being CL 1915, 15228;—CL 1929, 16747.

750.83 Assault with intent to commit murder.

Sec. 83. Assault with intent to commit murder—Any person who shall assault another with intent to commit the crime of murder, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any number of years.

HISTORY: CL 1948, 750.83. This section supersedes Sec. 14 of Ch. 153 of the R.S. 1846, being CL 1857, 5724;—CL 1871, 7523;—How. 9088;—CL 1897, 11483;—CL 1915, 15205;—CL 1929, 16721.

750.84 Assault with intent to do great bodily harm less than murder.

Sec. 84. Assault with intent to do great bodily harm less than murder—Any person who shall assault another with intent to do great bodily harm, less than the crime of murder, shall be guilty of a felony punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.84. This section supersedes Sec. 1 of Act 71 of 1883, being How. 9122a;—CL 1897, 11505;—CL 1915, 15227;—CL 1929, 16746.

750.85 Assault with intent to commit rape, sodomy or gross indecency; sexual delinquent.

Sec. 85. Any person who shall assault any female with intent to commit the crime of rape, and any person who shall assault another person with intent to commit the crime

of sodomy or gross indecency, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or by fine of not more than \$5,000.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: CL 1948, 750.85;—Am. 1952, p. 80, Act 73, Eff. Sep. 18.

This section supersedes Sec. 21 of Ch. 153, of the R.S. 1846, being CL 1857, 5731;—CL 1871, 7530;—How. 9095;—CL 1897, 11490;—CL 1915, 15212;—CL 1929, 16728.

750.86 Assault with intent to maim.

Sec. 86. Assault with intent to maim—Any person who shall assault another with intent to maim or disfigure his person by cutting out or maiming the tongue, putting out or destroying an eye, cutting or tearing off an ear, cutting or slitting or mutilating the nose or lips or cutting off or disabling a limb, organ or member, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.86. This section supersedes and merges Sec. 11 of Ch. 153 of the R.S. 1846, being CL 1857, 5721;—CL 1871, 7520;—How. 9085;—CL 1897, 11480;—CL 1915, 15202;—CL 1929, 16718; and Sec. 12 of Ch. 153 of the R.S. 1846, being CL 1857, 5722;—CL 1871, 7521;—How. 9086;—CL 1897, 11481;—CL 1915, 15203;—CL 1929, 16719.

750.87 Assault with intent to commit felony not otherwise punished.

Sec. 87. Assault with intent to commit felony, not otherwise punished—Any person who shall assault another, with intent to commit any burglary, or any other felony, the punishment of which assault is not otherwise in this act prescribed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.87. This section supersedes Sec. 28 of Ch. 153 of the R.S. 1846, being CL 1857, 5738;—CL 1871, 7537;—How. 9102;—CL 1897, 11497;—CL 1915, 15219;—CL 1929, 16735.

750.88 Assault with intent to rob and steal; unarmed.

Sec. 88. Assault with intent to rob and steal being unarmed—Any person, not being armed with a dangerous weapon, who shall assault another with force and violence, and with intent to rob and steal, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

HISTORY: CL 1948, 750.88. This section supersedes Sec. 18 of Ch. 153 of the R.S. 1846, being CL 1857, 5728;—CL 1871, 7527;—How. 9092;—CL 1897, 11487;—CL 1915, 15209;—CL 1929, 16725.

750.89 Assault with intent to rob and steal; armed.

Sec. 89. Assault with intent to rob and steal being armed—Any person, being armed with a dangerous weapon, or any article used or fashioned in a manner to lead a person so assaulted reasonably to believe it to be a dangerous weapon, who shall assault another with intent to rob and steal shall be guilty of a felony, punishable by imprisonment in the state prison for life, or for any term of years.

HISTORY: Am. 1939, p. 156, Act 94, Eff. Sept. 29;—CL 1948, 750.89. This section as originally enacted superseded Sec. 16 of Ch. 153 of the R.S. 1846, being CL 1857, 5726;—Am. 1869, p. 263, Act 143, Eff. July 5;—CL 1871, 7525;—How. 9090;—CL 1897, 11485;—CL 1915, 15207;—Am. 1927, p. 895, Act 374, Eff. Sept. 5;—CL 1929, 16723.

750.90 Sexual intercourse under pretext of medical treatment.

Sec. 90. Sexual intercourse under pretext of medical treatment—Any person who shall undertake to medically treat any female person, and while so treating her, shall represent to such female that it is, or will be, necessary or beneficial to her health that she have sexual intercourse with a man, and shall thereby induce her to have carnal sexual intercourse with any man, and any man, not being the husband of such female, who shall have sexual intercourse with her by reason of such representation, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.90. This section supersedes Sec. 1 of Act 172 of 1883, being How. 9314e;—CL 1897, 11721;—CL 1915, 15505;—CL 1929, 16847.

CHAPTER XII

ATTEMPTS

750.91 Attempt to murder.

Sec. 91. Attempt to murder by poisoning, etc.—Any person who shall attempt to commit the crime of murder by poisoning, drowning, or strangling another person, or by any means not constituting the crime of assault with intent to murder, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

HISTORY: CL 1948, 750.91. This section supersedes Sec. 13 of Ch. 153 of the R.S. 1846, being CL 1857, 5723;—CL 1871, 7522;—Am. 1875, p. 180, Act 147, Eff. Aug. 3;—How. 9087;—CL 1897, 11482;—CL 1915, 15204;—CL 1929, 16720.

750.92 Attempt to commit crime.

Sec. 92. Attempt to commit crime—Any person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same, when no express provision is made by law for the punishment of such attempt, shall be punished as follows:

1. If the offense attempted to be committed is such as is punishable with death, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years;

2. If the offense so attempted to be committed is punishable by imprisonment in the state prison for life, or for 5 years or more, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or in the county jail not more than 1 year;

3. If the offense so attempted to be committed is punishable by imprisonment in the state prison for a term less than 5 years, or imprisonment in the county jail or by fine, the offender convicted of such attempt shall be guilty of a misdemeanor, punishable by imprisonment in the state prison or reformatory not more than 2 years or in any county jail not more than 1 year or by a fine not to exceed 1,000 dollars; but in no case shall the imprisonment exceed 1/2 of the greatest punishment which might have been inflicted if the offense so attempted had been committed.

HISTORY: CL 1948, 750.92. This section supersedes Sec. 14 of Ch. IX of Act 175 of 1927, being CL 1929, 17342.

CHAPTER XIII

BANK, DEPOSIT AND TRUST COMPANIES

750.93 Bank bonds in state treasury, removing or destroying.

Sec. 93. Removing or destroying bank bonds in state treasury—Any person who shall take from the state treasury, contrary to the provisions of law, or shall deface or destroy any of the bonds therein deposited by any of the banks of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.93.

750.94 Bank bills or notes; issuing, non-compliance with requirements.

Sec. 94. Issuing bank bills, etc., without previous compliance with requirements of law—Any officer or stockholder of any bank or banking association, or any other person for such bank or banking association, who shall sign, issue, or knowingly put in circulation any bill or note of any such bank or banking association before the requisite amount of capital stock shall have been paid in, or before the president and directors thereof shall have fully complied with all the provisions of law requiring any other act or acts to be done before the issuing of any notes or bills, shall be guilty of a felony,

punishable by imprisonment in the state prison not more than 10 years, or by fine not more than 5,000 dollars.

HISTORY: CL 1948, 750.94. This section supersedes Sec. 31 of Ch. 154 of the R.S. 1846, being CL 1857, 5775;—CL 1871, 7582;—How. 9153;—CL 1897, 11567;—CL 1915, 15312;—CL 1929, 16908.

750.95 Spurious bank notes; issuing or circulating.

Sec. 95. Issuing or circulating spurious bank notes—Any person who shall, with intent to defraud, sign, issue or put in circulation any note or bill, purporting to be a bill or note of any bank, when no such bank exists, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.95. This section supersedes Sec. 32 of Ch. 154 of the R.S. 1846, being CL 1857, 5776;—CL 1871, 7583;—How. 9154;—CL 1897, 11568;—CL 1915, 15313;—CL 1929, 16909.

750.96 Bank property; fraudulent disposal.

Sec. 96. Fraudulent disposal of property of bank by officers, etc.—Any officer or agent of any bank, knowing such bank to be insolvent, or, in contemplation of the insolvency of such bank, or any assignee of the property and effects of any insolvent bank who shall sell, or in any way dispose of or remove, any of the money, property or effects of such bank, with intent to defraud, delay or hinder any creditor thereof in the collection of any claim or demand against such bank, every such officer or agent, and all persons who shall knowingly aid or assist in any such disposition or removal, shall be guilty of a felony.

HISTORY: CL 1948, 750.96. This section supersedes Sec. 33 of Ch. 154 of the R.S. 1846, being CL 1857, 5777;—CL 1871, 7584;—How. 9155;—CL 1897, 11569;—CL 1915, 15314;—CL 1929, 16910.

750.97 Financial condition of bank; derogatory statement.

Sec. 97. Derogatory statement regarding financial condition of bank—Any person who shall wilfully and maliciously make, circulate or transmit to another or others any statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any incorporated bank, savings banks, banking institution or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony.

HISTORY: CL 1948, 750.97. This section supersedes Sec. 1 of Act 273 of 1909, being CL 1915, 8043;—CL 1929, 12060.

750.98 Private banks.

Sec. 98. Private banks—On and after the effective date of this act, it shall be unlawful for any individual person, or unincorporated association of individual persons, to engage in the business of banking, as defined in Act No. 66 of the Public Acts of 1929, being sections 11898 to 11970 inclusive of the Compiled Laws of 1929, and other laws of this state relating to banks and banking: Provided, That this section shall not apply to any individual person or unincorporated association of individual persons engaged in the business of banking at the time of the passage of this act.

From and after the passage of this act, no person or association of persons, not incorporated under the banking laws of this state and not now engaged in the private banking business, shall open up or attempt to operate any private bank, and any such operation or attempt shall be a violation of this section, and the persons so operating or attempting to operate shall be guilty of a felony: Provided, That nothing in this section contained shall be construed to prohibit the surviving partner or partners of a co-partnership from continuing the operation of any private bank operated by such co-partnership at the time this act shall take effect.

HISTORY: CL 1948, 750.98. This section supersedes, with additions, Sec. 1 of Act 284 of 1925, being CL 1929, 12048; and Sec. 2 of Act 254 of 1925, being CL 1929, 12049.

NOTE: Act 66, 1929, above referred to, has been repealed and superseded by Act 341, 1937, being Compilers' § 487.1 et seq., which has also been repealed. See § 487.301 et seq.

750.99 Certifying checks; insufficient funds.

Sec. 99. Certifying checks without amount thereof actually standing to credit of drawer—It shall not be lawful for any officer, clerk, agent or employee of a bank to certify a check unless the amount thereof actually stands to the credit of the drawer upon the books of the bank, or to resort to any device, or receive any fictitious obligations, direct or collateral, in order to evade the provisions of this prohibition; and any officer, clerk, agent or employee who shall attempt any such evasion shall be guilty of a felony.

HISTORY: CL 1948, 750.99. This section supersedes Sec. 51 of Act 66 of 1929, being CL 1929, 11948.

750.100 Bank insolvency; receiving deposits, conduct business.

Sec. 100. Receiving deposits, etc., when bank is insolvent—The directors and officers of any commercial and/or savings bank, industrial bank or trust company who shall fraudulently and with intent to cheat and defraud any person, receive any deposit, money, or property or issue any certificate of investment and receive payment therefor, knowing, or having good reason to believe that such bank or company is insolvent, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.100. This section supersedes, with addition, Sec. 36 of Act 66 of 1929, being CL 1929, 11933; and supersedes and merges Sec. 14 of Act 296 of 1917, being CL 1929, 11966.

750.101 Financial institutions act; violation.

Sec. 101. Any officer, clerk, agent or employee of a bank, industrial bank, trust company, safe and collateral deposit company, or any other financial institution governed by the provisions of the Michigan financial institutions act, who shall knowingly aid or assist in a violation of any of the provisions of "the Michigan financial institutions act," or acts and parts of acts amendatory thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than 2,500 dollars.

HISTORY: Am. 1937, p. 267, Act 172, Imd. Eff. July 9;—CL 1948, 750.101. This section as originally enacted, superseded and merged with additions Sec. 50 of Act 66 of 1929, being CL 1929, 11947; and Sec. 19 of Act 296 of 1917, being CL 1929, 11991.

CHAPTER XIV

BLASPHEMY

750.102 Blasphemy; punishment.

Sec. 102. Punishment—Any person who shall wilfully blaspheme the holy name of God, by cursing or contumeliously reproaching God, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.102. This section supersedes Sec. 17 of Ch. 158 of the R.S. 1846, being CL 1857, 5872;—CL 1871, 7707;—How. 9293;—CL 1897, 11706;—CL 1915, 15480;—CL 1929, 16632.

750.103 Cursing and swearing.

Sec. 103. Cursing and swearing—Any person who has arrived at the age of discretion, who shall profanely curse or damn or swear by the name of God, Jesus Christ or the Holy Ghost, shall be guilty of a misdemeanor. No such prosecution shall be sustained unless it shall be commenced within 5 days after the commission of such offense.

HISTORY: CL 1948, 750.103. This section supersedes Sec. 18 of Ch. 158 of the R.S. 1846, being CL 1857, 5873;—CL 1871, 7708;—How. 9294;—CL 1897, 11707;—CL 1915, 15481;—CL 1929, 16633.

CHAPTER XV

BOATS AND NAVIGATION

750.104 Fitting out vessel with intent to destroy.

Sec. 104. Fitting out vessel with intent to destroy the same—Any person who shall lade, equip or fit out, or assist in lading, equipping or fitting out any ship, boat or vessel, with intent that the same shall be cast away, burnt, sunk or otherwise destroyed,

to injure or defraud any owner or insurer of such ship, boat or vessel, or of any property laden on board the same, shall be guilty of a felony.

HISTORY: CL 1948, 750.104. This section supersedes Sec. 42 of Ch. 154 of the R.S. 1846, being CL 1857, 5786;—CL 1871, 7593;—How. 9164;—CL 1897, 11578;—CL 1915, 15323;—CL 1929, 16919.

750.105 False invoice of cargo.

Sec. 105. Making false invoice of cargo—The owner of any ship, boat or vessel, or of any property laden, or pretended to be laden on board the same, and any other person concerned in the lading or fitting out of any such ship, boat or vessel, who shall make out or exhibit, or cause to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels or other false estimates of any goods or property laden or pretended to be laden on board such ship, boat or vessel, with intent to injure or defraud any insurer of such ship, boat or vessel or property, or of any part thereof, shall be guilty of a felony.

HISTORY: CL 1948, 750.105. This section supersedes Sec. 43 of Ch. 154 of the R.S. 1846, being CL 1857, 5787;—CL 1871, 7594;—How. 9165;—CL 1897, 11579;—CL 1915, 15324;—CL 1929, 16920.

750.106 False protest; making or procuring.

Sec. 106. Making or procuring false protest—Any master, or other officer or mariner of any ship, boat or vessel, who shall make or cause to be made, or shall swear to, any false affidavit or protest, and any owner or other person concerned in such ship, boat or vessel, or in the goods or property laden on board the same, who shall procure any such false affidavit or protest to be made, or who shall exhibit the same, with intent to injure, deceive or defraud any insurer of such ship, boat or vessel, or of the goods or property laden on board the same, shall be guilty of a felony.

HISTORY: CL 1948, 750.106. This section supersedes Sec. 44 of Ch. 154 of the R.S. 1846, being CL 1857, 5788;—CL 1871, 7595;—How. 9166;—CL 1897, 11580;—CL 1915, 15325;—CL 1929, 16921.

750.107 Moored boat; breaking of lock or chain.

Sec. 107. Breaking lock, etc., of boat moored in lake, etc.—Any person or persons who shall wilfully and maliciously break any lock or chain fastened to any ship, boat or vessel, moored in any lake, river or watercourse of this state, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.107. This section supersedes Sec. 1 of Act 166 of 1869, being CL 1871, 7625;—How. 9196;—CL 1897, 11600;—CL 1915, 15355;—CL 1929, 16996.

750.108 Moored boat; removing.

Sec. 108. Removing boat from fastenings, etc.—Any person who shall wilfully remove any ship, boat or vessel from their fastenings moored upon any lake, river, or watercourse in this state, without the consent of the owner, or who shall maliciously loose any ship, boat or vessel fastened by lock, chains or other fastening to the bank or shore of any lake, river or watercourse, and suffer the same to float away without the consent of the owner or person having in charge said ship, boat or vessel, or who shall rent or hire any such ship, boat or vessel, and shall without any cause leave such ship, boat or vessel, and abandon the same without giving the owner or owners, or person having charge thereof, notice of such abandonment, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.108. This section supersedes Sec. 2 of Act 166 of 1869, being CL 1871, 7626;—How. 9199;—Am. 1885, p. 55, Act 56, Eff. Sept. 19;—CL 1897, 11601;—CL 1915, 15356;—CL 1929, 16997.

750.109 Mooring vessel to buoy or beacon.

Sec. 109. Mooring vessel to buoy or beacon—Any person mooring any ship, boat or vessel to any of the buoys or beacons placed in any of the waters of the state, by the authority of the United States, or in any manner hanging on with a boat or vessel to any such buoy or beacon, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.109. This section supersedes Sec. 1 of Act 5 of 1869, being CL 1871, 7615;—How. 9196;—CL 1897, 11638;—CL 1915, 15404;—CL 1929, 16998.

750.109a Unauthorized possession; penalty.

Sec. 109a. Any person who, wilfully and without authority, takes possession of or uses any vessel, as defined in Act No. 245 of the Public Acts of 1959, being sections 281.651 to 281.669 of the Compiled Laws of 1948, and any person who wilfully and without authority assists in or is a party to such taking possession of or use of a vessel belonging to another, is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 367, Act 217, Eff. Sep. 8.

CHAPTER XVI BREAKING AND ENTERING

750.110 Breaking and entering.

Sec. 110. Any person who shall break and enter with intent to commit any felony, or any larceny therein, any tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, structure, boat or ship, railroad car or any private apartment in any of such buildings or any unoccupied dwelling house, shall be guilty of a felony punishable by imprisonment in the state prison not more than 10 years. Any person who breaks and enters any occupied dwelling house, with intent to commit any felony or larceny therein, shall be guilty of a felony punishable by imprisonment in the state prison for not more than 15 years. For the purpose of this section "any occupied dwelling house" includes one that does not require the physical presence of an occupant at the time of the breaking and entering but one which is habitually used as a place of abode.

HISTORY: CL 1948, 750.110;—Am. 1964, p. 126, Act 133, Eff. Aug. 28;—Am. 1968, p. 575, Act 324, Eff. Nov. 15.

This section supersedes Sec. 1 of Act 345 of 1925, Am. 1929, p. 29-30, Act 13, Eff. Aug. 28, being CL 1929, 16948.

750.110b Dumping of garbage, oil, or rubbish from boats; penalty.

Sec. 110b. Any person who discharges, dumps, deposits or throws or causes or permits the discharging, dumping, depositing or throwing of any garbage, except that which has passed through a disposal unit of a type approved by the United States public health service, or oil or rubbish from a vessel or watercraft of 25 or more feet in length into a river or inland lake within this state, or within 3 miles of the shoreline of any part of the great lakes or connecting waters thereof within this state, is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$1,000.00, or by both.

HISTORY: Add. 1964, p. 126, Act 132, Eff. Jan. 1, 1966.

750.111 Entering without breaking.

Sec. 111. Any person who, without breaking, shall enter any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, with intent to commit a felony or any larceny therein, shall be guilty of a felony punishable by imprisonment in the state prison not more than 5 years, or fined not more than \$2,500.00.

HISTORY: CL 1948, 750.111;—Am. 1964, p. 126, Act 133, Eff. Aug. 28.

This section supersedes Sec. 2 of Act 345 of 1925, Am. 1929, p. 30, Act 13, Eff. Aug. 28, being CL 1929, 16949.

750.112 Burglary with explosives.

Sec. 112. Burglary with explosives—Any person who enters any building, and for the purpose of committing any crime therein, uses or attempts to use nitro-glycerine, dynamite, gunpowder or any other high explosive, shall be guilty of a felony, punishable by imprisonment in the state prison not less than 15 years nor more than 30 years.

HISTORY: CL 1948, 750.112. This section supersedes Sec. 1 of Act 64 of 1907, being CL 1915, 15338;—CL 1929, 16951.

750.113 Coin or depository box; opening or attempt to open.

Sec. 113. Opening or attempting to open coin box, etc.—Any person who maliciously and wilfully, by and with the aid and use of any key, instrument, device or explosive, blows or attempts to blow, or forces or attempts to force an entrance into any coin box, depository box or other receptacle established and maintained for the convenience of the public, or of any person or persons, in making payment for any article of merchandise or service, wherein is contained any money or thing of value, or extracts or obtains, or attempts to extract or obtain, therefrom any such money or thing of value so deposited or contained therein, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by a fine of not more than 250 dollars.

HISTORY: CL 1948, 750.113. This section supersedes Sec. 1 of Act 24 of 1925, being CL 1929, 16953.

750.114 Breaking and entering; outside showcase or counter.

Sec. 114. Breaking and entering outside show case, etc.—Any person who shall break and enter, or enter without breaking, at any time, any outside show case or other outside enclosed counter used for the display of goods, wares or merchandise, with intent to commit the crime of larceny, shall be guilty of misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by a fine of not more than 250 dollars.

HISTORY: CL 1948, 750.114. This section supersedes Sec. 1 of Act 65 of 1911, being CL 1915, 15339;—Am. 1929, p. 337, Act 144, Eff. Aug. 28;—CL 1929, 16952.

750.115 Breaking and entering or entering without breaking; buildings, tents, boats, railroad cars; entering public buildings when expressly denied.

Sec. 115. Any person who shall break and enter, or shall enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the out-buildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof, shall be guilty of a misdemeanor: Provided, That this section shall not apply to entering without breaking, any place which at the time of such entry was open to the public, unless such entry has been expressly denied.

This section shall not apply in cases where the breaking and entering or entering without breaking were committed by a peace officer or some one under his direction in the lawful performance of his duties as such peace officer.

HISTORY: Am. 1947, p. 84, Act 74, Eff. Oct. 11;—CL 1948, 750.115. This section as originally enacted superseded and merged Sec. 1 of Act 181 of 1929, being CL 1929, 16957; and Sec. 2 of Act 181 of 1929, being CL 1929, 16956.

750.116 Burglar's tools; possession.

Sec. 116. Possession of burglar's tools—Any person who shall knowingly have in his possession any nitroglycerine, or other explosive, thermite, engine, machine, tool or implement, device, chemical or substance, adapted and designed for cutting or burning through, forcing or breaking open any building, room, vault, safe or other depository, in order to steal therefrom any money or other property, knowing the same to be adapted and designed for the purpose aforesaid, with intent to use or employ the same for the purpose aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.116. This section supersedes, with additions, Sec. 53 of Ch. 154 of the R.S. 1846, Add. 1867, p. 153, Act 116, Eff. June 27, being CL 1871, 7604;—How. 9175;—CL 1897, 11589;—CL 1915, 15334;—CL 1929, 16930.

CHAPTER XVII

BRIBERY AND CORRUPTION

750.117 Public officer; bribery.

Sec. 117. Bribery of public officer—Any person who shall corruptly give, offer or promise to any public officer, agent, servant or employe, after the election or appointment of such public officer, agent, servant or employe and either before or after such public officer, agent, servant or employe shall have been qualified or shall take his seat, any gift, gratuity, money, property or other valuable thing, the intent or purpose of which is to influence the act, vote, opinion, decision or judgment of such public officer, agent, servant or employe, or his action on any matter, question, cause or proceeding, which may be pending or may by law be brought before him in his public capacity, or the purpose and intent of which is to influence any act or omission relating to any public duty of such officer, agent, servant or employe, shall be guilty of a felony.

HISTORY: CL 1948, 750.117. This section supersedes Sec. 7 of Ch. 156 of the R.S. 1846, being CL 1857, 5826;—CL 1871, 7659;—How. 9241;—CL 1897, 11311;—CL 1915, 14978;—CL 1929, 16569.

750.118 Public officer; accepting bribe.

Sec. 118. Public officer accepting bribe—Any executive, legislative or judicial officer who shall corruptly accept any gift or gratuity, or any promise to make any gift, or to do any act beneficial to such officer, under an agreement, or with an understanding that his vote, opinion or judgment shall be given in any particular manner, or upon a particular side of any question, cause or proceeding, which is or may be by law brought before him in his official capacity, or that in such capacity, he shall make any particular nomination or appointment, shall forfeit his office, and be forever disqualified to hold any public office, trust or appointment under the constitution or laws of this state, and shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.118. This section supersedes Sec. 8 of Ch. 156 of the R.S. 1846, being CL 1857, 5827;—CL 1871, 7660;—How. 9242;—CL 1897, 11312;—CL 1915, 14979;—CL 1929, 16570.

750.119 Jurors, appraisers, etc.; bribery.

Sec. 119. Bribery of jurors, etc.—Any person who shall corrupt or attempt to corrupt any appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator or referee, by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion or influence the decision of such appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator or referee in relation to any matter which may be pending in a court, or before an inquest, or for the decision of which said appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator or referee shall have been appointed or chosen, shall be guilty of a felony.

HISTORY: CL 1948, 750.119. This supersedes, in part, Sec. 9 of Ch. 156 of the R.S. 1846, being CL 1857, 5828;—CL 1871, 7661;—Am. 1875, p. 152, Act 120, Eff. Aug. 3;—How. 9243;—CL 1897, 11313;—CL 1915, 14980;—CL 1929, 16571.

750.120 Jurors, appraisers, etc.; accepting bribe.

Sec. 120. Juror, etc., accepting bribe—Any person summoned as a juror or chosen or appointed as an appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator or referee who shall corruptly take anything to give his verdict, award, or report, or who shall corruptly receive any gift or gratuity whatever, from a party to any suit, cause, or proceeding, for the trial or decision of which such juror shall have been summoned, or for the hearing or determination of which such appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee shall have been chosen or appointed, shall be guilty of a felony.

HISTORY: CL 1948, 750.120. This section supersedes part of Sec. 10 of Ch. 156 of the R.S. 1846, being CL 1857, 5829;—CL 1871, 7662;—Am. 1875, p. 152, Act 120, Eff. Aug. 3;—How. 9244;—CL 1897, 11314;—CL 1915, 14981;—CL 1929, 16572.

750.120a Jurors; intimidation, improper argument or persuasion.

Sec. 120a. Any person who shall wilfully attempt to influence the decision of any juror in any case by means of intimidation or by means of argument or persuasion, other than as part of the proceedings in open court in the trial of the case, shall be guilty of a misdemeanor: Provided, That this section shall not be construed to prevent any deliberating juror from attempting to influence other members of the same jury by any proper means.

HISTORY: Add. 1955, p. 142, Act 88, Eff. Oct. 14.

750.120b Jury deliberations; recording or attempting to record; penalty.

Sec. 120b. It shall be unlawful for any person to attempt to record or to record the deliberation of a jury in any case. Any person violating the provisions of this section shall be guilty of a misdemeanor.

HISTORY: Add. 1956, p. 133, Act 47, Eff. Aug. 11.

750.121 Public institutions; bribery of officers.

Sec. 121. Bribery of officers of public institutions by persons having contracts therewith—Any person interested directly or indirectly in a contract with a state or municipal institution who shall corruptly give, offer or promise to any officer of such institution any bribe, gift, or gratuity whatever, with intent to improperly influence his official action under such contract, shall be guilty of felony.

HISTORY: CL 1948, 750.121. This section supersedes Sec. 2 of Act 107 of 1873, being How. 9356;—CL 1897, 11385;—Am. 1915, p. 526, Act 297, Eff. Aug. 24;—CL 1915, 15103;—CL 1929, 484.

750.122 Repealed. 1968, p. 558, Act 317, Eff. Sep. 1.

Section related to conflict of interest; officers of public institutions.

750.123 Officer omitting duty for reward.

Sec. 123. Officer omitting duty for reward—Any sheriff, coroner, constable, peace officer, or any other officer authorized to serve process or arrest or apprehend offenders against criminal law who shall receive from a defendant or from any other person any money or other valuable thing or any service or promise to pay or give money or to perform or omit to perform any act as a consideration, reward or inducement, for omitting or delaying to arrest any defendant, or to carry him before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his office, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by fine of not more than 250 dollars: Provided, That if such defendant shall be charged with an offense against the criminal laws of the state of Michigan, any officer convicted under the provisions of this section, may, in the discretion of the court, be punished by any fine or by any term of imprisonment or both such fine and imprisonment, within the limits fixed by the statute which such defendant is charged with having violated.

HISTORY: CL 1948, 750.123. This section supersedes Sec. 21 of Ch. 156 of the R.S. 1846, being CL 1857, 5840;—CL 1871, 7673;—How. 9255;—CL 1897, 11325;—CL 1915, 14902;—Am. 1921, p. 455, Act 242, Eff. Aug. 18;—CL 1929, 16583.

750.124 Bribery of athlete.

Sec. 124. Any person who corruptly gives, offers or promises to any person engaged in amateur or professional baseball, boxing, wrestling or other competitive athletic pursuits, any gift, gratuity or valuable thing whatever, with intent to influence him to lose or try to lose, or to affect the result in any way of, any contest in which he is participating or expects to participate; or any person engaged in amateur or professional baseball, boxing, wrestling or other competitive athletic pursuits, who corruptly solicits or accepts a gift, gratuity or valuable thing, or a promise to make a gift or to do an act beneficial to himself, under an agreement or with the understanding that he shall

lose or try to lose, or to affect the result in any way of, any contest in which he is participating or expects to participate, shall be guilty of a felony.

HISTORY: Am. 1945, p. 225, Act 180, Imd. Eff. May 16;—CL 1948, 750.124;—Am. 1951, p. 120, Act 91, Eff. Sep. 28.

This section as originally enacted superseded Sec. 1 of Act 238 of 1921, being CL 1929, 17101.

750.125 Bribery of agents, servants and employees.

Sec. 125. Bribery of agents, servants, etc., and deception of their principals, etc.—It shall be unlawful for any person to give, offer or promise to an agent, employee or servant of another or any other person, any commission, gift or gratuity whatever, or to do an act beneficial to such agent, employee or servant or another with intent to influence the action of such agent, employee or servant in relation to his principal's, employer's or master's business; or for an agent, employee or servant to request or accept for himself or another any commission, gift or gratuity or promise to make any commission, gift, or gratuity to himself or another or the doing of an act beneficial to himself or another, according to any agreement or understanding between him and any other person to the effect that he shall act in any particular manner in relation to his principal's, employer's or master's business. It shall be unlawful for any person to use or to give to an agent, employee or servant or another, or for any agent, employee or servant, to use, approve or certify, with intent to deceive the principal, employer or master, any receipt, account, invoice or other document in respect of which the principal, employer or master is interested, which contains any statement which is false, erroneous or defective in any material particular or which omits to state fully the fact of any commission, money, property or other valuable thing having been given or agreed to be given to such agent, employee or servant.

Evidence shall not be admissible in any proceeding or prosecution under this section to show that a gift or acceptance of any commission, money, property, or other valuable thing as is mentioned in this section is customary in any business, trade or calling, nor shall the customary nature of such transaction be any defense in any such proceeding or prosecution.

In any proceeding or prosecution under this section no person shall be excused from attending and testifying or from producing documentary evidence in obedience to the subpoena of the court on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify when compelled to do so over his objection, or produce evidence, documentary or otherwise, in obedience to the subpoena: Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

The first person committing an offense within the purview of this section who shall report the facts, under oath, to the prosecuting attorney of the county where the offense is triable and who shall give evidence tending to the conviction of any other person charged with an offense under this section shall be granted full immunity from prosecution under this section with respect to the offense reported.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.125. This section re-enacts and merges Sec. 1 of Act 210 of 1905, being CL 1915, 15590;—Am. 1923, p. 212, Act 146, Eff. Aug. 30;—CL 1929, 17094, supersedes and merges Sec. 2 of Act 210 of 1905, Add. 1923, p. 212, Act 146, Eff. Aug. 30, being CL 1929, 17095; and Sec. 3 of Act 210 of 1905, Add. 1923, p. 212, Act 146, Eff. Aug. 30, being CL 1929, 17096; and Sec. 4 of Act 210 of 1905, Add. 1923, p. 212, Act 146, Eff. Aug. 30, being CL 1929, 17097; and Sec. 5 of Act 210 of 1905, Add. 1923, p. 213, Act 146, Eff. Aug. 30, being CL 1929, 17098; and Sec. 6 of Act 210 of 1905, Add. 1923, p. 213, Act 146, Eff. Aug. 30, being CL 1929, 17099.

CHAPTER XVIII

BUCKET SHOPS

750.126 Intent of chapter.

Sec. 126. Intent of chapter—It is the intention of this chapter to prevent, punish and prohibit within this state, the business now engaged in and conducted in places commonly known and designated as bucket shops, and also to include the practice now commonly known as bucket shopping by any person or persons, agents, corporations, associations or copartnerships who or which ostensibly carry on the business or occupation of commission merchants or brokers in grain, provisions, cotton, coffee, petroleum, stocks, bonds or other commodities whatsoever.

HISTORY: CL 1948, 750.126. This section re-enacts parts of Sec. 1 of Act 336 of 1907, being CL 1915, 7805;—CL 1929, 9133, changing word "act" to "chapter".

750.127 Bucket shop; definition.

Sec. 127. Bucket shops defined—A bucket shop, within the meaning of this chapter, is defined to be an office, store or other place wherein the proprietor or keeper thereof, or other person or agent, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association or copartnership within or without the state conducts the business of making or offering to make contracts, agreements, trades or transactions respecting the purchase or sale, or purchase and sale of any stocks, grains, provisions or other commodity or personal property wherein both parties thereto, or said proprietor or keeper contemplated or intended that the contracts, agreements, trades or transactions shall be, or may be closed, adjusted or settled according to or upon the basis of the market quotations or price made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange, or wherein both parties or such keeper or proprietor shall contemplate or intend that such contracts, agreements, trades or transactions shall be or may be deemed closed or terminated, when the market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agreements, trades or transactions shall reach a certain figure, and also any office, store or other place where the keeper, person or agent or proprietor thereof, either in his or its own behalf, or as an agent as aforesaid therein, makes or offers to make, with others, contracts, trades or transactions for the purchase or sale of any such commodity, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such property, but do contemplate a settlement thereof based upon differences in the price at which said property is or is claimed to be bought and sold. The said crime shall be complete against any proprietor, person, agent or keeper thus offering to make any such contracts, trades or transactions, whether such offer is accepted or not.

HISTORY: CL 1948, 750.127. This section re-enacts part of Sec. 1 of Act 336 of 1907, being CL 1915, 7805;—CL 1929, 9133.

750.128 Maintenance of bucket shop; punishment.

Sec. 128. Punishment—Any corporation, association, copartnership, person or persons, or agent, who shall keep or cause to be kept within this state, any bucket shop, and any corporation, person or persons, or agents whether acting individually or as a member or as an officer, agent or employe or any corporation, association or copartnership, who shall keep, maintain or assist in the keeping and maintaining, of any such bucket shop within this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or by a fine of not less than 500 dollars or more than 1,000 dollars.

The continuance of such establishment after the first conviction shall be deemed a

second offense and if the offender be a corporation, it shall be liable to forfeiture of all its rights and privileges as such.

HISTORY: CL 1948, 750.128. This section supersedes Sec. 2 of Act 336 of 1907, being CL 1915, 7808;—CL 1929, 9134.

750.129 Accessories.

Sec. 129. Accessories—Any corporation, association or copartnership, person or persons or his agent or agents who shall communicate, receive, exhibit or display in any manner, any statements of quotations of the prices of any property mentioned in the second section of the chapter with a view to any transaction or transactions in this chapter prohibited, shall be deemed an accessory, and upon conviction thereof, shall be fined and punished the same as the principal, as provided in the next preceding section of this chapter.

HISTORY: CL 1948, 750.129. This section substantially re-enacts Sec. 3 of Act 336 of 1907, being CL 1915, 7807;—CL 1929, 9135.

750.130 Commission merchant; furnishing written statement upon demand.

Sec. 130. Commission merchant to furnish written statement upon demand—It shall be the duty of every commission merchant, copartnership, association, corporation, person or persons, or agent or broker in this state, engaged in the business of buying or selling of or buying and selling stocks, bonds, grain, provisions or other commodities or personal property for any person, principal, customer or purchaser, to furnish, upon demand, to any customer or principal for whom such merchant, broker, copartnership, corporation, association, person or persons, or agent or agents has executed any order for the actual purchase or sale of the commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom the property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which the same was either bought or sold, and in case such commission merchant, broker, person or persons, or agent or agents, copartnership, corporation or association shall refuse promptly to furnish the statement upon reasonable demand, the fact of such refusal shall be prima facie evidence that such property was not sold or bought in a legitimate manner, but was bought in violation thereof.

HISTORY: CL 1948, 750.130. This section re-enacts Sec. 4 of Act 336 of 1907, being CL 1915, 7808;—CL 1929, 9136.

CHAPTER XIX

CHECKS WITHOUT SUFFICIENT FUNDS

750.131 Drawing on insufficient funds; punishment.

Sec. 131. Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, or any person who, with the intent to defraud, shall make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy, or other lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, shall, if the amount payable in the check exceeds \$50.00, be guilty of felony, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00. If the amount payable in the check is \$50.00 or less, such person shall for the first offense be guilty of a misdemeanor; and for the second offense, the same being charged

as a second offense, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 6 months or by a fine of not more than \$250.00; and for a third and subsequent offense, the same being charged as a third or subsequent offense, shall be guilty of a felony, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00.

HISTORY: CL 1948, 750.131;—Am. 1982, p. 53, Act 65, Eff. Mar. 28, 1983.

This section supersedes, with additions, Sec. 1 of Act 271 of 1919, Am. 1923, p. 204, Act 142, Eff. Aug. 30, being CL 1929, 12064.

750.131a Drawing checks upon bank without any bank account.

Sec. 131a. Any person who with intention to defraud shall make or draw or utter any check, draft or order for the payment of money to apply on an account or otherwise upon any bank or other depository who at the time of making, drawing, uttering or delivering such check, draft or order has no account in or credit with such bank or other depository for the payment of such check, draft or order upon presentation shall be guilty of a felony punishable by imprisonment in the state prison for not more than 2 years or by a fine of not more than \$500.

Any person who with the intent to defraud shall make, draw or utter or deliver within a period of not to exceed 10 days 3 or more checks, drafts or orders for the payment of money to apply on account or otherwise upon any bank or other depository knowing at the time of making, drawing, uttering or delivering each of such checks, drafts or orders that the maker or drawer has not sufficient funds or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation shall be guilty of a felony punishable as above in this section provided.

HISTORY: Add. 1941, p. 298, Act 200, Eff. Jan. 10, 1942;—CL 1948, 750.131a.

750.132 Evidence of intent.

Sec. 132. Evidence of intent to defraud, etc.—As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within 5 days after receiving notice that such check, draft or order has not been paid by the drawee.

HISTORY: CL 1948, 750.132. This section re-enacts Sec. 2 of Act 271 of 1919, being CL 1929, 12065.

750.133 Evidence of intent; notice of protest.

Sec. 133. Notice of protest as evidence of intent to defraud, etc.—Where such check, draft or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, non-payment and protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with such bank or other depository.

HISTORY: CL 1948, 750.133.

750.134 Checks without sufficient funds; credit construed.

Sec. 134. Credit construed—The word “credit” as used herein, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft or order, in full, upon the presentation thereof for payment.

HISTORY: Am. 1939, p. 785, Act 314, Eff. Sept. 29;—CL 1948, 750.134. This section as originally enacted, re-enacted Sec. 3 of Act 271 of 1919, being CL 1929, 12066.

CHAPTER XX

CHILDREN

750.135 Children; exposing with intent to injure or abandon.

Sec. 135. Exposing child with intent to injure or abandon—Any father or mother of a child under the age of 6 years, or any other person who shall expose such child in any street, field, house or other place, with intent to injure or wholly to abandon it, shall be guilty of felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.135. This section supersedes Sec. 31 of Ch. 153 of the R.S. 1846, being CL 1857, 5741;—CL 1871, 7540;—Am. 1875, p. 231, Act 200, Eff. Aug. 3;—How. 9105;—CL 1897, 11500;—CL 1915, 15222;—CL 1929, 16738.

DESERTION AND NON-SUPPORT: See Compilers' § 750.161 et seq.

750.136 Cruelty to children; bond, suspension of sentence; search warrant.

Sec. 136. Any parent or guardian or person under whose protection any child may be, who cruelly or unlawfully punishes, or wilfully, unlawfully or negligently deprives of necessary food, clothing or shelter, or who wilfully abandons a child under 16 years of age, or who habitually causes or permits the health of such child to be injured, his or her life endangered by exposure, want or other injury to his or her person, or causes or permits him or her to engage in any occupation that will be likely to endanger his or her health, or deprave his or her morals or who habitually permits him or her to frequent public places for the purpose of begging or receiving alms, or to frequent the company of or consort with reputed thieves or prostitutes, or by vicious training depraves the morals of such child, shall, upon conviction, be deemed guilty of a felony: Provided, however, If, after such conviction and before sentence, in case the child has not been deformed or maimed, he or she shall appear before the clerk of the court in which said conviction shall have taken place, and with good and sufficient surety, to be approved by said clerk enter into bond to the people of the state of Michigan in the penal sum of \$1,000.00 conditioned that he or she will furnish such child or children with necessary and proper home, care, food, shelter, protection and clothing, the said court may suspend sentence therein. When complaint is made on oath or affirmation to a magistrate or court having jurisdiction in such cases that the complainant believes that any of the provisions of law relating to or affecting children are being or are about to be violated in any particular building or place, such magistrate or court being satisfied that there is reasonable ground for such belief shall issue a warrant directed to the proper sheriff, constable, police officer or agent of such association, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any such law, and to bring such person before some court or magistrate of competent jurisdiction, together with the child or children concerning whom such offense has been committed, to be dealt with according to the law; and such attempt shall be held to be a violation of such law, and shall subject the person charged therewith, if found guilty, to the penalties provided for such violation.

HISTORY: CL 1948, 750.136;—Am. 1958, p. 106, Act 97, Eff. Sep. 13.

This section supersedes Sec. 1 of Act 156 of 1893, Am. 1897, p. 269, Act 213, Eff. Aug. 30;—CL 1897, 11507;—CL 1915, 15230;—CL 1929, 12820.

750.136a Torturing of children; penalty.

Sec. 136a. Any parent or guardian or person under whose protection or control any child may be, who tortures such child, shall be guilty of a felony and may be punished by imprisonment for not more than 10 years.

HISTORY: Add. 1958, p. 107, Act 97, Eff. Sep. 13.

750.137 Purchase of goods from minors under 18.

Sec. 137. Purchase of goods from minors under 18 years by dealers in second-hand goods, etc.—Any dealer in second-hand goods, junk shop keeper, peddler, rag or paper buyer, pawnbroker or hawker, who shall purchase, either directly or indirectly, or by his agent or clerk, any goods, thing, article or articles from any minor under the age of

18 years, without the written consent of the parent or guardian of such minor, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.137. This section supersedes Sec. 1 of Act 52 of 1889, being How. 9354i;—CL 1897, 11376;—CL 1915, 15094;—CL 1929, 9830.

750.138 Children; legal custody, interference.

Sec. 138. Interfering with legal custody of dependent, neglected and delinquent children—Any person who shall in any manner interfere or attempt to interfere with the custody of any dependent, neglected or delinquent child who has been adjudged to be such pursuant to Act No. 6 of the Public Acts of 1907, Extra Session, as amended, being sections 12834 to 12849, inclusive, of the Compiled Laws of 1929, subsequently to the making of an order of commitment to a state institution or otherwise, in accordance with said act and pending the actual admission and reception of such child as an inmate of the institution, school or home to which commitment is made; and any person who shall entice such neglected, dependent or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with such custody; and any person who shall entice or procure any such child committed as aforesaid to leave and depart from any hospital or other place where such child may have been placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home or other institution or place to which commitment may have been made, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.138. This section supersedes and merges Sec. 1 of Act 286 of 1915, being CL 1915, 2026;—CL 1929, 12850; and Sec. 2 of Act 286 of 1915, being CL 1915, 2027;—CL 1929, 12851.

NOTE: Act 6, 1907, Ex. Ses., above referred to, was repealed and superseded by Act 288, 1939. See Compilers' § 712A.1 et seq.

750.139 Children under 16, confinement and trial.

Sec. 139. Confinement and trial of minors under 16 years of age—No child under 16 years of age while under arrest, confinement, or conviction for any crime, shall be placed in any apartment or cell of any prison or place of confinement with any adult who shall be under arrest, confinement, or conviction for any crime, or be permitted to remain in any court room during the trial of adults, or be transported in any vehicle of transportation in company with adults charged with or convicted of crime.

All cases involving the commitment or trial of children under 16 years of age for any crime or misdemeanor, before any magistrate or justice of the peace, or in any court, shall be heard and determined by such court at a suitable time, to be designated therefor by it, separate and apart from the trial of other criminal cases.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.139. This section re-enacts, except first word "that", Sec. 1 of Act 110 of 1901, being CL 1915, 7240;—CL 1929, 12816; and re-enacts Sec. 2 of Act 110 of 1901, being CL 1915, 7241, CL 1929, 12817; and supersedes Sec. 3 of Act 110 of 1901, being CL 1915, 7242;—CL 1929, 12818.

NOTE: See also Compilers' §§ 712A.16 and 722.553.

750.140 Children; exhibition, employ, apprentice.

Sec. 140. Exhibition, etc., of children in certain cases—Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use or employ, or who shall apprentice, give away, let out or otherwise dispose of any such child to any person in or for the vocation, service or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent or immoral purpose, exhibition or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of such child, or who shall cause, procure, or encourage such child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit or have in custody any such child for

any of the purposes mentioned in this section, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.140. This section supersedes Sec. 1 of Act 260 of 1881, being How. 1998;—CL 1897, 5553;—CL 1915, 7222;—CL 1929, 12798.

750.141 Children in places where liquor is sold; local ordinances.

Sec. 141. No minor child under 17 years of age shall be permitted to remain in any dance hall, saloon, barroom or any place where any spirituous or intoxicating liquor, or any wine or beer, or any beverage, liquor or liquors containing any spirituous or intoxicating liquor, beer or malt liquor is sold, given away or furnished for a beverage, unless such minor is accompanied by parent or guardian. Any proprietor, keeper or manager of any such place who shall permit such minor child to remain in any such place, and any person who shall encourage or induce in any way such minor child to enter such place or to remain therein shall be deemed guilty of a misdemeanor. This section shall not prevent any township, village or city from establishing, by ordinance, regulations more stringent than the provisions of this act relative to the attendance of any minor under the age of 21 years at theaters, movie houses, bowling or billiard halls and dance halls. This section shall not prevent any township, village or city from establishing, by ordinance, regulations permitting the attendance of minor children at dances where no spirituous or intoxicating liquor, beer or malt liquor is sold, given away or consumed in the dance area.

HISTORY: CL 1948, 750.141;—Am. 1859, p. 382, Act 254, Eff. Mar. 19, 1960;—Am. 1966, p. 187, Act 166, Imd. Eff. Jul. 1.

This section supersedes Sec. 3 of Ch. XXX of Pt. II of Act 319 of 1927, being CL 1929, 7631; and Sec. 2 of Act 260 of 1881, being How. 1999;—CL 1897, 5554;—Am. 1905, p. 341, Act 236, Eff. Sep. 16;—Am. 1907, p. 60, Act 55, Eff. Sep. 28;—Am. 1909, p. 368, Act 203, Eff. Sep. 1;—CL 1915, 7223;—CL 1929, 12799.

750.141a Children; furnishing liquor without prescription; penalty.

Sec. 141a. Any person, who knowingly gives or furnishes any alcoholic beverage to a minor except upon authority of and pursuant to a prescription of a duly licensed physician, shall be guilty of a misdemeanor, and if the furnishing involved any consideration, the person shall be imprisoned for not more than 1 year or fined not more than \$1,000.00 or both.

HISTORY: Add. 1943, p. 334, Act 205, Eff. Jul. 30;—CL 1948, 750.141a;—Am. 1963, p. 225, Act 162, Eff. Sep. 6.

750.141b Repealed. 1963, p. 226, Act 162, Eff. Sep. 6.

Section provided for form issuance and use of liquor purchase identification cards by persons between ages of 21 and 25; imposed penalty for misuse or falsification.

750.141c Minors; false representation as to age for buying alcoholic liquor.

Sec. 141c. Any person under the age of 21 years who shall falsely represent himself to be 21 years of age or over, for the purpose of purchasing or attempting to purchase any alcoholic liquor, is guilty of a misdemeanor.

HISTORY: Add. 1947, p. 93, Act 86, Eff. Oct. 11;—CL 1948, 750.141c;—Am. 1955, p. 261, Act 171, Eff. Oct. 14;—Am. 1964, p. 117, Act 121, Eff. Aug. 28.

750.141d Minors; false information by others as to age of minor for buying alcoholic liquor.

Sec. 141d. Any person who gives false information regarding the age of another person under 21 years of age for the purpose of procuring the sale of intoxicating liquor to him or who furnishes false documentary evidence to a person under 21 years of age who uses the evidence to purchase intoxicating liquor is guilty of a misdemeanor.

HISTORY: Add. 1964, p. 118, Act 121, Eff. Aug. 28.

750.142 Minors; furnishing obscene books.

Sec. 142. Furnishing obscene books to children—Any person who shall sell, give away or in any way furnish to any minor child any book, pamphlet, or other printed paper or other thing, containing obscene language, or obscene prints, pictures, figures

or descriptions tending to the corruption of the morals of youth, or any newspapers, pamphlets or other printed paper devoted to the publication of criminal news, police reports, or criminal deeds, and any person who shall in any manner hire, use or employ such child to sell, give away, or in any manner distribute such books, pamphlets or printed papers, and any person having the care, custody or control of any such child, who shall permit him or her to engage in any such employment, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.142. This section re-enacts, except words "on conviction thereof be deemed", Sec. 5 of Act 260 of 1881, being How. 2002;—CL 1897, 5557;—CL 1915, 7228;—CL 1929, 12802.

750.143 Children; exhibition of obscene matter.

Sec. 143. Exhibition of obscene matter within view of children—Any person who shall exhibit upon any public street or highway, or in any other place within the view of children passing on any public street or highway, any book, pamphlet or other printed paper or thing containing obscene language or obscene prints, figures, or descriptions, tending to the corruption of the morals of youth, or any newspapers, pamphlets, or other printed paper or thing devoted to the publication of criminal news, police reports or criminal deeds, shall on conviction thereof be guilty of a misdemeanor.

HISTORY: CL 1948, 750.143. This section re-enacts except changes first word "every" to "any", and leaves out "deemed", Sec. 6 of Act 260 of 1881, being How. 2003;—CL 1897, 5558;—CL 1915, 7227;—CL 1929, 12803.

750.144 Minor; boarding houses, licensing.

Sec. 144. Licensed boarding homes for children—Any person who maintains a boarding home for children, unless licensed therefor by the state welfare commission, shall be guilty of a misdemeanor.

Any person who has in his custody or control for a longer period than 30 days, 1 or more children under the age of 15 years unattended by a parent or guardian, except children related to him by blood or marriage, for the purpose of providing such child or children with care, food and lodging, shall be deemed to maintain a boarding home for children: Provided, That nothing in this section shall be construed to apply to the legal guardian of the child.

HISTORY: CL 1948, 750.144. This section supersedes, with additions, Sec. 6 of Act 136 of 1919, being CL 1929, 12874.
BOARDING HOMES: See Compilers' § 722.101 et seq. and in particular Compilers' § 722.108.

750.145 Minor; contributing to neglect or delinquency.

Sec. 145. Contributing to neglect or delinquency of children—Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in section 2 of chapter 12a of Act No. 288 of the Public Acts of 1939, as added by Act No. 54 of the Public Acts of the First Extra Session of 1944, and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

HISTORY: Am. 1939, p. 148, Act 88, Eff. Sept. 29;—Am. 1945, p. 82, Act 85, Eff. Sept. 6;—CL 1948, 750.145. This section as originally enacted, superseded and merged Sec. 2 of Ch. XXX of Pt. II of Act 319 of 1927, being CL 1929, 7630; and Sec. 13 of Ch. XXXVI of Pt. II of Act 319 of 1927, being CL 1929, 7696.

NOTE: Sec. 2, Ch. 12a, Act 288, 1939, above referred to, is Compilers' § 712A.2.

750.145a Accosting, enticing or soliciting child for immoral purposes.

Sec. 145a. Accosting, enticing or soliciting child. Any person who shall accost, entice, or solicit a child under the age of 16 years with intent to induce or force said child to commit an immoral act, or to submit to an act of sexual intercourse, or an act of

gross indecency, or any other act of depravity or delinquency, or shall suggest to such child any of the aforementioned acts, shall on conviction thereof be deemed guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year.

HISTORY: Add. 1935, p. 276, Act 174, Eff. Sept. 21;—Am. 1939, p. 149, Act 88, Eff. Sept. 29;—CL 1948, 750.145a.

750.145b Accosting, enticing or soliciting child for immoral purpose; second offense, penalty.

Sec. 145b. Any person who shall be adjudged guilty a second or any subsequent time of a violation of the preceding section of this act, the offense being charged as a second or subsequent offense, shall be guilty of a felony.

HISTORY: Add. 1935, p. 276, Act 174, Eff. Sept. 21;—Am. 1939, p. 149, Act 88, Eff. Sept. 29;—CL 1948, 750.145b.

CHAPTER XXI

CIVIL RIGHTS

750.146 Civil rights; equal public accommodation.

Sec. 146. All persons within the jurisdiction of this state shall be entitled to full and equal accommodations, advantages, facilities and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theatres, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike, with uniform prices.

HISTORY: Am. 1937, p. 185, Act 117, Eff. Oct. 29;—CL 1948, 750.146;—Am. 1952, p. 113, Act 101, Eff. Sep. 18;—Am. 1956, p. 337, Act 182, Eff. Aug. 11.

This section, as originally enacted, re-enacted Sec. 1 of Act 130 of 1885, being How. 9074a;—CL 1897, 11759;—CL 1915, 15570;—Am. 1919, p. 657, Act 375, Eff. Aug. 14;—CL 1929, 16809.

750.147 Civil rights; penalty; suspension or revocation of license.

Sec. 147. Any person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place who shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities and privileges thereof or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communications, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such places shall be refused, withheld from or denied to any person on account of race, creed or color or that any particular race, creed or color is not welcome, objectionable or not acceptable, not desired or solicited, shall for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 or imprisoned for not less than 15 days or both such fine and imprisonment in the discretion of the court; and every person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place, and who violates any of the provisions of this section, shall be liable to the injured party, in treble damages sustained, to be recovered in a civil action: Provided, however, That any right of action under this section shall be unassignable. In the event that any person violating this section is operating by virtue of a license issued by the state, or any municipal authority, the court, in addition to the penalty prescribed above, may suspend or revoke such license.

HISTORY: Am. 1937, p. 186, Act 117, Eff. Oct. 29;—CL 1948, 750.147;—Am. 1956, p. 338, Act 182, Eff. Aug. 11.

This section as originally enacted superseded Sec. 2 of Act 130 of 1885, being How. 9074b;—CL 1897, 11760;—CL 1915, 15571;—Am. 1919, p. 657, Act 375, Eff. Aug. 14;—CL 1929, 16810.

750.148 Civil rights; race or color not to disqualify for jury service.

Sec. 148. Race or color not to disqualify for jury service. No citizen of the state of Michigan, possessing all other qualifications which are or may be prescribed by law, shall be disqualified to serve as grand or petit juror in any court of said state on ac-

count of race, creed or color, and any officer or other person charged with any duty in the drawing, summoning, and selection of persons who shall exclude from, fail, neglect and/or refuse, by words, trick and/or artifice, to draw the name of, summon and/or select any citizen for jury service because of his or her race, creed and/or color, shall be guilty of a misdemeanor and upon conviction shall be fined not less than 50 dollars or shall be imprisoned for a period of not less than 30 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1937, p. 186, Act 117, Eff. Oct. 29;—CL 1948, 750.148. This section as originally enacted superseded Sec. 3 of Act 130 of 1885, being How. 9074c;—CL 1897, 11781;—CL 1915, 15572;—CL 1929, 16811.

CHAPTER XXII

COMPOUNDING OFFENSES

750.149 Compounding or concealing offense; penalty.

Sec. 149. Punishment—Any person having knowledge of the commission of any offense punishable with death, or by imprisonment in the state prison, who shall take any money, or any gratuity or reward, or any engagement therefor, upon an agreement or understanding, express or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall, when such offense of which he has knowledge was punishable with death, or imprisonment in the state prison for life, be guilty of a felony; and where the offense, of which he so had knowledge, was punishable in any other manner, he shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.149. This section supersedes Sec. 20 of Ch. 156 of the R.S. 1846, being CL 1857, 5839;—CL 1871, 7672;—How. 9254;—CL 1897, 11324;—CL 1915, 14991;—CL 1929, 16582.

CHAPTER XXIII

CONCEALING DEATH OF INFANT CHILD

750.150 Illegitimate issue; concealment of death by mother.

Sec. 150. If any unmarried woman shall conceal the death of any issue of her body, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by fine not exceeding 100 dollars, or imprisonment in the county jail not more than 1 year.

HISTORY: CL 1948, 750.150. This section supersedes Sec. 8 of Ch. 156 of the R.S. 1846, being CL 1857, 5863;—CL 1871, 7699;—How. 9254;—CL 1897, 11695;—CL 1915, 15469;—CL 1929, 16824.

CHAPTER XXIV

CONSPIRACY

750.151 Conspiracy; definition; penalty.

Sec. 151. Definition and punishment—All contracts, agreements, understandings and combinations made, entered into, or knowingly assented to, by and between any parties capable of making a contract or agreement which would be valid at law or in equity, the purpose or object or intent of which shall be to limit, control, or in any manner to restrict or regulate the amount of production or the quantity of any article or commodity to be raised, or produced by mining, manufacture, agriculture or any other branch of business or labor, or to enhance, control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any such article or commodity, shall be illegal and void, and every such contract, agreement, understanding and combination shall constitute a criminal conspiracy. And every person who, for himself personally, or as a member, or in the name of a partnership, or as a member, agent or officer of the corporation, or of any association for business purposes of any kind, who shall enter into or knowingly consent to any

such void and illegal contract, agreement, understanding or combination, shall be deemed a party to such conspiracy.

All parties so offending shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months or by a fine of not more than 250 dollars. And the prosecution for offenses under this section may be instituted and the trial had in any county where any of the conspirators become parties to such conspiracy, or in which any one of the conspirators shall reside: Provided, however, That this section shall in no manner invalidate or affect contracts for what is known and recognized as common law and in equity as contracts for the "good will of a trade or business"; but all such contracts shall be left to stand upon the same terms and within the same limitations recognized at common law and in equity.

HISTORY: CL 1948, 750.151. This section supersedes Sec. 1 of Act 225 of 1889, being How. 9354j;—CL 1897, 11377;—CL 1915, 15095;—CL 1929, 16674.

750.152 Illegal contracts.

Sec. 152. Certain contracts illegal wherever made—Every contract, agreement, understanding, and combination declared void and illegal by the first section of this chapter shall be equally void and illegal within this state, whether made and entered into within or without the state.

HISTORY: CL 1948, 750.152. This section re-enacts except changing word "act" to "chapter", Sec. 2 of Act 225 of 1889, being How. 9354k;—CL 1897, 11378;—CL 1915, 15096;—CL 1929, 16675.

750.153 Illegal contracts; carrying into effects.

Sec. 153. Carrying into effect such unlawful contracts—The carrying into effect, in whole or in part, of any such illegal contract, agreement, understanding or combination as mentioned in the first section of this chapter and every act which shall be done for that purpose by any of the parties or through their agency or the agency of any one of them, shall constitute a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.153. This section supersedes Sec. 3 of Act 225 of 1889, being How. 9354-l;—CL 1897, 11379;—CL 1915, 15097;—CL 1929, 16676.

750.154 Violation by corporation forfeits charter.

Sec. 154. Violation by corporation forfeits charter—Any corporation now or hereafter organized under the laws of this state, which shall enter into any contract, agreement, understanding or combination declared illegal and criminal by the first section of this chapter, or shall do any act towards or for the purpose of carrying the same into effect in whole or in part, and which shall not within 30 days from the time when this chapter shall take effect, withdraw its assent thereto and repudiate the same and file in the office of the secretary of state such refusal and repudiation under its corporate seal, shall forfeit its charter and all its rights and franchises thereunder.

HISTORY: CL 1948, 750.154. This section re-enacts except changing word "act" to "chapter", in 2 places, and the word "who" to "which", Sec. 4 of Act 225 of 1889, being How. 9354m;—CL 1897, 11380;—CL 1915, 15098;—CL 1929, 16677.

750.155 Violation by corporation forfeits charter; quo warranto.

Sec. 155. Quo warranto against offending corporations—It shall be the duty of the attorney general upon his own relation, or upon the relation of any private person, whenever he shall have good reasons to believe that the same can be established by proof, to file an information in the nature of a quo warranto against any corporation offending against any of the provisions of this chapter; and thereupon the same proceedings shall be had as provided by chapter 38 of Act No. 314 of the Public Acts of 1915, being sections 15271 to 15300 inclusive of the Compiled Laws of 1929, relating to proceedings by information in the nature of quo warranto, against corporations offending against any of the provisions of the act or acts creating, altering or renewing such corporations, and in other cases.

HISTORY: CL 1948, 750.155. This section supersedes Sec. 5 of Act 225 of 1889, being How. 9354n;—CL 1897, 11381;—CL 1915, 15099;—CL 1929, 16678.

NOTE: Ch. 38, Act 314, 1915, above referred to, is Compilers' repealed § 638.1 et seq. See § 600.4501 et seq.; GCR 715.

750.156 Exemptions to chapter.

Sec. 156. Exemptions—The provisions of this chapter shall not apply to agricultural products or live stock while in the hands of the producer or raiser, nor to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members.

HISTORY: CL 1948, 750.156. This section re-enacts except changing word "act" to "chapter", Sec. 6 of Act 225 of 1889, being How. 9354o;—CL 1897, 11382;—CL 1915, 15100;—CL 1929, 16679.

750.157 Incriminating testimony; immunity of witnesses.

Sec. 157. Incriminating testimony and immunity of witness except for perjury—No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this chapter, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, proceeding or trial: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.157.

750.157a Conspiracy to commit offense or legal act in illegal manner; penalty.

Sec. 157a. Any person who conspires together with 1 or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy punishable as provided herein:

(a) Except as provided in paragraphs (b), (c) and (d) if commission of the offense prohibited by law is punishable by imprisonment for 1 year or more, the person convicted under this section shall be punished by a penalty equal to that which could be imposed if he had been convicted of committing the crime he conspired to commit and in the discretion of the court an additional penalty of a fine of \$10,000.00 may be imposed.

(b) Any person convicted of conspiring to violate any provision of this act relative to illegal gambling or wagering or any other acts or ordinances relative to illegal gambling or wagering shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$10,000.00, or both such fine and imprisonment.

(c) If commission of the offense prohibited by law is punishable by imprisonment for less than 1 year, except as provided in paragraph (b), the person convicted under this section shall be imprisoned for not more than 1 year nor fined more than \$1,000.00, or both such fine and imprisonment.

(d) Any person convicted of conspiring to commit a legal act in an illegal manner shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$10,000.00, or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1986, p. 502, Act 296, Eff. Mar. 10, 1987.

750.157b Inciting, inducing or exhorting and aiding and abetting another to commit a crime; endangering the life of another.

Sec. 157b. Any person who incites, induces or exhorts any other person to unlawfully burn any property, to murder, to kill, to wound or to commit an aggravated or felonious assault on any person or to do any act which would constitute a felony or

circuit court misdemeanor, that may endanger or be likely to endanger the life of any person, or who aids and abets in any such inciting, inducing or exhorting shall be punished in the same manner as if he had committed the offense, incited, induced or exhorted.

HISTORY: Add. 1968, p. 518, Act 308, Eff. Jul. 1.

CHAPTER XXIVA

CREDIT CARDS

750.157m Credit cards; definitions.

Sec. 157m. As used in this chapter:

(a) "Credit card" means any instrument or device which is sold, issued or otherwise distributed by a business organization or financial institution for the use of the person or organization identified thereon for obtaining goods, property, services or anything of value on credit.

(b) "Cardholder" means (1) the person or organization who requests a credit card and to whom or for whose benefit a credit card is subsequently issued; or (2) the person or organization to whom a credit card was issued and who uses a credit card, whether the issuance of the credit card was requested or not.

HISTORY: Add. 1967, p. 484, Act 255, Eff. Nov. 2, 1967.

750.157n Stealing, removing, retaining or secreting another's card without consent.

Sec. 157n. Any person who steals, knowingly takes or knowingly removes a credit card from the person or possession of a cardholder, or who knowingly retains or knowingly secretes a credit card without the consent of the cardholder, shall be guilty of a felony.

HISTORY: Add. 1967, p. 484, Act 255, Eff. Nov. 2.

750.157p Possession of another's card with intent to circulate or sell.

Sec. 157p. Any person who has in his possession, or under his control, or who receives from another person a credit card with the intent to circulate or sell the same, or to permit or cause or procure the same to be used, delivered, circulated or sold, knowing such possession, control or receipt to be without the consent of the cardholder, shall be guilty of a felony.

HISTORY: Add. 1967, p. 484, Act 255, Eff. Nov. 2.

750.157q Delivery, circulation or sale of wrongly held or obtained card.

Sec. 157q. Any person who delivers, circulates or sells a credit card which was obtained or is held by such person under circumstances which would constitute an offense under sections 157n or 157p, or uses or permits or causes or procures the same to be used, delivered, circulated or sold, knowing the same to be obtained or held under circumstances which would constitute an offense under sections 157n or 157p, shall be guilty of a felony.

HISTORY: Add. 1967, p. 484, Act 255, Eff. Nov. 2.

750.157r Fraud, forgery or material alteration; counterfeiting.

Sec. 157r. Any person who, with intent to defraud, forges, materially alters or counterfeits a credit card, shall be guilty of a felony.

HISTORY: Add. 1967, p. 485, Act 255, Eff. Nov. 2.

750.157s Revoked or cancelled card; use with intent to defraud, notice.

Sec. 157s. Any person who, for the purpose of obtaining goods, property, services or anything of value, knowingly and with intent to defraud uses a credit card which has been revoked or canceled by the issuer thereof, as distinguished from expired, and notice of such revocation or cancellation has been received by such person through regis-

tered or certified mail or by personal service, shall be guilty of a misdemeanor if the aggregate value of the goods, property, services or anything of value is \$100.00 or less, and shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisoned not more than 1 year, or both, if the aggregate value of the goods, property, services or anything of value is more than \$100.00.

HISTORY: Add. 1967, p. 485, Act 255, Eff. Nov. 2;—Am. 1968, p. 273, Act 183, Eff. Nov. 15.

750.157t Sales to or services performed for violators.

Sec. 157t. Any person who sells or delivers goods or property or anything of value, or renders any service to any other person knowing that such other person has committed or is committing any act prohibited by this chapter shall be guilty of a felony.

HISTORY: Add. 1967, p. 485, Act 255, Eff. Nov. 2.

750.157u Causing cardholder to be overcharged.

Sec. 157u. Any person to whom a cardholder presents a credit card for the purpose of obtaining goods, property, services or anything of value on credit who, by forging or aiding in the forgery of the cardholder's signature or by filling out or completing a form supplied by the issuer of the credit card, causes the cardholder to be overcharged, shall be guilty of a felony.

HISTORY: Add. 1967, p. 485, Act 255, Eff. Nov. 2.

CHAPTER XXV

CRIME AGAINST NATURE OR SODOMY

750.158 Crime against nature or sodomy; penalty.

Sec. 158. Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: CL 1948, 750.158;—Am. 1952, p. 80, Act 73, Eff. Sep. 18.

This section supersedes Sec. 16 of Ch. 156 of the R.S. 1846, being CL 1857, 5871;—CL 1871, 7706;—How. 9292;—CL 1897, 11705;—CL 1915, 15479;—Am. 1923, p. 80, Act 57, Eff. Aug. 30;—CL 1929, 16631.

750.159 Emission need not be proved.

Sec. 159. In any prosecution for sodomy, it shall not be necessary to prove emission, and any sexual penetration, however slight, shall be deemed sufficient to complete the crime specified in the next preceding section.

HISTORY: CL 1948, 750.159;—Am. 1952, p. 80, Act 73, Eff. Sep. 18.

CHAPTER XXVI

DEAD HUMAN BODIES

750.160 Disinterment and mutilation.

Sec. 160. Disinterment and mutilation of dead human bodies—Any person, not being lawfully authorized so to do, who shall wilfully dig up, disinter, remove or convey away any human body, or the remains thereof, from the place where such body may be interred or deposited, or who shall knowingly aid in such disinterment, removal or conveying away, or who shall mutilate, deface, remove or carry away any portion of the dead body of any person, whether in their charge for burial or otherwise, whenever such mutilation, defacement, removal or carrying away is not necessary in any proper operation in embalming such body or for the purpose of a post-mortem examination, and every person accessory thereto, either before or after the fact, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars: Provided, That this section shall not

be construed to prohibit the digging up, disinterment, removal or carrying away for scientific purposes of the remains of prehistoric persons or of the aboriginal inhabitants of this country by representatives or employes of established scientific institutions or societies, having the consent in writing of the owner of the land from which such remains may be disinterred, removed or carried away.

HISTORY: CL 1948, 750.160. This section supersedes Sec. 21 of Ch. 158 of the R.S. 1846, being CL 1857, 5876;—CL 1871, 7711,—Am. 1879, p. 151, Act 158, Eff. Aug. 31;—How. 9297;—CL 1897, 11710;—CL 1915, 15484;—Am. 1919, p. 445, Act 251, Eff. Aug. 14;—Am. 1929, p. 617, Act 256, Imd. Eff. May 22;—CL 1929, 16836.

CHAPTER XXVII

DESERTION AND NON-SUPPORT

750.161 Desertion and non-support; bond; conditions, forfeiture.

Sec. 161. Any man who deserts and abandons his wife or deserts and abandons his minor children under 17 years of age, without providing necessary and proper shelter, food, care and clothing for them and any man who being of sufficient ability shall fail, neglect or refuse to provide necessary and proper shelter, food, care and clothing for his wife or his minor children under the age of 17 years, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 3 years, nor less than 1 year, or by imprisonment in the county jail for not more than 1 year, and not less than 3 months: Provided, however, If at any time before sentence he shall enter into bond to the people of the state of Michigan in such penal sum for such term and with such surety or sureties as may be fixed by the court, conditioned that he will furnish his wife and children with necessary and proper shelter, food, care and clothing, or will pay to the clerk of the court, or other designated person, such sums of money at such times as the court shall order to be used to provide food, shelter, and clothing for his wife and children, or either of them, then the court may in its discretion make an order placing the defendant in charge of a probation officer and the court may require that said defendant shall from time to time report to said probation officer as in other cases provided by the laws of the state of Michigan, and said court may extend the period of probation from time to time or said court may defer sentence in said cause, but no term of any bond or any probation period shall exceed the maximum term of imprisonment as fixed in this section. Upon failure of such man to comply with any of the undertakings contained in said bond, the defendant may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and make a new undertaking and further defer sentence as may be just and proper. Whenever the whereabouts of said defendant is unknown, the court may summarily issue a bench warrant for the arrest of such defendant. The court shall further, upon default by the defendant to comply with the conditions of said bond and the orders of the court, notify the prosecuting attorney of the county, who shall forthwith file a petition in the court wherein said cause is pending to declare said bond forfeited. A copy of such petition and notice of the hearing thereof shall be served upon the surety or sureties, if any, named in said bond at least 4 days before the hearing of said petition. Upon said hearing, the court may declare said bond forfeited. When so ordered, the prosecuting attorney shall forthwith institute the necessary action to collect the principal sum of said bond. When a cash bond shall have been filed, the same shall be declared forfeited by the court. All sums received from said bonds shall be paid to the clerk of the court, who shall hold and disburse said money for the use of those entitled to the same in accordance with the orders of the court for their necessary food, care, shelter and clothing: Provided, That the desertion, abandonment, refusal, or neglect to provide necessary and proper shelter, food, care and clothing as in this section provided shall be deemed to be a continuing offense and may be so set out in any complaint or informa-

tion. Proof of the offense charged at any time during the period alleged in the complaint or information shall be deemed proof of a violation of this section.

HISTORY: Am. 1947, p. 194, Act 142, Eff. Oct. 11;—CL 1948, 750.161. This section as originally enacted superseded Sec. 1 of Act 144 of 1907, being CL 1915, 7789;—Am. 1921, p. 243, Act 114, Eff. Aug. 18;—Am. 1923, p. 384, Act 239, Eff. Aug. 30;—CL 1929, 12788.

CHILDREN: Crimes against, see Compilers' § 750.135 et seq.

750.162 Allowance for wife and children.

Sec. 162. Allowances for wife and children—When any person is convicted under the next preceding section and sentenced to serve a term of imprisonment either in 1 of the state prisons or in the Detroit house of correction or other penal institution, the warden of the prison or superintendent of said house of correction in which said person shall be confined shall, in case funds are available for such purpose, at the end of each and every week during the period of said term of imprisonment, pay over to any of the superintendents of the poor of the city or county in which the wife or children of such person resides, the sum of 2 dollars and 50 cents per week, if there be only a wife, and 75 cents per week additional for each minor child under the age of 17 years; if there be no wife and there are children under the age of 17 years, the sum of 2 dollars and 50 cents per week for the oldest child, and an additional sum of 1 dollar per week for each of the other children under said age in lieu of any earnings of such person while an inmate therein, said sums to be expended by said superintendent of the poor for the care and support of the wife or children of said person, as the case may be; and it shall be the duty of the superintendent of the poor of the city or county from which such person shall be committed to furnish the warden of the prison or superintendent of said house of correction in which said person is confined with a sworn statement, showing the names of the wife and children who are left dependent upon the city or county for support, their ages and the relation they bear to such convicted person.

HISTORY: CL 1948, 750.162. This section supersedes Sec. 2 of Act 144 of 1907, Am. 1913, p. 331, Act 175, Eff. Aug. 14;—CL 1915, 7790;—Am. 1923, p. 385, Act 239, Eff. Aug. 30;—CL 1929, 12789.

750.163 Complaints.

Sec. 163. Complainants—Any of the superintendents of the poor of the city or county or the county agent of the state welfare commission for the county wherein the wife or minor children of the person complained of reside, may make the complaint under the first section of this chapter.

HISTORY: CL 1948, 750.163. This section supersedes Sec. 4 of Act 144 of 1907, being CL 1915, 7792;—CL 1929, 12791.

750.164 Desertion following marriage to escape prosecution.

Sec. 164. Desertion following marriage to escape prosecution for rape, etc.—Any man or boy, who being the father of a child born out of wedlock, shall marry any woman or girl for the purpose of escaping prosecution therefor, and any man or boy who shall marry any woman or girl for the purpose of escaping prosecution for rape or seduction, and shall afterwards desert her without good cause, shall be guilty of a felony: Provided, That no prosecution shall be brought under this section after 5 years from the date of the marriage.

HISTORY: CL 1948, 750.164. This section supersedes part of Sec. 1 of Act 284 of 1907, Am. 1913, p. 587, Act 310, Eff. Aug. 14;—CL 1915, 7794;—CL 1929, 12793.

RAPE: See Compilers' § 750.520.

SEDUCTION: See Compilers' § 750.532.

750.165 Refusing to support wife or children as required by court decree or order; penalty; suspension of sentence, bond.

Sec. 165. Refusing to support wife or children as required in decree of separate maintenance or divorce or order of court—Where in any decree of divorce, or decree of separate maintenance granted in this state, or by order entered during the pendency of any such proceedings, if personal service is had upon the husband or upon the father of any minor child or children, under the age of 17 years, or such husband

or father shall have entered an appearance in such proceedings either as plaintiff or defendant, the court shall order such husband to pay any amount to the clerk or friend of the court for the support of any wife or former wife who by reason of any physical or mental affliction is unable to support herself, or father to pay any amount to the clerk or friend of the court for the support of such minor child or children, and said husband or father shall refuse or neglect to pay such amount at the time stated in such order and shall leave the state of Michigan, said husband or father shall be guilty of a felony: Provided, however, If at any time before sentence he shall enter into bond to the people of the state of Michigan, in such penal sum and with such surety or sureties as the court may fix, conditioned that he will comply with the terms of such order or decree, then the court may suspend sentence therein: Provided further, That upon failure of such person to comply with said undertaking he may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend sentence as may be just and proper.

HISTORY: Am. 1939, p. 149, Act 89, Eff. Sept. 29;—CL 1948, 750.165. This section as originally enacted superseded Sec. 1 of Act 276 of 1917, being CL 1929, 12781.

750.166 Wife may testify against husband.

Sec. 166. Wife may testify against husband—In all prosecutions under this chapter, the wife may testify against the husband without his consent.

HISTORY: CL 1948, 750.166. This section supersedes and merges part of Sec. 1 of Act 284 of 1907, Am. 1913, p. 587, Act 310, Eff. Aug. 14, —CL 1915, 7794;—CL 1929, 12793; and Sec. 2 of Act 276 of 1917, being CL 1929, 12782.

CHAPTER XXVIII

DISORDERLY PERSONS

750.167 Disorderly persons; definition; subsequent offenses.

Sec. 167. Any person of sufficient ability, who shall refuse or neglect to support his family; any common prostitute; any window peeper; any person who engages in an illegal occupation or business; any person who shall be drunk or intoxicated or engaged in any indecent or obscene conduct in any public place; any vagrant; any person found begging in a public place; any person found loitering in a house of ill-fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed; any person who shall knowingly loiter in or about any place where an illegal occupation or business is being conducted; any person who shall loiter in or about any police station, police headquarters building, county jail, hospital, court building or any other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances; any person who shall be found jostling or roughly crowding people unnecessarily in a public place; shall be deemed a disorderly person. When any person, who has been convicted of refusing or neglecting to support his family under the provisions of this section, is then charged with subsequent violations within a period of 2 years, such person shall be prosecuted as a second offender, or third and subsequent offender as provided in section 168 of this act, if the family of such person is then receiving any form of public relief or support.

HISTORY: Am. 1939, p. 140, Act 84, Eff. Sep. 29;—CL 1948, 750.167;—Am. 1956, p. 216, Act 110, Eff. Aug. 11;—Am. 1964, p. 137, Act 144, Eff. Aug. 28;—Am. 1969, p. 743, Act 328, Eff. Mar. 20, 1970.

This section as originally enacted superseded Sec. 1 of Act 264 of 1889, being How. 1997a;—CL 1897, 5923;—Am. 1927, p. 46, Act 35, Imd. Eff. Apr. 13;—CL 1915, 7774;—CL 1929, 9090.

750.167a Person hunting with firearms while drunk or intoxicated; confiscation of weapons; may not apply for license for period of three years.

Sec. 167a. Any person who shall be drunk or intoxicated while hunting with a firearm or other weapon under a valid hunting license shall be deemed to be a disorderly person. Upon conviction of such person, the weapon shall be confiscated and shall be

delivered to the department of conservation for disposition in the same manner as weapons confiscated for other violations of the game laws. Upon conviction of the offense set forth herein the person so convicted, in addition to any punishment imposed pursuant to section 168, and as a part of any sentence imposed on him, shall be forbidden to apply for or possess a hunting license for a period of 3 years following the date of conviction, and violation of the conditions of such sentence shall be deemed to be a misdemeanor.

HISTORY: Add. 1952, p. 33, Act 30, Eff. Sep. 18.

750.167b Bondsman in criminal cases.

Sec. 167b. (1) No person engaged, either as principal or as the clerk, agent or representative of another, in the business of becoming surety upon bonds for compensation in any criminal case, either directly or indirectly, shall give, donate, lend or contribute, or promise to give, donate, lend or contribute, any money or property to any attorney at law, police officer, sheriff, jailer, probation officer, clerk or other attache of any criminal court, or public official or employee, for procuring, or assisting in procuring, any person to employ the bondsman to execute as surety any bond for compensation in any criminal case. No attorney at law, police officer, sheriff, jailer, probation officer, clerk or other attache of any criminal court, or public official or employee of any character, shall accept or receive from any person engaged in the bonding business any money or property for procuring, or assisting in procuring, any person to employ any bondsman to execute as surety any bond for compensation in any criminal case.

Procurement of attorney.

(2) No person engaged, either as principal or as the clerk, agent or representative of another, in the business of becoming surety upon bonds for compensation in any criminal case, either directly or indirectly, shall procure, suggest, aid in the procurement of or cause in any way whatsoever the obtaining or employing of any attorney at law for any person in a criminal case.

Maximum charge for bond; dismissal of charge.

(3) It shall be lawful to charge for executing any bond in a criminal case, but no person engaged in the bonding business, either as principal or clerk, agent or representative of another, either directly or indirectly, shall charge, accept or receive any sum of money or property, other than the regular prevailing fee for bonding, which shall not exceed 10% of the face value of the bond for a 12 month period or any part thereof, from any person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information or charge upon which the person is bailed or held. No person engaged, either as principal or as the clerk, agent or representative of another, in the bonding business shall settle or attempt to settle, or shall procure or attempt to procure, the dismissal of any indictment, information or charge against any person in custody or held upon bond with any court or with the prosecuting attorney in any court.

List of bondsmen; availability, record of request.

(4) A typewritten or printed list, alphabetically arranged, of all persons engaged in the business of becoming surety upon bonds for compensation in criminal cases within the county shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock and house of detention and in every other place in which persons in custody of the law are detained, and 1 or more copies thereof shall be kept on hand. The list shall be compiled annually by the judges of the circuit court of each circuit, and the names of persons engaged in the business of becoming surety upon bonds for compensation shall be added to the list by the judges upon proper application. When any person who is detained in custody in any such place of detention requests any person in charge thereof to furnish him the name of a bondsman, or to put him in communica-

tion with a bondsman, the list shall be furnished to the person so requesting, without recommendation, and the person in charge of the place of detention within a reasonable time shall put the person detained in communication with the bondsman selected and, contemporaneously with the transaction, make in the blotter or book of record kept in any place of detention a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered.

Violation, penalty.

(5) Any person violating any provision of this section shall be punished as provided in section 168.

HISTORY: Add. 1963, p. 231, Act 169, Eff. Sep. 6.

750.168 Disorderly person; penalty.

Sec. 168. Any person convicted of being a disorderly person shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.168;—Am. 1965, p. 605, Act 320, Eff. Mar. 31, 1966.

This section supersedes Sec. 2 of Act 264 of 1889, being How. 1997a-1;—Am. 1895, p. 353, Act 190, Imd. Eff. May 2;—CL 1897, 5924;—Am. 1909, p. 124, Act 82, Eff. Sep. 1;—CL 1915, 7775;—Am. 1927, p. 46, Act 35, Imd. Eff. Apr. 13;—CL 1929, 9091.

CHAPTER XXIX

DISTURBING MEETINGS

750.169 Disturbance of religious meetings.

Sec. 169. Disturbance of religious meetings—Any person who, on the first day of the week, or at any other time, shall wilfully interrupt or disturb any assembly of people met for the worship of God, within the place of such meeting or out of it, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.169. This section supersedes Sec. 19 of Ch. 158 of the R.S. 1846, being CL 1857, 5874;—CL 1871, 7709;—How. 9295;—CL 1897, 11708;—CL 1915, 15482;—CL 1929, 16834.

NOTE: See also Compilers' § 752.525 et seq.

750.170 Disturbance of lawful meetings.

Sec. 170. Disturbance of lawful meetings—Any person who shall make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, grounds or park, or at any election or other public meeting where citizens are peaceably and lawfully assembled, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.170. This section supersedes Sec. 20 of Ch. 158 of the R.S. 1846, being CL 1857, 5875;—CL 1871, 7710;—How. 9296;—Am. 1887, p. 206, Act 191, Eff. Sept. 28;—CL 1897, 11709;—Am. 1909, p. 377, Act 211, Eff. Sept. 1;—CL 1915, 15483;—CL 1929, 16835.

CHAPTER XXX

DUELLING

750.171 Engaging in or challenging to fight duel.

Sec. 171. Engaging in or challenging to fight duel—Any person who shall engage in a duel with any deadly weapon, although no homicide ensue, or who shall challenge another to fight such duel, or shall send or deliver any written or verbal message, purporting or intended to be such challenge, although no duel ensue, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than 5,000 dollars, and shall also be incapable of holding or of being elected or appointed to any place of honor, profit or trust, under the constitution or laws of this state.

HISTORY: CL 1948, 750.171. This section supersedes Sec. 7 of Ch. 153 of the R.S. 1846, being CL 1857, 5717;—CL 1871, 7516;—How. 9081;—CL 1897, 11476;—CL 1915, 15198;—CL 1929, 16714.

750.172 Accepting challenge and abetting duel.

Sec. 172. Accepting challenge and abetting a duel—Any person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons as an aid or second, or surgeon, or who shall advise, encourage or promote such duel, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars, and shall also be disqualified as mentioned in the preceding section.

HISTORY: CL 1948, 750.172. This section supersedes Sec. 8 of Ch. 153 of the R.S. 1846, being CL 1857, 5718;—CL 1871, 7517;—How. 9082;—CL 1897, 11477;—CL 1915, 15199;—CL 1929, 16715.

750.173 Posting for not accepting challenge to duel.

Sec. 173. Posting for not accepting challenge to duel—Any person who shall post or advertise another, or in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by fine of not more than 250 dollars.

HISTORY: CL 1948, 750.173. This section supersedes Sec. 9 of Ch. 153 of the R.S. 1846, being CL 1857, 5719;—CL 1871, 7518;—How. 9063;—CL 1897, 11478;—CL 1915, 15200;—CL 1929, 16716.

750.173a Fencing as sport.

Sec. 173a. Fencing as a sport shall not be a violation of sections 171, 172 or 173 when face masks and other protective clothing designed to reduce the risk of injury are worn.

HISTORY: Add. 1968, p. 471, Act 271, Eff. Nov. 15.

CHAPTER XXXI

EMBEZZLEMENT

750.174 Embezzlement by agent, servant or employee, or trustee, bailee or custodian; penalty.

Sec. 174. Any person who as the agent, servant or employee of another, or as the trustee, bailee or custodian of the property of another, or of any partnership, voluntary association, public or private corporation, or of this state, or of any county, city, village, township or school district within this state, shall fraudulently dispose of or convert to his own use, or take or secrete with intent to convert to his own use without the consent of his principal, any money or other personal property of his principal which shall have come to his possession or shall be under his charge or control by virtue of his being such agent, servant, employee, trustee, bailee or custodian, as aforesaid, shall be guilty of the crime of embezzlement, and upon conviction thereof, if the money or personal property so embezzled shall be of the value of \$100.00 or under, shall be guilty of a misdemeanor; if the money or personal property so embezzled be of the value of more than \$100.00, such person shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine not exceeding \$5,000.00.

Prima facie proof of intent.

In any prosecution under this section, the failure, neglect or refusal of such agent, servant, employee, trustee, bailee or custodian to pay, deliver, or refund to his principal such money or property entrusted to his care upon demand shall be prima facie proof of intent to embezzle.

HISTORY: CL 1948, 750.174;—Am. 1957, p. 75, Act 89, Eff. Sep. 27.

This section supersedes Sec. 1 of Act 48 of 1927, being CL 1929, 16980; and Sec. 2 of Act 48 of 1927, being CL 1929, 16981.

750.175 Embezzlement by public officer, agent or servant; penalty.

Sec. 175. Embezzlement by public officer, his agent, etc.—Any person holding any public office in this state, or the agent or servant of any such person, who knowingly and unlawfully appropriates to his own use, or to the use of any other person, the money or property received by him in his official capacity or employment, of the value of 50 dollars or upwards, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

In any prosecution under this section the failure, neglect or refusal of any public officer to pay over and deliver to his successor all moneys and property which should be in his hands as such officer, shall be prima facie evidence of an offense against the provisions of this section.

HISTORY: CL 1948, 750.175. This section supersedes, with additions, Sec. 1 of Act 186 of 1929, being CL 1929, 16965.

750.176 Embezzlement by administrator, executor or guardian; penalty.

Sec. 176. Embezzlement by administrator, executor or guardian—Any general or special administrator or any executor or guardian, who has been appointed by a judge of probate and who has collected any goods, chattels, money or effects of the deceased or ward, and who has wilfully appropriated the same to his own use and who has been ordered by the judge of probate forthwith to deliver to his successor in trust, ward or any person lawfully entitled thereto, all the goods, chattels, money or effects of the deceased or ward in his hands, and who shall wilfully omit, neglect or refuse for 60 days to obey said orders, shall be deemed to have committed the crime of embezzlement, and shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or by fine not more than 5,000 dollars: Provided, That in case such order shall be appealed from, said period of 60 days shall be reckoned from the affirmance of the order in the circuit or supreme court.

HISTORY: CL 1948, 750.176. This section supersedes Sec. 1 of Act 208 of 1889, being How. 9191a;—Am. 1895, p. 148, Act 51, Eff. Aug. 30;—CL 1897, 11610;—CL 1915, 15375;—CL 1929, 16983.

750.177 Embezzlement by chattel mortgagor, vendee or lessee; penalty.

Sec. 177. Any person who shall embezzle, fraudulently remove, conceal or dispose of any personal property held by him subject to any chattel mortgage or written instrument intended to operate as a chattel mortgage, or any lease or written instrument intended to operate as a lease, or any contract to purchase not yet fulfilled with intent to injure or defraud the mortgagee, lessor or vendor under such contract or any assignee thereof, shall, if the property so embezzled, removed, concealed or disposed of, is of the value of more than \$100.00, be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than \$1,000.00. If the property so removed, concealed or disposed of is of the value of \$100.00 or less, the person so offending shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.177;—Am. 1959, p. 121, Act 119, Eff. Mar. 19, 1960.

This section supersedes Sec. 1 of Act 179 of 1927, being CL 1929, 16977.

750.178 Embezzlement of chattel mortgage, lease or contract property by others; penalty.

Sec. 178. Any person who shall fraudulently embezzle, remove, conceal or dispose of any personal property which has been mortgaged, leased or purchased under a contract to purchase not yet fulfilled by another knowing such personal property to have been so mortgaged, leased or purchased, with intent to injure or defraud the mortgagee, lessor or vendor under such contract, or any assignee thereof, shall, if the property so embezzled, removed, concealed or disposed of, is of the value of more than \$100.00, be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than \$1,000.00. If the property so removed, concealed or

disposed of is of the value of \$100.00 or less, the person so offending shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.178;—Am. 1959, p. 121, Act 119, Eff. Mar. 19, 1960.

This section supersedes Sec. 2 of Act 179 of 1927, being CL 1929, 16978.

750.179 Embezzlement of railroad passenger tickets; penalty.

Sec. 179. Embezzlement of railroad passenger tickets—Any officer, agent, clerk or employe of any incorporated railroad company who shall fraudulently embezzle, dispose of or convert to his own use any railroad passenger ticket or tickets, whether such tickets are fully prepared for use, or not so fully prepared, or use tickets which have been once used, and which have come to his hands or charge by virtue of his office or employment, shall be guilty of a felony.

In any prosecution under this section, it shall be lawful to include in a charge, as 1 offense, all acts constituting such offense committed between certain days set forth, and it shall be sufficient to set forth by general description the tickets alleged to have been unlawfully taken; and it shall be sufficient to maintain the charge if it shall be proved on trial that any such ticket or tickets were, within the period set forth, embezzled, disposed of, or converted by the defendant charged in said prosecution as alleged.

At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

The words "railroad passenger ticket or tickets" as used in this section shall be construed to embrace any ticket, card, pass, certificate or paper providing, or intended to provide, for the carriage or transportation of any person or persons upon any railroad, and shall include, not only tickets of any railroad company fully prepared for use, but those not fully prepared for use, and all others which have been once used.

HISTORY: CL 1948, 750.179. This section supersedes Sec. 5 of Act 164 of 1869, being CL 1871, 7623;—Am. 1875, p. 132, Act 93, Eff. Aug. 3;—Am. 1881, p. 136, Act 146, Eff. Sept. 10;—How. 9204;—CL 1897, 11627;—CL 1915, 15392;—CL 1929, 17028; and Sec. 10 of Act 164 of 1869, Add. 1881, p. 139, Act 146, Eff. Sept. 10;—How. 9209;—CL 1897, 11632;—CL 1915, 15397;—CL 1929, 17033.

750.180 Embezzlement in bank, deposit, trust company, or credit union; penalty.

Sec. 180. Any president, director, secretary, cashier, treasurer or other officer, teller, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator of any bank, trust company, credit union or safe or safety and collateral deposit company, who embezzles, abstracts or wilfully misapplies any of the moneys, funds, credits or property of the bank, trust company, credit union or safe or safety and collateral deposit company, whether owned by it or held in trust, or who, without authority of the directors or proper officers, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of the bank, trust company, credit union or safe or safety and collateral deposit company with intent in either case to injure or defraud the bank, trust company, credit union or safe or safety and collateral deposit company or any company, corporation or person or to deceive any officer of the bank, trust company, credit union or safe or safety and collateral deposit company, or any agent, receiver or conservator, or agent or employee of such receiver or conservator appointed to examine the affairs of such bank, trust company, credit union or safe or safety and collateral deposit company; and any person who with like intent aids or abets any officer, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator, in violation of this section or who shall issue or cause to be issued or put in circulation, any bill, note or other evidence of debt to circulate as

money, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

HISTORY: Am. 1937, p. 259, Act 164, Imd. Eff. Jul. 9;—CL 1948, 750.180;—Am. 1960, p. 27, Act 31, Eff. Aug. 17.

This section as originally enacted superseded and merged Sec. 66 of Act 66 of 1929, being CL 1929, 11963; and Sec. 41 of Act 67 of 1929, being CL 1929, 12037.

750.181 Embezzlement of property belonging to himself and another; penalty.

Sec. 181. Any agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector or other person, who, in any manner receives or collects money or any other personal property which is partly the property of another and partly the property of such agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector or other person, and who shall embezzle or fraudulently dispose of or convert to his own use, or take or secrete with intent to embezzle or convert to his own use, such money or personal property, without the consent of the part owner of such money or personal property, shall, if the money or personal property so embezzled is of the value of \$100.00 or under, be guilty of a misdemeanor; if the money or personal property so embezzled is of the value of more than \$100.00, he shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than \$5,000.00.

In any prosecution for such crime it shall be no defense that such agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector or other person was entitled to a compensation out of such money or personal property as compensation for collecting or receiving the same for and on behalf of the owner thereof, but it shall be no embezzlement on the part of such agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector or other person to retain his reasonable collection fee on the collection or any other valid interest he may have in such money or personal property.

In any prosecution under this section, the failure, neglect or refusal of such agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector or other person to pay, deliver or refund to the proper person such money or personal property entrusted to his care, upon demand, shall be *prima facie* proof of intent to embezzle.

HISTORY: CL 1948, 750.181;—Am. 1959, p. 122, Act 119, Eff. Mar. 19, 1960.

This section supersedes, with additions, part of Sec. 55 of Ch. 154 of the R.S. 1846, Add. 1885, p. 112, Act 110, Eff. Sep. 19;—How. 9176a;—Am. 1897, p. 125, Act 114, Eff. Aug. 30;—CL 1897, 11591;—CL 1915, 15336;—CL 1929, 16932.

750.182 Embezzlement by warehouseman or forwarder of property receipted for.

Sec. 182. Embezzlement or conversion by warehouseman or forwarder of property receipted for—Any warehouseman or forwarder, or other person who shall have issued a receipt or certificate for flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, or shall receive property on deposit or for sale on a specific contract or understanding, and shall, after issuing said receipt or certificate or receiving such property, embezzle, dispose of or convert to his own use, such property or the moneys received on the sale of such property, contrary to such receipt or certificate, or to the previous contract or understanding, shall be guilty of a felony.

HISTORY: CL 1948, 750.182. This section supersedes Sec. 37 of Ch. 154 of the R.S. 1846, being CL 1857, 5781;—CL 1871, 7588;—Am. 1881, p. 382, Act 270, Eff. Sept. 10;—How. 9159;—CL 1897, 11573;—CL 1915, 15318;—CL 1929, 16914.

750.182a Falsification of school records; penalty; suspension of teacher's certificate.

Sec. 182a. Any officer or employee of a school district who shall wilfully falsify any record required to be kept under the provisions of Act No. 26 of the Public Acts of the First Extra Session of 1948, as amended, being sections 388.1 to 388.41, inclusive, of the Compiled Laws of 1948, or any other school law of this state, having a bearing on

school aid, shall be guilty of a misdemeanor, punishable by a fine of not more than \$2,-500.00 or imprisonment in state prison for not more than 2 years, or both, in the discretion of the court. The teacher's certificate of any person who shall be convicted of wilfully falsifying any such record shall be suspended for a period of 5 years and for such additional period as the superintendent of public instruction may determine.

HISTORY: Add. 1953, p. 87, Act 90, Imd. Eff. May 19.

CHAPTER XXXII

ESCAPES, RESCUES, JAIL AND PRISON BREAKING

750.183 Aiding escape of and rescuing prisoners; penalty.

Sec. 183. Aiding escape of and rescuing prisoners—Any person who shall convey into any jail, prison, or other like place of confinement, any disguise or any instrument, tool, weapon or other thing, adapted or useful to aid any prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or shall by any means whatever, aid or assist any such prisoner in his endeavor to make his escape therefrom, whether such escape be effected or attempted, or not, and every person who shall forcibly rescue any prisoner, held in custody upon any conviction or charge of an offense, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years; or, if the person whose escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the offense mentioned in this section shall be a misdemeanor and shall be punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.183. This section supersedes Sec. 11 of Ch. 156 of the R.S. 1846, being CL 1857, 5830;—CL 1871, 7663;—How. 9245;—CL 1897, 11315;—CL 1915, 14962;—CL 1929, 16573.

NOTE: See also Compilers' §§ 800.32, 800.51 and 800.283.

750.184 Aiding escape from officer; penalty.

Sec. 184. Aiding escape from an officer—Any person who shall aid or assist any prisoner in escaping or attempting to escape from any officer or person who shall have the lawful custody of such prisoner, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.184. This section supersedes Sec. 12 of Ch. 156 of the R.S. 1846, being CL 1857, 5831;—CL 1871, 7664;—How. 9246;—CL 1897, 11316;—CL 1915, 14963;—CL 1929, 16574.

750.185 Girls' training school at Adrian; aiding escape of inmates; marriage without consent of superintendent; penalty.

Sec. 185. Any person, not an inmate, who shall knowingly aid or assist any girl who is an inmate of the girls' training school at Adrian, Michigan, to escape therefrom, or who shall knowingly aid, entice or assist any girl who has been committed to said school, and who is a subject thereof, to escape from any other home or other place where she has been placed by the officers of said training school, or shall knowingly aid or assist any such girl to leave this state, or shall marry any such girl, knowing her to be an inmate or a subject of such training school, without the consent of the superintendent of such training school, shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year in the county jail, or both.

HISTORY: CL 1948, 750.185;—Am. 1953, p. 111, Act 114, Eff. Oct. 2.

This section supersedes Sec. 21 of Act 133 of 1879, Add. 1893, p. 64, Act 62, Imd. Eff. May 10;—Am. 1895, p. 303, Act 156, Eff. Aug. 30;—CL 1897, 2216;—CL 1915, 1928;—CL 1929, 17839.

750.186 Boys' vocational school; assisting or enticing to escape; aiding ward to leave state; penalty.

Sec. 186. Any person, not an inmate, who shall knowingly aid or assist any boy who is an inmate of boys' vocational school, to escape therefrom, or who shall knowingly aid, assist or entice any boy who has been committed to said school, and who is a subject thereof, to escape from a home in which said boy has been placed by officers of said school, or shall knowingly aid any such ward to leave the state, without the consent of the superintendent of said school, shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year in the county jail, or both.

HISTORY: CL 1948, 750.186;—Am. 1953, p. 111, Act 114, Eff. Oct. 2.

This section supersedes Sec. 18 of Act 143 of 1903, Add. 1909, p. 75, Act 47, Eff. Sep. 1;—CL 1915, 1522;—CL 1929, 7954.

750.187 Aiding escape from state institutions for insane.

Sec. 187. Aiding escape from state institutions for the insane—Any person who shall aid or assist any person who is an inmate of any state institution for the insane, feeble minded, epileptic or mentally diseased to escape from any such institution, or who shall aid, entice or assist any inmate thereof absent or on parole to violate his or her parole, or unlawfully detain such paroled persons from the custody of any person to whom such inmate has been temporarily placed in charge by the officers of any such institution, or who shall aid or assist any female inmate of any such institution to leave this state or shall marry any inmate knowing such person to be an inmate or a subject of such institution without the consent of the state hospital commission shall be guilty of a felony.

HISTORY: CL 1948, 750.187. This section supersedes and merges Sec. 48 of Act 151 of 1923, being CL 1929, 6925; and Sec. 1 of Act 78 of 1921, being CL 1929, 16590.

750.188 Voluntarily suffering prisoner to escape.

Sec. 188. Voluntarily suffering prisoner to escape—Any jailor, or other officer who shall voluntarily suffer any prisoner in his custody, upon conviction, or upon any criminal charge, to escape, shall suffer the like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction, for the crime or offense wherewith he stood charged.

HISTORY: CL 1948, 750.188. This section supersedes Sec. 13 of Ch. 156 of the R.S. 1846, being CL 1857, 5832;—CL 1871, 7665;—How. 9247;—CL 1897, 11317;—CL 1915, 14984;—CL 1929, 16575.

750.189 Negligently suffering escape; refusing to receive prisoner.

Sec. 189. Negligently suffering escape and refusing to receive a prisoner—Any jailor or other officer who shall through negligence, suffer any prisoner in his custody upon conviction or upon any criminal charge, to escape, or who shall wilfully refuse to receive into his custody any prisoner lawfully committed thereto, on any criminal charge or conviction, or any lawful process whatever, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 2 years, or by fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.189. This section supersedes Sec. 14 of Ch. 156 of the R.S. 1846, being CL 1857, 5833;—CL 1871, 7666;—How. 9248;—CL 1897, 11318;—CL 1915, 14985;—CL 1929, 16576.

750.190 Receiving reward for assisting an escape.

Sec. 190. Receiving reward for assisting an escape—Any sheriff or other officer, who shall demand or receive any reward, gratuity or valuable thing, to procure, assist, connive at or permit any escape of any prisoner in his custody, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 2 years, or by fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.190. This section supersedes Sec. 47 of Ch. XXV of Act 314 of 1915, being CL 1915, 13025;—CL 1929, 14754.

750.191 Refusing, omitting and delaying to arrest.

Sec. 191. Refusing, omitting and delaying to arrest—Any officer authorized to serve process, who shall wilfully and corruptly refuse to execute any lawful process to him directed, and requiring him to apprehend or confine any person convicted or charged with an offense, or who shall wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.191. This section supersedes Sec. 15 of Ch. 156 of the R.S. 1846, being CL 1857, 5834;—CL 1871, 7667;—How. 9249;—CL 1897, 11319;—CL 1915, 14966;—CL 1929, 16577.

750.192 Aiding escape; prisoners of Wisconsin being transported.

Sec. 192. Aiding escape of prisoners of Wisconsin being transported through Michigan—It shall be lawful for any sheriff, coroner, constable or other officer of the state of Wisconsin or other person lawfully authorized under the laws of the state of Wisconsin to act as any such officer, having in his lawful custody any person or persons, arrested in the state of Wisconsin, under a criminal warrant or process, or under any writ, order or process in a civil action or proceeding, issued out of or by any court of said state of Wisconsin, or by any officer of said state of Wisconsin, authorized to issue such warrant, writ, process or order, to convey or transport any such prisoner through any portion of the state of Michigan, whenever it shall be necessary or convenient so to do in order to bring such prisoner before any such court or officer of the state of Wisconsin, or to deliver him to any jailor, or commit him to any prison of said state of Wisconsin, for any lawful purpose whatsoever. Any such officer of the state of Wisconsin shall, while in the state of Michigan with any prisoner or prisoners in his custody for the purposes aforesaid, have all the rights and powers in relation to such prisoner or prisoners as would a sheriff of this state.

It shall not be lawful for any officer of the state of Michigan to discharge any such prisoner from custody under writ of habeas corpus or other proceeding brought for that purpose, when it shall be made to appear that such prisoner is in custody as in the preceding paragraph stated. And it shall be a sufficient answer to said writ of habeas corpus or other proceeding, by the officer or person having such custody, that he holds such prisoner by virtue of a lawful warrant, writ, process or order as in the preceding paragraph stated, and he shall annex to such answer a copy of the warrant, writ, process, or order under which he claims custody of such prisoner.

Any person who shall in any manner aid or assist any such prisoner so being conveyed or transported through the state of Michigan, to escape from the officer or person having him so in lawful custody, or who shall resist any such officer or person, while engaged in conveying or transporting any such prisoner through this state, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.192. This section re-enacts except first word "That", Sec. 1 of Act 8 of 1881, being How. 9364;—CL 1897, 11393;—CL 1915, 15111;—CL 1929, 16591; and re-enacts except changing word "section" to "paragraph" in 2 places. Sec. 2 of Act 8 of 1881, being How. 9365;—CL 1897, 11394;—CL 1915, 15112;—CL 1929, 16592; and supersedes Sec. 3 of Act 8 of 1881, being How. 9366;—CL 1897, 11395;—CL 1915, 15113;—CL 1929, 16593.

750.193 Breaking prison; escape attempts; penalty, venue; prison, definition; release and parole violators.

Sec. 193. (1) Any person, being imprisoned in any prison of this state for any term, who shall break prison and escape, or break prison though no escape be actually made, or shall escape, or shall leave the prison without being discharged from the prison by due process of law, or shall attempt to break prison or escape therefrom, shall be guilty of a felony, punishable by further imprisonment for not more than 5 years, such term of further imprisonment to be served after the termination, pursuant to law, of any sentence or sentences then being served. Such prisoner who shall break prison or

escape or attempt to break prison or attempt to escape as aforesaid, shall be charged with that offense and tried in the courts of the county wherein are located the administrative offices of the prison or other penal facility to which the prisoner was committed or transferred, at the time of the breaking, escape, or attempt to break or escape.

(2) The word "prison" as used in this section shall include any Michigan state prison, penitentiary, reformatory, state house of correction, camp constructed and maintained under the provisions of Act No. 274 of the Public Acts of 1949, as amended, being section 798.351 of the Compiled Laws of 1948, or any penal camp, except probation camps or probation recovery camps, and shall further include the grounds, farms, shops, road camps or places of employment operated by such institution or under control of the officers thereof, or the department of corrections, or of any police officers of this state, or of other persons authorized by the department to have prison inmates under their care, custody or supervision, either in an institution or outside an institution, whether for the purpose of work or medical care or otherwise.

(3) Escaping from the lawful custody of any guard or prison official or employee while outside the confines of such prison shall be deemed to be a violation of this section. A person who is released from prison under a work pass program and who violates the terms of such release or who fails to return to his place of imprisonment within the time provided is guilty of a violation of this section. Any person violating the conditions of his parole shall not be deemed to be an escapee under the amendatory provisions of this act.

HISTORY: Am. 1943, p. 59, Act 56, Eff. Jul. 30;—CL 1948, 750.193;—Am. 1955, p. 464, Act 264, Eff. Oct. 14;—Am. 1956, p. 12, Act 6, Imd. Eff. Mar. 9;—Am. 1958, p. 285, Act 215, Eff. Sep. 13;—Am. 1967, p. 127, Act 103, Eff. Nov. 2.

This section as originally enacted, superseded Sec. 24 of Ch. 156 of the R.S. 1846, being CL 1857, 5843;—CL 1871, 7676;—How. 9256;—CL 1897, 11328;—CL 1915, 14995;—Am. 1925, p. 285, Act 100, Imd. Eff. May 6;—Am. 1927, p. 13, Act 7, Imd. Eff. Mar. 17;—CL 1929, 16586.

REWARD: Apprehension escaped convict, see Compilers' § 800.61.

750.194 Breaking prison; Detroit house of correction.

Sec. 194. Breaking, escaping and attempting to break or escape from Detroit house of correction—Any person lawfully committed to the Detroit house of correction, who shall escape or break from said house of correction with intent to escape therefrom, or who shall attempt by any force or violence, or in any other manner, to escape from said house of correction, whether such escape be effected or not shall, upon conviction thereof, be punished by confinement in said house of correction for a term not exceeding double the term for which he or she was so sentenced to commence from and after the expiration of his or her former sentence.

HISTORY: CL 1948, 750.194. This section re-enacts except changing first word "Every" to "any" and first word "Said" to "Detroit", Sec. 18 of Act 164 of 1861, being CL 1871, 8162;—How. 9860;—CL 1897, 2172;—CL 1915, 1858;—CL 1929, 17754.

DETROIT HOUSE OF CORRECTION: See Compilers' § 726.29.

750.195 Breaking prison; jail.

Sec. 195. Breaking, escaping or attempting to break or escape from jail—Any person lawfully imprisoned in any jail for any term, who shall break jail and escape, or break jail though no escape be actually made, or shall escape, or shall leave said jail without being discharged from said jail by due process of law, or shall attempt to escape therefrom, shall be guilty of a misdemeanor, punishable by further imprisonment of not more than 1 year in the state prison or reformatory or county jail; and every person who shall actually break jail or escape, or attempt to break jail, or attempt to escape as aforesaid, shall, after his return to said jail be imprisoned for as long a time as remained unexpired of his former sentence, at the time of said break, escape or attempt to break or escape, besides such further term of imprisonment, as aforesaid.

HISTORY: CL 1948, 750.195. This section supersedes with addition, Sec. 28 of Ch. 171 of the R.S. 1846, being CL 1857, 6156;—CL 1871, 8045;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9661;—CL 1897, 2677;—CL 1915, 2548;—CL 1929, 17694; and supersedes parts of Sec. 29 of Ch. 171 of the R.S. 1846, being CL 1857, 6157;—CL 1871, 8046;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9662;—CL 1897, 2675;—CL 1915, 2549;—CL 1929, 17695, and Sec. 30 of Ch. 171 of the R.S. 1846, being CL 1857, 6158;—CL 1871, 8047;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9663;—CL 1897, 2679;—CL 1915, 2550;—CL 1929, 17696.

750.196 Breaking prison; county work farm, factory or shop.

Sec. 196. Breaking, escaping or attempting to break or escape from county work farms, etc.—Any person lawfully committed to any work farm, factory or shop established and provided by law by the various counties of this state for the confinement, punishment and reformation of persons sentenced thereto, who shall escape from or break away therefrom with intent to escape therefrom, or who shall attempt by any force or violence or in any other manner to break or escape from said work farm, factory or shop, whether such escape be effected or not, shall be guilty of a misdemeanor, punishable by imprisonment at said work farm, factory or shop or in the county jail of such county at the discretion of the court, for a term of not more than double the term for which he was so sentenced, to commence from and after the expiration of his former sentence.

HISTORY: CL 1948, 750.196. This section supersedes Sec. 13 of Act 78 of 1917, being CL 1929, 17732.

750.197 Breaking prison; awaiting examination, trial, arraignment, sentence, transfer to or from prison or court house.

Sec. 197. Any person lawfully imprisoned in any jail or place of confinement established by law, awaiting examination, trial, arraignment, sentence, or after sentence awaiting or during transfer to or from any prison, for any crime or offense, or charged with any crime or offense, who shall break such jail or place of confinement and escape, or break jail, although no escape be actually made, or who shall escape, or who shall leave said jail, or place of confinement without being discharged from the same by due process of law, or who shall break or escape while in or being transferred to or from any courtroom or court house, or any place where court is being held, or who shall attempt to break or escape therefrom, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year, or by fine of not more than \$500.00.

HISTORY: CL 1948, 750.197;—Am. 1949, p. 298, Act 240, Eff. Sep. 23;—Am. 1955, p. 464, Act 264, Eff. Oct. 14.

This section supersedes with addition, part of Sec. 28 of Ch. 171 of the R.S. 1846, being CL 1857, 6156;—CL 1871, 8045;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9661;—CL 1897, 2677;—CL 1915, 2548;—CL 1929, 17694.

750.197a Breaking or escaping from lawful custody; under criminal process.

Sec. 197a. Any person who shall break or escape from lawful custody under any criminal process, including periods while at large on bail, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$500.00.

HISTORY: Add. 1955, p. 464, Act 264, Eff. Oct. 14.

750.197b Criminal sexual psychopathic person; leaving state without permission.

Sec. 197b. Any criminal sexual psychopathic person under lawful commitment pursuant to the provisions of Act No. 165 of the Public Acts of 1939, as amended, being sections 780.501 to 780.509 of the Compiled Laws of 1948, who leaves the state without permission is guilty of a felony.

HISTORY: Add. 1963, p. 327, Act 217, Eff. Sep. 6.

750.197c Escape and jail breaking; penalty.

Sec. 197c. Any person lawfully imprisoned in any jail or place of confinement established by law for any term or awaiting examination, trial, arraignment, sentence, or after sentence awaiting or during transfer to or from any prison, for any crime or of-

fense, or charged with any crime or offense who, without being discharged from jail or the place of confinement by due process of law, through the use of violence, threats of violence or dangerous weapons, shall break such jail or place of confinement and escape, or break jail although no escape be actually made, shall be guilty of a felony.

HISTORY: Add. 1967, p. 75, Act 59, Eff. Nov. 2.

750.198 State institutions for insane; conveying weapons or articles into.

Sec. 198. Conveying weapons, etc., into state institutions for the insane—Any person who shall convey into any state institution for the insane, feeble minded, epileptic or mentally diseased, any disguise or any instrument, tool, weapon or other thing adapted or useful to aid any patient of such state institution in making his escape with intent to facilitate the escape of any such patient therein detained, or shall by any means whatever aid or assist any such patient in his endeavor to make escape therefrom, whether such escape be effected or attempted or not, and every person who shall forcibly rescue any such patient held in custody by such state institution shall be guilty of a felony.

HISTORY: CL 1948, 750.198. This section supersedes with addition, Sec. 1 of Act 78 of 1921, being CL 1929, 16590.

750.199 Concealing or harboring one who has escaped.

Sec. 199. Concealing or harboring one who has escaped—Any person who knowingly or wilfully conceals or harbors for purpose of concealment, any person mentioned in this chapter, who has escaped or is escaping from lawful custody, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.199.

750.199a Absconding or forfeiting bond in criminal or paternity proceedings; felony.

Sec. 199a. Any person who shall abscond on or forfeit a bond given in any criminal proceedings wherein a felony is charged shall be deemed guilty of a felony. Any person who shall abscond on or forfeit a recognizance or cash deposit made in lieu thereof in paternity proceedings pursuant to the provisions of Act No. 205 of the Public Acts of 1956, as amended, being sections 722.711 to 722.730 of the Compiled Laws of 1948, shall be guilty of a felony.

HISTORY: Add. 1949, p. 102, Act 94, Eff. Sep. 23;—Am. 1962, p. 63, Act 79, Eff. Mar. 28, 1963.

CHAPTER XXXIII

EXPLOSIVES AND BOMBS

750.200 Explosives; common carriers for passengers; transportation.

Sec. 200. Transportation of dynamite, etc., on common carriers for passengers—Any person who shall transport, carry or convey any dynamite, gunpowder or other explosive between any places within the state of Michigan on any vessel, car or vehicle of any description, operated by a common carrier, which vessel, car or vehicle is carrying passengers for hire, shall be guilty of a felony: Provided, That it shall be lawful to transport on any such vessel, car or vehicle small arms ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples for laboratory examination, not exceeding a net weight of 1/2 pound each, and not exceeding 20 samples at one time in a single vessel, car or vehicle; but such samples shall not be carried in that part of a vessel, car or vehicle which is intended for the transportation of passengers for hire: Provided further, That nothing in this section shall be construed to

prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars or vehicles: Provided further, That this section shall not be construed to apply to the transportation of benzine, naphtha, gasoline or kerosene.

HISTORY: CL 1948, 750.200. This section supersedes Sec. 1 of Act 182 of 1909, being CL 1915, 15251;—CL 1929, 16795.

750.201 Explosives exploded by concussion or friction; unlawful acts.

Sec. 201. Transportation, etc., of explosives which explode by concussion or friction—No person shall order, send, take, transport, convey or carry, or attempt to order, send, take, transport, convey or carry dynamite, nitro-glycerine, fulminate in bulk in dry condition or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk, box or in any other manner whatever, either as freight or baggage, on any passenger boat or vessel, or any railroad car or train of cars, street car, motor bus, stage or other vehicle used wholly or partly for carrying passengers or articles of commerce by land or water.

Any person who violates any of the provisions of this section and any consignee to whom any such dynamite, nitro-glycerine, fulminate in bulk in dry condition or other explosive substance has been consigned by his procurement in violation of any of the provisions of this section, shall be guilty of a felony.

The offense shall be deemed to be committed in any county through which such person procures or attempts to procure the transportation of such dynamite, nitro-glycerine, fulminate in bulk in dry condition or other explosive substance.

HISTORY: CL 1948, 750.201. This section supersedes with addition, Sec. 1 of Act 91 of 1889, being How. 9117a;—CL 1897, 11519;—CL 1915, 15257;—CL 1929, 16792; and Sec. 2 of Act 91 of 1889, being How. 9117b;—CL 1897, 11520;—CL 1915, 15255;—CL 1929, 16793; and Sec. 3 of Act 91 of 1889, being How. 9117c;—CL 1897, 11521;—CL 1915, 15259;—CL 1929, 16794.

750.202 Explosives; marking when intended for shipment.

Sec. 202. Marking of explosives intended for shipment—Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof the contents thereof, and it shall be unlawful for any person, partnership or corporation to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made.

Any person violating any provision of this section shall be guilty of a felony.

HISTORY: CL 1948, 750.202. This section supersedes Sec. 4 of Act 182 of 1909, being CL 1915, 15254;—CL 1929, 16796; and Sec. 5 of Act 182 of 1909, being CL 1915, 15255;—CL 1929, 16799.

750.203 Explosives; regulations of interstate commerce commission.

Sec. 203. Regulations of interstate commerce commission—The regulations formulated by the interstate commerce commission, pursuant to section 2 of an act of congress, public numbered 174, approved May 30, 1908, shall be binding upon all common carriers engaged in intrastate commerce within the state of Michigan, which transport explosives by land.

HISTORY: CL 1948, 750.203. This section re-enacts Sec. 2 of Act 182 of 1909, being CL 1915, 15252;—CL 1929, 16796.

NOTE: Public No. 174, 1908, above referred to, is 18 U.S.C.A. 382 et seq.

750.204 Explosives; sending with intent to injure persons.

Sec. 204. Sending explosives with intent to injure persons—Any person who shall unlawfully and maliciously send or deliver to, or cause to be taken or received by any person, any kind of explosive substance or any other noxious or dangerous thing, with intent in so doing to burn, maim, disfigure or disable any person, or do bodily harm to any person, and every person privy to such intent, who shall aid in the commission of

such offense, when death shall not result, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

HISTORY: CL 1948, 750.204. This section supersedes Sec. 1 of Act 202 of 1879, being How. 9118;—CL 1897, 11508;—CL 1915, 15231;—CL 1929, 16791.

750.205 Explosives; placing with intent to destroy but without resulting damage.

Sec. 205. Placing explosives with intent to destroy but without resulting damage—Any person who places in, upon, under, against or near to any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that, if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

HISTORY: Am. 1937, p. 54, Act 41, Eff. Oct. 29;—CL 1948, 750.205. This section as originally enacted, superseded Sec. 1 of Act 119 of 1927, being CL 1929, 17104.

750.206 Explosives; placing with intent to destroy and causing damage to property.

Sec. 206. Placing explosives with intent to destroy and causing damage to property—Any person who places in, upon, under, against or near to any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, which explosive substance shall cause the destruction or injury of the property of another, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 25 years.

HISTORY: Am. 1937, p. 54, Act 41, Eff. Oct. 29;—CL 1948, 750.206. This section as originally enacted, superseded Sec. 2 of Act 119 of 1927, being CL 1929, 17105.

750.207 Explosives; placing with intent to destroy and causing injury to any person.

Sec. 207. Placing explosives with intent to destroy and causing injury to any person—Any person who places in, upon, under, against or near to any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down, or injure the whole or any part thereof, which substance upon explosion shall cause injury to any person, shall be guilty of a felony, punishable by imprisonment in the state prison for life. Such convicted person shall not be eligible to parole.

HISTORY: CL 1948, 750.207. This section supersedes Sec. 3 of Act 119 of 1927, being CL 1929, 17106.

750.208 Explosives; placing; aiding and abetting with intent to destroy.

Sec. 208. Aiding and abetting in the placing of explosives with intent to destroy, etc.—Any person who aids or abets, or conspires to aid or abet in the placing in, upon, under, against or near to any building, car, vessel or structure, any explosive, foul, offensive or injurious substance or compound, with intent to destroy, throw down or injure the property of another, or to injure the business of another, or to molest another, in the use, management, conduct, or control of his business or property, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

HISTORY: Am. 1937, p. 54, Act 41, Eff. Oct. 29;—CL 1948, 750.208. This section as originally enacted, superseded Sec. 5 of Act 119 of 1927, being CL 1929, 17108.

750.209 Foul and offensive substances; placing with intent to injure, molest or coerce.

Sec. 209. Any person who shall place in, upon, under, against or near to any building, underground utility facilities, car, motor vehicle, vessel or structure, any foul, offensive, or injurious substance or compound, including those sulphur compounds or other substance commonly added to natural gas for the purpose of creating a distinctive odor associated with gas, with intent to wrongfully injure, molest or coerce another, or to injure the property or business of another, or to molest another in the use,

management, conduct or control of his business or property, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years. Any person who shall place in, upon, under, against or near to any building, underground utility facilities, car, motor vehicle, vessel or structure, any foul, offensive or injurious substance or compound including those sulphur compounds or other substance commonly added to natural gas for the purpose of creating a distinctive odor associated with gas with intent to alarm any person or persons shall be guilty of a felony.

HISTORY: Am. 1937, p. 55, Act 41, Eff. Oct. 29;—CL 1948, 750.209;—Am. 1967, p. 240, Act 177, Eff. Nov. 2.

This section as originally enacted superseded Sec. 4 of Act 119 of 1927, being CL 1929, 17107.

750.210 Bombs; possession with intent to use unlawfully.

Sec. 210. Possession of bombs with intent to use unlawfully—Any person who carries or possesses a bomb or bombshell or any article containing an explosive or combustible substance or foul, offensive or injurious substance or compound, with intent to use the same unlawfully against the person or property of °other, shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 nor more than 5 years.

HISTORY: CL 1948, 750.210. This section supersedes Sec. 6 of Act 119 of 1927, being CL 1929, 17109.

*NOTE: It is evident to the compiler that the word "other" should be "another."

750.210a Valerium; unlawful acts.

Sec. 210a. Sale, etc., of valerium, etc.—It shall be unlawful for any person, firm, partnership, association or corporation to sell, offer for sale, barter, or otherwise dispose of, purchase, receive, or otherwise acquire, have in possession, carry or transport any oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate, except under the following conditions:

(a) Drug manufacturers and wholesale drug dealers may possess, sell, offer for sale, or otherwise dispose of, oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate to licensed physicians and surgeons, druggists, pharmacists or hospitals: Provided, however, That a record of all such sales shall be kept by such drug manufacturers and wholesale dealers, which record shall be open to inspection by any law enforcing officer, and that a report of any such sales shall be made out and forwarded within 48 hours to the commissioner of the Michigan state police.

(b) Retail druggists or pharmacists may possess and sell, offer for sale, or otherwise dispose of, oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate upon prescription of a licensed physician or surgeon. Such retail druggists or pharmacists shall keep a record of all such sales and prescriptions, which shall be open to inspection by any law enforcing officer and shall also make and forward a report containing the names and addresses of such persons, together with the amount of such drugs prescribed or sold, within 48 hours after sale thereof to the commissioner of the Michigan state police.

Any person, excepting licensed physicians and surgeons, hospitals, and persons who have received such drugs on prescription in accordance with the provisions of this section, who shall violate any of the provisions of this section shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 nor more than 5 years.

HISTORY: Add. 1941, p. 185, Act 140, Eff. Jan. 10, 1942;—CL 1948, 750.210a.

750.211 Explosives; intent to use unlawfully; manufacture.

Sec. 211. Manufacture, etc., of explosives with intent to use unlawfully—Any person who shall manufacture, buy, sell, furnish or cause to be furnished, or have in possession any nitro-glycerine, dynamite, giant powder or any other dangerous explosive material, with the intent to use the same unlawfully against the person or property of

another shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 years nor more than 5 years.

HISTORY: CL 1948, 750.211. This section supersedes Sec. 1 of Act 126 of 1885, being How. 9209;—CL 1897, 11599;—CL 1915, 15354;—CL 1929, 17103.

750.211a Device designed to explode upon impact, upon application of heat, or device highly incendiary; possession with intent to use unlawfully; evidence.

Sec. 211a. Any person who shall make, construct or have in his possession any device which is designed to explode or which will explode upon impact or with the application of heat or a flame, or which device is highly incendiary, with intent to use the device unlawfully against the person or property of another is guilty of a felony. For the purposes of prosecution under this section, possession of such a device is prima facie evidence of the possessor's intent to use the device unlawfully against the person or property of another.

HISTORY: Add. 1966, p. 95, Act 69, Eff. Mar. 10, 1967;—Am. 1968, p. 482, Act 280, Eff. Jul. 1.

750.212 High explosives; marking.

Sec. 212. Marking of high explosives—No person shall within this state manufacture, sell, keep or offer for sale any high explosive, which is not marked, branded or stamped as in this section provided.

Every manufacturer of dynamite, or other high explosive, shall put a brand or mark on each case distinctly showing the percentage of disruptive force contained in each cartridge in said case, and the name or trade mark, and the address of said manufacturer.

No person by himself, agents or servants shall sell, keep or offer for sale, any dynamite or other high explosive not branded or marked as provided in this section.

Any person, who shall falsely brand, mark, or stamp any such explosive, or who shall sell, keep or offer for sale, any high explosive bearing any false brand or mark, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.212. This section supersedes Sec. 1 of Act 101 of 1897, being CL 1897, 5483;—CL 1915, 7187;—CL 1929, 8944; and Sec. 3 of Act 101 of 1897, being CL 1897, 5485;—CL 1915, 7204;—CL 1929, 8946; and Sec. 4 of Act 101 of 1897, being CL 1897, 5486;—CL 1915, 7205;—CL 1929, 8947; and re-enacts Sec. 2 of Act 101 of 1897, being CL 1897, 5484;—CL 1915, 7203;—CL 1929, 8945.

CHAPTER XXXIV

EXTORTION

750.213 Malicious threats to extort money.

Sec. 213. Malicious threats to extort money—Any person who shall, either orally or by a written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall orally or by any written or printed communication maliciously threaten any injury to the person or property or mother, father, husband, wife or child of another with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do or refrain from doing any act against his will, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years or by a fine of not more than 10,000 dollars.

HISTORY: CL 1948, 750.213. This section supersedes Sec. 19 of Ch. 153 of the R.S. 1846, being CL 1857, 5729;—CL 1871, 7529;—How. 9093;—Am. 1897, p. 245, Act 188, Eff. Aug. 30;—CL 1897, 11488;—CL 1915, 15210;—Am. 1925, p. 113, Act 83, Eff. Aug. 27;—CL 1929, 16726.

750.214 Extortion by public officers.

Sec. 214. Extortion by public officers—Any person who shall wilfully and corruptly demand and receive from another for performing any service, or any official duty, for which the fee or compensation is established by law, any greater fee or compensation than is allowed or provided for the same, and any public officer, for whom a salary is provided by law in full compensation for all services required to be performed by him,

or by his clerks or deputies, who shall wilfully and corruptly demand and receive from any person any sum of money as a fee or compensation for any services required by law to be performed by him in his said office, or by his clerks or deputies, shall be guilty of a misdemeanor; but no prosecution for such offense shall be sustained unless it shall be commenced within 1 year next after the offense was committed.

HISTORY: CL 1948, 750.214. This section supersedes Sec. 22 of Ch. 156 of the R.S. 1846, being CL 1857, 5841;—Am. 1863, p. 325, Act 179, Imd. Eff. March 20;—CL 1871, 7674;—How. 9256;—CL 1897, 11326;—CL 1915, 14993;—CL 1929, 16564.

CHAPTER XXXV

FALSE PERSONATION

750.215 False personation of public officer.

Sec. 215. Any person who falsely assumes or pretends to be a justice of the peace, sheriff, deputy sheriff, conservation officer, coroner, constable, police officer or member of the Michigan state police, and shall take upon himself to act as such, or to require any person to aid and assist him in any matter pertaining to the duty of a justice of the peace, sheriff, deputy sheriff, conservation officer, coroner, constable, police officer or member of the Michigan state police, or shall falsely take upon himself to act or officiate in any office or place of authority, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than \$500.00.

HISTORY: CL 1948, 750.215;—Am. 1957, p. 49, Act 41, Eff. Sep. 27.

This section supersedes Sec. 18 of Ch. 156 of the R.S. 1846, being CL 1857, 5837;—CL 1871, 7670;—How. 9252;—CL 1897, 11322;—CL 1915, 14989;—Am. 1925, p. 88, Act 67, Imd. Eff. Apr. 23;—CL 1929, 16580.

750.216 State police; unauthorized wearing of badge or uniform.

Sec. 216. Unauthorized wearing of badge or uniform of the department of public safety—Any person who shall wear, exhibit, display or use for any purpose, the badge or uniform or a badge or uniform substantially identical to that prescribed by the state administrative board for the department of public safety, unless he shall be a member of said department, shall be guilty of a misdemeanor: Provided, That this section shall not be construed as prohibiting persons of the theatrical profession from wearing such badge or uniform in any playhouse or theatre while actually engaged in following said profession.

HISTORY: CL 1948, 750.216.

DEPARTMENT OF PUBLIC SAFETY: Abolished, powers and duties transferred to Michigan state police, see Compilers' § 29.5.

750.217 Disguising with intent to intimidate.

Sec. 217. Disguising with intent to intimidate, etc.—Any person who shall in any manner disguise himself, with intent to obstruct the due execution of the law, or with intent to intimidate, hinder or interrupt any officer or any other person, in the legal performance of his duty, or the exercise of his rights under the constitution and laws of this state, whether such intent be effected or not, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.217. This section supersedes Sec. 19 of Ch. 156 of the R.S. 1846, being CL 1857, 5838;—CL 1871, 7671;—How. 9253;—CL 1897, 11323;—CL 1915, 14990;—CL 1929, 16581.

750.217a Solicitation of information as to employment, residence, assets or earnings by false personation; penalty.

Sec. 217a. Any individual who on his own behalf, or as officer, agent, partner, employee, or representative of any entity, solicits or aids or abets another in soliciting information from any person as to his or any other person's place of employment, resi-

dence, assets or earnings, by any means whatever with the intent of misleading the person into believing that the information is being sought by or on behalf of, or for the purposes of, any governmental agency or commission is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 61, Act 62, Eff. Sep. 8.

CHAPTER XXXVI

FALSE PRETENSES AND FALSE REPRESENTATION

750.218 False pretenses with intent to defraud; penalty.

Sec. 218. Any person who, with intent to defraud or cheat, shall designedly, by color of any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by any other false pretense, cause any person to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any person to any written instrument, the making whereof would be punishable as forgery, or obtain from any person any money or personal property or the use of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measures obtain a larger amount or quantity of property than was bargained for, or by means of any false weights or measures sell or dispose of a less amount or quantity of property than was bargained for, if such land or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of, shall be of the value of \$100.00 or less, shall be guilty of a misdemeanor; and if such land, interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of shall be of the value of more than \$100.00, such person shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than \$5,000.00.

HISTORY: CL 1948, 750.218.—Am. 1957, p. 75, Act 69, Eff. Sep. 27.

This section supersedes Sec. 39 of Ch. 154 of the R.S. 1846, being CL 1857, 5783.—Am. 1867, p. 219, Act 164, Eff. Jun. 27.—CL 1871, 7590.—Am. 1879, p. 197, Act 218, Eff. Aug. 30.—How. 9161.—Am. 1895, p. 525, Act 234, Eff. Aug. 30.—CL 1897, 11575.—Am. 1915, p. 431, Act 245, Eff. Aug. 24.—CL 1915, 15320.—CL 1929, 16916.

750.219 Financial condition; false statements.

Sec. 219. Written false statements about financial condition to obtain credit, etc.—Any person shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year, or by a fine of not more than 500 dollars, who, either individually or in a representative capacity:

First, shall knowingly make a false statement in writing to any person, firm or corporation engaged in banking or other business respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as a member, director, officer, employe or agent, for the purpose of procuring a loan or credit in any form or an extension of credit from the person, firm or corporation to whom such false statement is made, either for his own use or for the use of the firm or corporation with which he is connected as aforesaid; or

Second, having previously made, or having knowledge that another has previously made a statement in writing to any person, firm or corporation engaged in banking or other business respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as aforesaid, shall afterwards procure on faith of such statement from the person, firm or corporation to whom such previous statement has been made, either for his own use or for the use of the firm or corporation with which he is so connected, a loan or credit in any form, or an extension of credit, knowing at the time of such procuring that such previously made statement is in any material particular false with respect to the present financial condition of himself or of the firm or corporation with which he is so connected; or

Third, shall deliver to any note broker or other agent for the sale or negotiation of commercial paper, any statement in writing, knowing the same to be false, respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as aforesaid, for the purpose of having such statement used in furtherance of the sale, pledge or negotiation of any note, bill or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by him individually or by the firm or corporation with which he is so connected; or

Fourth, having previously delivered or having knowledge that another has previously delivered to any note broker or other agent for the sale or negotiation of commercial paper a statement in writing respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as aforesaid, shall afterwards deliver to such note broker or other agent for the purpose of sale, pledge or negotiation on faith of such statement, any note, bill or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by himself individually or by the firm or corporation with which he is so connected, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself or of such firm or corporation.

HISTORY: CL 1948, 750.219. This section supersedes Sec. 1 of Act 25 of 1909, being CL 1915, 15342,—CL 1929, 16992.

750.219a Telephone service; use of false credit or telephone number or use of number without authority.

Sec. 219a. Any person who knowingly obtains or attempts to obtain telephone service or the transmission of a telephone message by the use of any false or fictitious telephone credit number or telephone number, or by the use of any telephone credit number or telephone number of another without the authority of the person to whom such credit number or telephone number was issued, is guilty of a misdemeanor. If the total value of telephone service obtained in a manner prohibited by this section exceeds \$100.00, the offense shall be prosecuted as a felony.

HISTORY: Add. 1961, p. 101, Act 93, Eff. Sep. 8;—Am. 1967, p. 485, Act 255, Eff. Nov. 2.

750.219b Repealed. 1967, p. 485, Act 255, Eff. Nov. 2.

Section prescribed notice of revocation of credit card number or device.

750.219c Telecommunication; use with intent to avoid payment.

Sec. 219c. Any person who knowingly obtains or attempts to obtain, by the use of any fraudulent scheme, device, means or method, telegraph or telephone service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone, telegraph or other communication facilities with intent to avoid payment of charges therefor is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 101, Act 93, Eff. Sep. 8.

750.220 Property valuation or indebtedness; false statements.

Sec. 220. Written false statement of property valuation, etc., to obtain credit—Any person who wilfully and knowingly makes any false statement in writing of his or her property valuation, real or personal, or both, or of his or her indebtedness, for the purpose of obtaining credit from any person, company, co-partnership, association or corporation, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.220. This section supersedes Sec. 1 of Act 85 of 1909, being CL 1915, 15343,—CL 1929, 16993.

750.221 Blind or defective; false statements representing oneself.

Sec. 221. Falsely representing self as blind, etc.—Any person who shall falsely represent himself or herself as blind, deaf, dumb, crippled or physically defective for the purpose of obtaining money or any other thing of value, and any person thus falsely representing himself or herself as blind, deaf, dumb, crippled or otherwise physically

defective, and securing aid or assistance on account of such representation, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.221. This section supersedes Sec. 1 of Act 135 of 1917, being CL 1929, 17102.

CHAPTER XXXVII

FIREARMS

750.222 Firearms; definitions.

Sec. 222. "Pistol" as used in this chapter means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm. "Purchaser" means any person who receives a pistol from another by purchase, gift or loan. "Seller" means any person who sells, furnishes, loans or gives a pistol to another.

HISTORY: CL 1948, 750.222;—Ar. 1964, p. 284, Act 215, Eff. Aug. 28.

This section is similar to Compilers' Sec. 28.421.

750.223 Selling pistols.

Sec. 223. (1) Any person who sells a pistol without complying with section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Compiled Laws of 1948, shall be guilty of a misdemeanor.

(2) Any person who sells a firearm more than 30 inches in length to a person under 18 years of age shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.223;—Am. 1969, p. 388, Act 210, Eff. Mar. 20, 1970.

750.224 Weapons; manufacture or sale.

Sec. 224. Any person who shall manufacture, sell, offer for sale or possess any machine gun or firearm which shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb, or bomb shell, blackjack, slung shot, billy, metallic knuckles, sand club, sand bag, or bludgeon or any gas ejecting device, weapon, cartridge, container or contrivance designed or equipped for or capable of ejecting any gas which will either temporarily or permanently disable, incapacitate, injure or harm any person with whom it comes in contact, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$2,500.00.

Persons to whom section applies.

The provisions of this section shall not apply to any person manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof, or to any person duly licensed to manufacture, sell or possess any machine gun or gas ejecting device, weapon, cartridge, container or contrivance above mentioned.

HISTORY: CL 1948, 750.224;—Am. 1959, p. 250, Act 175, Eff. Mar. 19, 1960.

This section supersedes Sec. 3 of Act 372 of 1927, Am. 1929, p. 529, Act 206, Imd. Eff. May 20;—CL 1929, 16751.

750.225 Firearms from without state; printed matter to sell or deliver.

Sec. 225. Possession, etc., of printed matter offering to sell or deliver pistols, etc., from without the state—Any person who shall sell or deliver within this state, or offer or expose for sale, or have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter offering to sell or deliver, or containing an offer to sell or deliver to any person within this state from any place without this state any pistol or any weapon or device mentioned in the next preceding section of this chapter, shall be guilty of a misdemeanor. The provisions of this section shall not apply to sales of or offers to sell pistols at wholesale to persons regularly engaged in the business of selling such pistols wholesale or retail, nor

to sales or offers to sell such pistols made or authorized by the United States government or any department or agency thereof.

HISTORY: CL 1948, 750.225. This section supersedes and merges Sec. 15 of Act 372 of 1927, being CL 1929, 16764, and Sec. 16 of Act 372 of 1927, being CL 1929, 16765.

750.226 Firearm or dangerous weapon; carrying with unlawful intent.

Sec. 226. Carrying firearm or dangerous weapon with unlawful intent—Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over 3 inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.226. This section supersedes Sec. 4 of Act 372 of 1927, being CL 1929, 16752.

750.226a Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted.

Sec. 226a. Any person who shall sell or offer to sell, or any person who shall have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not to exceed 1 year or by a fine of not to exceed \$300.00, or both.

The provisions of this section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

HISTORY: Add. 1962, p. 388, Act 233, Eff. Sep. 18.

750.227 Concealed weapons; carrying.

Sec. 227. Carrying concealed weapons—Any person who shall carry a dagger, dirk, stiletto or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him; and any person who shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him, without a license to so carry said pistol as provided by law, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.227. This section supersedes Sec. 5 of Act 372 of 1927, being CL 1929, 16753.

750.227a Pistols; unlawful possession by licensee.

Sec. 227a. Any person licensed in accordance with law to carry a pistol because he is engaged in the business of protecting the person or property of another, except peace officers of the United States, the state or any subdivision of the state railroad policemen appointed and commissioned under the provisions of Act No. 114 of the Public Acts of 1941, being sections 470.51 to 470.61 of the Compiled Laws of 1948 or those in the military service of the United States, who shall have a pistol in his possession while not actually engaged in the business of protecting the person or property of another, except in his dwelling house or on other land possessed by him, is guilty of a felony. This section shall not be construed to prohibit such person from carrying an unloaded pistol to or from his place of employment by the most direct route.

HISTORY: Add. 1966, p. 123, Act 100, Eff. Mar. 10, 1967;—Am. 1967, p. 68, Act 49, Eff. Nov. 2.

750.228 Safety inspection; noncompliance, penalty.

Sec. 228. Safety inspection—Any person who shall fail to comply with the provision of section 9 of Act No. 372 of the Public Acts of 1927, being section 16758 of the Compiled Laws of 1929, pertaining to the safety inspection of pistols, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.228.

NOTE: Sec. 9, Act 372, 1927, above referred to, is Compilers' § 28.429.

750.229 Pistols accepted in pawn, by second-hand dealer or junk dealer.

Sec. 229. Any pawnbroker who shall accept a pistol in pawn, or any second-hand or junk dealer, as defined in Act No. 350 of the Public Acts of 1917, who shall accept a pistol and offer or display the same for resale, shall be guilty of a misdemeanor.

HISTORY: Am. 1945, p. 331, Act 236, Eff. Sept. 6;—CL 1948, 750.229. This section as originally enacted, superseded Sec. 10 of Act 372 of 1927, being CL 1929, 16759.

750.230 Pistols; alteration.

Sec. 230. Alteration of pistols—Any person who shall wilfully alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or fine of not more than 1,000 dollars. Possession of any such firearm upon which the number shall have been altered, removed or obliterated, shall be presumptive evidence that such possessor has altered, removed or obliterated the same.

HISTORY: CL 1948, 750.230. This section supersedes Sec. 11 of Act 372 of 1927, being CL 1929, 16760.

750.231 Concealed weapons; persons authorized to carry.

Sec. 231. Sections 224 and 227 do not apply to any peace officer of a duly authorized police agency of the United States or of the state or any subdivision thereof who is regularly employed and paid by the United States or the state or such subdivision, nor to any person regularly employed by the state department of corrections, and authorized in writing by the director of corrections to carry a concealed weapon while in the official performance of his duties or while going to or returning from such duties, nor to any member of the army, air force, navy or marine corps of the United States when carrying weapons in line of or incidental to duty, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to members of the national guard, armed forces reserves or other duly authorized military organizations when on duty or drill, or in going to or returning from their places of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of the national guard, armed forces reserves or other duly authorized military organizations.

HISTORY: CL 1948, 750.231;—Am. 1958, p. 115, Act 107, Eff. Sep. 13;—Am. 1964, p. 284, Act 215, Eff. Aug. 28.

750.231a Concealed weapons; nonresident licenses; transportation as merchandise.

Sec. 231a. Section 227 does not apply to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms, nor to a person while carrying a pistol unloaded in a wrapper or container in the trunk of his vehicle or while carrying a pistol unloaded and in a wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business, or in moving goods from one place of abode or business to another place of abode or business.

HISTORY: Add. 1964, p. 284, Act 215, Eff. Aug. 28.

750.231b Sale and safety inspection; persons exempt.

Sec. 231b. Sections 223 and 228 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, nor to a member of such agencies or organizations for weapons used by him for the purposes of such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

HISTORY: Add. 1964, p. 284, Act 215, Eff. Aug. 28.

750.232 Purchasers of firearms; registration.

Sec. 232. Registration of purchasers of pistols, etc.—Any person engaged in any way or to any extent in the business of selling at retail, guns, pistols, other fire-arms or silencers for fire-arms who shall fail or neglect to keep a register in which shall be entered the name, age, occupation and residence (if residing in the city with the street number of such residence) of each and every purchaser of such guns, pistols, other fire-arms or silencers for fire-arms together with the number or other mark of identification, if any, on such gun, pistol, other fire-arms or silencer for fire-arms, which said register shall be open to the inspection of all peace officers at all times, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.232. This section supersedes and merges Sec. 1 of Act 250 of 1913, being CL 1915, 15247;—CL 1929, 16768; and Sec. 2 of Act 250 of 1913, being CL 1915, 15248;—CL 1929, 16769.

750.232a Purchasers of firearms; unlawful without license; false statement in application.

Sec. 232a. Purchaser of pistol—Any person who shall purchase a pistol without having obtained a license to purchase as provided in section 2 of Act No. 372 of the Public Acts of 1927, as amended, shall be guilty of a misdemeanor.

Any person who shall intentionally make a false statement in any application for a license to purchase a pistol, under section 2 of Act No. 372 of the Public Acts of 1927, as amended, shall be guilty of a misdemeanor.

HISTORY: Add. 1943, p. 58, Act 54, Eff. July 30;—CL 1948, 750.232a.

NOTE: Sec. 2, Act 372, 1927, above referred to, is Compilers' § 28.422.

750.233 Firearm; intentionally aiming without malice.

Sec. 233. Intentionally aiming fire-arm without malice—Any person who shall intentionally, without malice, point or aim any fire-arm at or toward any other person, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.233. This section supersedes Sec. 1 of Act 68 of 1869, being CL 1871, 7548;—How. 9110;—CL 1897, 11509;—CL 1915, 15232;—CL 1929, 16776.

750.234 Firearm; discharge, intentionally aimed without malice.

Sec. 234. Discharge of fire-arm intentionally but without malice aimed at another—Any person who shall discharge, without injury to any other person, any fire-arm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.234. This section supersedes Sec. 2 of Act 68 of 1869, being CL 1871, 7549;—How. 9111;—CL 1897, 11510;—CL 1915, 15233;—CL 1929, 16777.

750.235 Firearm; injuring, intentionally aimed without malice.

Sec. 235. Injuring by discharge of fire-arm intentionally but without malice pointed at another—Any person who shall maim or injure any other person by the discharge of any fire-arm pointed or aimed intentionally, without malice, at any such person shall

be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.235. This section supersedes part of Sec. 3 of Act 68 of 1869, being CL 1871, 7550;—How. 9112,—CL 1897, 11511;—CL 1915, 15234;—CL 1929, 16778.

750.235a Repealed. 1952, p. 46, Act 45, Eff. Sep. 18.

Section made reckless use of fire-arms misdemeanor.

750.236 Spring gun, trap or device; setting.

Sec. 236. Setting spring guns, etc.—Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars, and the killing of any person by the firing of a gun or device so set shall be manslaughter.

HISTORY: CL 1948, 750.236. This section supersedes Sec. 1 of Act 97 of 1875, being How. 9114;—CL 1897, 11515;—CL 1915, 15250,—CL 1929, 16782.

750.237 Liquor; possession or use of firearm by person under influence.

Sec. 237. Possession or use of fire-arm by person under influence of liquor or drug—Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, have in possession or under control, or use in any manner or discharge any fire-arm within this state, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.237. This section supersedes and merges Sec. 1 of Act 25 of 1929, being CL 1929, 16780; and Sec. 2 of Act 25 of 1929, being CL 1929, 16781.

750.238 Search warrant.

Sec. 238. Search warrant—When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this chapter is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this chapter.

HISTORY: CL 1948, 750.238.

750.239 Forfeiture of weapons.

Sec. 239. All pistols, weapons or devices carried, possessed or used contrary to this chapter are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his designated representative, for such disposition as the commissioner may prescribe.

HISTORY: CL 1948, 750.239;—Am. 1949, p. 176, Act 168, Eff. Sep. 23;—Am. 1964, p. 284, Act 215, Eff. Aug. 28.

CHAPTER XXXVIII

FIRES

750.240 False alarm of fire.

Sec. 240. Any person who shall knowingly and wilfully commit any one or more of the following actions shall be guilty of a misdemeanor and punished by imprisonment for not more than 1 year and may be fined not more than \$500.00:

- (a) Raise a false alarm of fire at any gathering or in any public place;
- (b) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire;
- (c) Raise a false alarm of fire orally, by telephone or in person.

HISTORY: CL 1948, 750.240;—Am. 1954, p. 17, Act 15, Eff. Aug. 13;—Am. 1965, p. 108, Act 77, Eff. Mar. 31, 1966.

This section supersedes Sec. 1 of Act 16 of 1917, Am. 1927, p. 78, Act 62, Imd. Eff. Apr. 23; and Sec. 2 of Act 16 of 1917, being CL 1929, 16607.

750.241 Firemen; obstructing and disobeying; public service facility interfering with during riot or civil disturbance.

Sec. 241. (1) Any person who shall knowingly and wilfully hinder, obstruct, endanger or interfere with any fireman in the performance of his duties is guilty of a felony.

(2) Any person who, while in the vicinity of any fire, wilfully disobeys any reasonable order or rule of the officer commanding any fire department at such fire, when such order or rule is given by the commanding officer or a fireman there present, is guilty of a misdemeanor.

(3) During a riot, or other civil disturbance any person who shall knowingly and wilfully hinder, obstruct, endanger or interfere with any person who is engaged in the operation, installation, repair or maintenance of any essential public service facility, including a facility for the transmission of electricity, gas, telephone messages or water, is guilty of a felony.

HISTORY: CL 1948, 750.241;—Am. 1968, p. 597, Act 328, Eff. Jul. 3.

This section supersedes Sec. 1 of Act 239 of 1921, being CL 1929, 16644.

750.242 Traction engines using wood fuel; spark arresters.

Sec. 242. Spark arresters on traction engines using wood fuel—Any person who shall own or operate upon the premises of any inhabitant of this state, or upon the highway, any traction or other portable steam engine, unless said engine shall be equipped with an efficient spark arrester at all times when in use and using wood as a fuel, and with proper fire extinguishers, either liquid or dry, shall be guilty of a misdemeanor. All traction or other portable engines using wood for fuel shall be equipped with bonnet spark arresters having an oval top of number 10 mesh, 22 gauge wire and sides composed of number 6 mesh, 16 gauge wire.

HISTORY: CL 1948, 750.242. This section supersedes and merges Sec. 1 of Act 339 of 1913, being CL 1915, 7368;—CL 1929, 8924; and Sec. 2 of Act 339 of 1913, being CL 1915, 7369;—CL 1929, 8925.

CHAPTER XXXIX

FIREWORKS

750.243 Repealed. 1968, p. 696, Act 358, Eff. Jan. 1, 1969.

Section related to unlawful sale, possession, transportation of fireworks; exceptions.

750.243a Fireworks; sale, possession or transportation prohibited; exceptions.

Sec. 243a. (1) Except as otherwise provided by law, no person, firm, copartnership or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell at retail, possess, give, furnish, transport, use, explode or cause to explode any of the following:

(a) Any blank cartridge, blank cartridge pistol, toy cannon, toy cane or toy gun in which explosives are used.

(b) A balloon which requires fire underneath to propel it.

(c) Firecrackers, torpedoes, skyrockets, roman candles, daygo bombs or other fireworks of like construction.

(d) Any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorous [sic] or any compound containing any of these or other modern explosives.

(2) A permit is not required for any of the following:

(a) Flat paper caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes and toy guns of a type approved by the director of the department of state police in which paper caps as described in subdivision (a) are used and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion and which are not designed to break apart or be separated so as to form a missile by the explosion.

(c) Sparklers containing not more than .0125 pounds of burning portion per sparkler.

(d) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(e) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and the manufacturer's name and quantity contained in each box are printed thereon.

(f) Possession, transportation, sale or use of signal flares of a type approved by the director of state police, blank cartridges or blank cartridge pistols specifically for a show or theater, for the training or exhibiting of dogs, for signal purposes in athletic sports, for the use by military organizations, and all items in section 243a(1) used by railroads, trucks or vehicles for emergency signal purposes.

(g) The sale of any kind of fireworks provided they are to be shipped directly out of state in accordance with regulations of the United States interstate commerce commission covering the transportation of explosives and other dangerous articles by motor, rail and water.

HISTORY: Add. 1966, p. 694, Act 358, Eff. Jan. 1, 1969.

750.243b Permit for use of fireworks; application; purpose of use; age limitation.

Sec. 243b. (1) The council or commission of any city or village or the township board of any township, upon application in writing, on application forms provided by the director of the department of state police, may grant a permit for the use of fireworks otherwise prohibited by section 243a, within their political jurisdiction, manufactured for outdoor pest control or agricultural purposes, or for public display by municipalities, fair associations, amusement parks, or other organizations or groups of individuals approved by such city, village or township authorities, if the applicable provisions of this act are complied with. The permits shall be on forms provided by the director of the department of state police. After a permit has been granted, sales, possession or transportation of fireworks for such purposes only may be made. No permit shall be transferable, nor shall a permit be issued to any person under the age of 21 years.

(2) The council or commission of any city or village or the township board of any township, upon application in writing, may grant a permit, on forms provided by the director of the department of state police, to any resident wholesale dealer or jobber to have in his possession within the political jurisdiction, fireworks otherwise prohibited by section 243a, for sale only to holders of permits as provided for in subsection (1). No permit is transferable, nor shall a permit be issued to any person under the age of 21 years.

(3) Before any permit for a pyrotechnic display is issued, the person, firm or corporation making application therefor shall furnish proof of financial responsibility by a bond or insurance in an amount deemed necessary by the local governing authority, to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such amount, character and form as the municipal authority determines to be necessary for the protection of the public.

(4) No permit shall be issued under the provisions of this act to a nonresident person, firm or corporation for conduct of a pyrotechnic display in this state until such

person, firm or corporation shall have appointed in writing a member of the bar of this state and residing therein or a resident agent to be his legal representative upon whom all process in any action or proceeding against him may be served.

(5) The local governing authority shall rule on the competency and qualifications of operators of pyrotechnic displays, as the operator has furnished in his application form and on the time, place and safety aspects of the displays before granting permits.

HISTORY: Add. 1968, p. 695, Act 358, Eff. Jan. 1, 1969.

750.243c Transportation of fireworks intrastate; permit.

Sec. 243c. Transportation of fireworks intrastate shall be made only with the permits provided for in this act and as follows:

(a) In accordance with interstate commerce commission regulations for transportation of explosives and other dangerous articles by motor, rail and water, including specifications for shipping containers.

(b) In nonpassenger carrying vehicles, in charge of a competent driver at least 21 years of age, vehicles equipped with a 15 pound carbon dioxide, or a 10 pound dry chemical fire extinguisher; and in or near which smoking shall be prohibited while loading, unloading and transporting fireworks.

HISTORY: Add. 1968, p. 695, Act 358, Eff. Jan. 1, 1969.

750.243d Storage of fireworks; wholesalers, dealers and jobbers.

Sec. 243d. Storage of fireworks at the sites of wholesalers, dealers and jobbers shall be as follows:

(a) In 1 story, without basement, noncombustible or fire resistive building; weather resistant; well ventilated and equipped with a strong door kept securely locked except when open for business.

(b) The location of the storage building shall be approved by the municipal governing authority having jurisdiction, and in any case shall be located in relation to inhabited buildings, passenger railroads and public highways, no less than distances specified in the standard table of distances for explosives in the Michigan administrative code regulations for storage and handling of explosives.

(c) Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside of or within 50 feet of any warehouse used for the storage of fireworks. Combustible materials shall not be stored within 50 feet of warehouses used for the storage of fireworks.

(d) The interior of warehouses used for the storage of fireworks shall be kept clean and free from debris and empty containers. Warehouses shall not be used for the storage of any metal tools nor any commodity other than fireworks.

(e) Warehouses shall not be provided with heat or lights, except that if lights are necessary an electric safety flashlight or safety lantern shall be used.

(f) Warehouses shall bear lettering on each side and top in letters not less than 4 inches high, the words "explosives—keep fire away".

(g) Every warehouse used for the storage of fireworks shall be under the supervision of a competent person who shall be not less than 21 years of age.

HISTORY: Add. 1968, p. 696, Act 358, Eff. Jan. 1, 1969.

750.243e Violation of section; penalty; misdemeanor.

Sec. 243e. Any person, firm, copartnership or corporation, who violates any of the provisions of sections 243a to 243d, or who violates the terms of any permit issued thereunder, is guilty of a misdemeanor.

HISTORY: Add. 1968, p. 696, Act 358, Eff. Jan. 1, 1969.

CHAPTER XL

FLAG AND COAT-OF-ARMS

750.244 Flag and coat of arms; definitions.

Sec. 244. Definitions—The words “flag”, “standard”, “color”, “ensign”, “coat-of-arms” or “shield”, as used in this chapter, shall include any flag, standard, color, ensign, coat-of-arms or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign, coat-of-arms or shield of the United States or of this state, or a copy, picture or representation thereof.

HISTORY: CL 1948, 750.244. This section re-enacts except changing “act” to “chapter” and adds “coat-of-arms” in 3 places, Sec. 1 of Act 222 of 1923, being CL 1929, 17087.

750.245 Exhibition and display.

Sec. 245. Exhibition and display of flag, etc.—Any person shall be guilty of a misdemeanor who shall, in any manner, for exhibition or display:

(a) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign, coat-of-arms or shield of the United States or of this state, or authorized by any law of the United States or of this state; or

(b) Expose to public view any such flag, standard, color, ensign, coat-of-arms or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(c) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign, coat-of-arms or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

HISTORY: CL 1948, 750.245. This section supersedes and merges Sec. 2 of Act 222 of 1923, being CL 1929, 17088; and part of Sec. 5 of Act 222 of 1923, being CL 1929, 17091.

DISPLAY: See also Compilers' § 2.27.

750.246 Mutilation.

Sec. 246. Mutilation of flag, etc.—Any person who shall publicly mutilate, deface, defile, defy, trample upon or by word or act cast contempt upon any such flag, standard, color, ensign, coat-of-arms or shield, is guilty of a misdemeanor.

HISTORY: CL 1948, 750.246. This section supersedes and merges Sec. 3 of Act 222 of 1923, being CL 1929, 17089; and part of Sec. 5 of Act 222 of 1923, being CL 1929, 17091.

750.247 Exceptions to chapter.

Sec. 247. Exceptions—This chapter shall not apply to any act permitted by the statutes of the United States or of this state, or by the United States army and navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign, coat-of-arms or shield with no design or words thereon and disconnected with any advertisement.

HISTORY: CL 1948, 750.247. This section re-enacts except changes “statute” to “chapter” and adds “coat-of-arms”, Sec. 4 of Act 222 of 1923, being CL 1929, 17090.

CHAPTER XLI

FORGERY AND COUNTERFEITING

750.248 Forgery of records and other instruments; venue.

Sec. 248. (1) Any person who shall falsely make, alter, forge or counterfeit any public record, or any certificate, return or attestation of any clerk of a court, public register, notary public, justice of the peace, township clerk, or any other public officer, in relation to any matter wherein such certificate, return or attestation may be received as legal proof, or any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance of discharge for money or other property, or any waiver, release, claim or demand, or any acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or any accountable receipt for money, goods or other property, with intent to injure or defraud any person, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 14 years.

(2) The venue in a prosecution under this section may be either in the county in which the forgery was performed, or in a county in which any false, forged, altered or counterfeit record, deed, instrument or other writing is uttered and published with intent to injure or defraud.

HISTORY: CL 1948, 750.248;—Am. 1964, p. 100, Act 101, Eff. Aug. 28;—Am. 1967, p. 84, Act 64, Eff. Nov. 2.

This section supersedes Sec. 1 of Ch. 155 of the R.S. 1846, being CL 1857, 5902;—CL 1871, 7631;—How. 9213;—CL 1897, 11659;—CL 1915, 15432;—CL 1929, 17048.

750.249 Forgery of records and other instruments; uttering and publishing.

Sec. 249. Uttering and publishing forged instruments—Any person who shall utter and publish as true, any false, forged, altered or counterfeit record, deed, instrument or other writing mentioned in the preceding section, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 14 years.

HISTORY: CL 1948, 750.249. This section supersedes Sec. 2 of Ch. 155 of the R.S. 1846, being CL 1857, 5803;—CL 1871, 7632;—How. 9214;—CL 1897, 11660;—CL 1915, 15433;—CL 1929, 17049.

750.250 Forgery of notes issued for debt of state or political subdivisions.

Sec. 250. Forgery of notes, etc., issued for debt of state—Any person who shall falsely make, alter, forge or counterfeit any note, certificate, bond, warrant or other instrument, issued by the treasurer or other officer authorized to issue the same, of this state, or any of its political subdivisions or municipalities, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

HISTORY: Am. 1934, 1st Ex. Ses., p. 88, Act 16, Imd. Eff. March 28;—CL 1948, 750.250. This section as originally enacted superseded Sec. 3 of Ch. 155 of the R.S. 1846, being CL 1857, 5804;—CL 1871, 7633;—How. 9215;—CL 1897, 11661;—CL 1915, 15434;—CL 1929, 17050.

750.251 Forgery of bank bills and promissory notes.

Sec. 251. Forgery of bank bills and notes—Any person who shall falsely make, alter, forge, or counterfeit any bank bill or promissory note payable to the bearer thereof, or to the order of any person, issued by this state, or any of its political subdivisions or municipalities or by any incorporated banking company in this state, or in any of the British provinces of North America, or in any other state or country, or payable therein, at the office of any banking company incorporated by any law of the United States or of any other state, with intent to injure or defraud any person, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

HISTORY: Am. 1934, 1st Ex. Ses., p. 89, Act 16, Imd. Eff. March 28;—CL 1948, 750.251. This section as originally enacted superseded Sec. 4 of Ch. 155 of the R.S. 1846, Am. 1849, p. 25, Act 33, Eff. Feb. 13;—CL 1857, 5805;—CL 1871, 7634;—How. 9216;—CL 1897, 11662;—CL 1915, 15435;—CL 1929, 17051.

750.252 Possession of counterfeit notes with intent to utter same as true.

Sec. 252. Possession of counterfeit notes, etc., with intent to utter same—Any person who shall have in his possession at the same time, 10 or more similar false, altered, forged or counterfeit notes, bills of credit, bank bills or notes of this state, or any of its political subdivisions or municipalities, payable to the bearer thereof, or to the order of any person, such as are mentioned in the preceding sections of this chapter, knowing the same to be false, altered, forged or counterfeit, with intent to utter the same as true, and thereby to injure and defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

HISTORY: Am. 1934, 1st Ex. Ses., p. 89, Act 16, Imd. Eff. March 28;—CL 1948, 750.252. This section as originally enacted superseded Sec. 5 of Ch. 155 of the R.S. 1846, being CL 1857, 5806;—CL 1871, 7635;—How. 9217;—CL 1897, 11663;—CL 1915, 15436;—CL 1929, 17052.

750.253 Uttering counterfeit notes as true.

Sec. 253. Uttering counterfeit notes, etc.—Any person who shall utter or pass, or tender in payment as true, any such false, altered, forged or counterfeit note, certificate or bill of credit for any debt of this state, or any of its political subdivisions or municipalities, any bank bill or promissory note, payable to the bearer thereof, or to the order of any person, issued as aforesaid, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment of not more than 5 years or by fine of not more than 2,500 dollars.

HISTORY: Am. 1934, 1st Ex. Ses., p. 89, Act 16, Imd. Eff. March 28;—CL 1948, 750.253. This section as originally enacted superseded Sec. 6 of Ch. 155 of the R.S. 1846, being CL 1857, 5807;—CL 1871, 7636;—How. 9218;—CL 1897, 11664;—CL 1915, 15437;—CL 1929, 17053.

750.254 Possession of counterfeit bank, state or municipal bills or notes.

Sec. 254. Possession of counterfeit bank bills, etc.—Any person who shall bring into this state, or shall have in his possession, any false, altered, forged or counterfeit bill or note in the similitude of the bills or notes payable to the bearer thereof, or to the order of any person issued by or for this state, or any of its political subdivisions or municipalities, or any bank or banking company, established in this state, or in any of the British provinces in North America, or in any other state or country, with intent to utter or pass the same, or to render the same current as true, knowing the same to be false, forged or counterfeit, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years, or by fine of not more than 2,500 dollars.

HISTORY: Am. 1934, 1st Ex. Ses., p. 89, Act 16, Imd. Eff. March 28;—CL 1948, 750.254. This section as originally enacted superseded Sec. 8 of Ch. 155 of the R.S. 1846, being CL 1857, 5809;—CL 1871, 7638;—How. 9220;—CL 1897, 11666;—CL 1915, 15439;—CL 1929, 17055.

750.255 Tools and implements for counterfeiting bills or notes.

Sec. 255. Tools and implements for counterfeiting notes—Any person who shall engrave, make or mend, or begin to engrave, make or mend, any plate, block, press or other tool, instrument or implement, or shall make or provide any paper or other material, adapted or designed for the forging and making any false or counterfeit note, certificate or other bill of credit in the similitude of the notes, certificates, bills of credit issued by lawful authority for any debt of this state, or any of its political subdivisions or municipalities, or any false or counterfeit note or bill in the similitude of the notes or bills issued by any bank or banking company established in this state, or within the United States, or in any of the British provinces in North America, or in any foreign state or country; and any person who shall have in his possession any such plate or block, engraved in whole or in part, or any press or other tool, instrument or implement, or any paper or other material, adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used in forging or making any such false or counterfeit certificates, bills or notes, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

HISTORY: Am. 1934, 1st Ex. Ses., p. 89, Act 16, Imd. Eff. March 28;—CL 1948, 750.255. This section as originally enacted superseded Sec. 9 of Ch. 155 of the R.S. 1846, being CL 1857, 5810;—CL 1871, 7639;—How. 9221;—CL 1897, 11667;—CL 1915, 15440;—CL 1929, 17056.

750.256 Testimony of president and cashier of bank.

Sec. 256. Testimony of president and cashier of bank—In all prosecutions for forging or counterfeiting any notes or bills of the bank before mentioned, or for altering, publishing or tendering in payment as true, any forged or counterfeit bank bills or notes, or for being possessed thereof, with intent to alter and pass the same as true, the testimony of the president and cashier of such bank may be dispensed with, if their place of residence shall be out of this state, or more than 40 miles from the place of trial; and the testimony of any person acquainted with the signature of the president or cashier of such banks, or who has knowledge of the difference in appearance of the true and counterfeit bills or notes thereof, may be admitted to prove that any such bills or notes are counterfeit; and the lawful existence of any bank out of this state shall be presumed upon evidence that such bank is actually engaged in the business of a bank.

HISTORY: CL 1948, 750.256. This section re-enacts Sec. 10 of Ch. 155 of the R.S. 1846, Am. 1851, p. 170, Act 136, Eff. July 8;—CL 1857, 5811;—CL 1871, 7640;—How. 9222;—CL 1897, 11668;—CL 1915, 15441;—CL 1929, 17057.

750.257 Sworn certificate; evidence.

Sec. 257. Sworn certificate made evidence—In all prosecutions for forging or counterfeiting any note, certificate, bills of credit or other security issued in behalf of the United States, or in behalf of any state or territory, or for uttering, publishing or tendering in payment as true, any such forged or counterfeit note, certificate, bill of credit, or security, or for being possessed thereof with intent to utter or pass the same as true, the certificate under oath of the secretary of the treasury, or of the treasurer of the United States, or of the secretary or treasurer of any state or territory on whose behalf such note, certificate, bill of credit or security, purports to have been issued, shall be admitted as evidence for the purpose of proving the same to be forged or counterfeit.

HISTORY: CL 1948, 750.257. This section re-enacts Sec. 11 of Ch. 155 of the R.S. 1846, being CL 1857, 5812;—CL 1871, 7641;—How. 9223;—CL 1897, 11669;—CL 1915, 15442;—CL 1929, 17058.

750.258 Connecting parts of instruments.

Sec. 258. Connecting parts of instruments—If any person shall connect together different parts of several bank notes or other genuine instruments in such a manner as to produce an additional note or instrument, with intent to pass all of them as genuine, the same shall be deemed a forgery, in like manner as if each of them had been falsely made or forged.

HISTORY: CL 1948, 750.258. This section re-enacts Sec. 12 of Ch. 155 of the R.S. 1846, being CL 1857, 5813;—CL 1871, 7642;—How. 9224;—CL 1897, 11670;—CL 1915, 15443;—CL 1929, 17059.

750.259 Affixing fictitious signature.

Sec. 259. Affixing fictitious signature—If any fictitious or pretended signature, purporting to be the signature of an officer or agent of any corporation, shall be fraudulently affixed to any instrument or writing, purporting to be a note, draft or other evidence of debt, issued by said corporation, with intent to pass the same as true, it shall be deemed a forgery, though no such person may ever have been an officer or agent of such corporation, nor ever have existed.

HISTORY: CL 1948, 750.259. This section re-enacts Sec. 13 of Ch. 155 of the R.S. 1846, being CL 1857, 5814;—CL 1871, 7643;—How. 9225;—CL 1897, 11671;—CL 1915, 15444;—CL 1929, 17060.

750.260 Coins; counterfeiting and possession.

Sec. 260. Counterfeiting and possession of coins—Any person who shall counterfeit any gold or silver coin, current by law or usage within this state, and every person who shall have in his possession, at the same time, 5 or more pieces of false money or coin,

counterfeited in the similitude of any gold or silver coin current as aforesaid, knowing the same to be false and counterfeit, and with intent to utter or pass the same as true, shall be guilty of a felony, punishable by imprisonment in the state prison for life, or for any term of years.

HISTORY: CL 1948, 750.260. This section supersedes Sec. 15 of Ch. 155 of the R.S. 1846, being CL 1857, 5816;—CL 1871, 7645;—How. 9227;—CL 1897, 11673;—CL 1915, 15446;—CL 1929, 17062.

750.261 Coins; counterfeiting; possession of less than 5 counterfeit.

Sec. 261. Possession of less than 5 pieces of counterfeit coin—Any person who shall have in his possession any number of pieces less than 5, of the counterfeit coin mentioned in the next preceding section, knowing the same to be counterfeit, with intent to utter and pass the same as true, and any person who shall utter, pass, or tender in payment as true, any such counterfeit coin, knowing the same to be false and counterfeit, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by a fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.261. This section supersedes Sec. 16 of Ch. 155 of the R.S. 1846, being CL 1857, 5817;—CL 1871, 7646;—How. 9228;—CL 1897, 11674;—CL 1915, 15447;—CL 1929, 17063.

750.262 Counterfeiting; tools.

Sec. 262. Tools, etc., for counterfeiting coins—Any person who shall cast, stamp, engrave, make or mend, or shall knowingly have in his possession, any mould, pattern, die, puncheon, engine, press or other tool or instrument, adapted and designed for coining or making any counterfeit coin, in the similitude of any gold or silver coin, current by law or usage in this state, with intent to use or employ the same, or to cause or permit the same to be used or employed in coining or making any such false and counterfeit coin as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by a fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.262. This section supersedes Sec. 18 of Ch. 155 of the R.S. 1846, being CL 1857, 5819;—CL 1871, 7645;—How. 9230;—CL 1897, 11676;—CL 1915, 15449;—CL 1929, 17065.

750.263 Forging and counterfeiting trade marks.

Sec. 263. Forging and counterfeiting trade marks, labels, stamps, etc.—Any person who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy or imitation of the private stamp, brand, wrapper or label, usually affixed by any mechanic, druggist, apothecary, or manufacturer to, and used by such mechanic, druggist, apothecary or manufacturer on, or in the sale of any goods, wares or merchandise and with intent to deceive or defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, upon conviction thereof, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for a term of not more than 1 year, or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.263. This section supersedes Sec. 1 of Act 22 of 1863, being CL 1871, 7649;—How. 9231;—CL 1897, 11677;—CL 1915, 15450;—CL 1929, 8966.

750.264 Possession of dies, plates used in sale of goods.

Sec. 264. Possession of dies, plates, labels, etc., used by manufacturer, etc., in sale of goods—Any person who shall have in his possession any die, plate, engraving, or printed label, brand, stamp, wrapper, or any representation, likeness, similitude, copy or imitation of the private stamp, wrapper or label, usually affixed by any mechanic or manufacturer, druggist or apothecary to, and used by such mechanic, druggist, apothecary or manufacturer on, or in the sale of any goods, wares or merchandise, with intent to use or sell the said die, plate, engraving or printed stamp, label or wrapper, for the purpose of aiding or assisting in any way whatever, in vending any goods, wares or merchandise, in imitation of, or intended to resemble and be sold for the goods, wares and merchandise of such mechanic, druggist, apothecary or manufacturer, contrary to the provisions of the next preceding section shall, upon conviction thereof, be guilty of

a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.264. This section supersedes Sec. 2 of Act 22 of 1863, being CL 1871, 7650;—How. 9232;—CL 1897, 11675;—CL 1915, 15451;—CL 1929, 8967.

750.265 Selling goods bearing forged labels; intent to defraud.

Sec. 265. Selling goods bearing forged labels, brands, etc., with intent to defraud—Any person who shall vend any goods, wares or merchandise, having thereon any forged or counterfeit stamps, labels or brands, imitating, resembling or purporting to be the stamps, or labels of any mechanic, manufacturer, druggist or apothecary, knowing the same to be forged or counterfeited, and resembling or purporting to be imitations of the stamps, labels or marks of such manufacturer or mechanic, with intent to defraud, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year, or by fine of not more than 500 dollars.

HISTORY: CL 1948, 750.265. This section supersedes Sec. 3 of Act 22 of 1863, being CL 1871, 7651;—How. 9233;—CL 1897, 11679;—CL 1915, 15452;—CL 1929, 8968.

750.265a Union label; counterfeiting, imitation, unauthorized use.

Sec. 265a. Any person who counterfeits or imitates any union label, or who uses any union label without authority of the particular labor organization or association of working-men whose union label is being so used, shall be guilty of a misdemeanor. A union label for the purposes of this section is defined as a trademark, term, design, symbol or device of a labor organization or association of working-men adopted by them to distinguish their craft, trade or work or membership in or indicating work done by such labor organization or association of working-men.

HISTORY: Add. 1957, p. 67, Act 62, Eff. Sep. 27.

750.266 Forged railroad passenger tickets.

Sec. 266. Forgery and selling, etc., of forged railroad passenger tickets—Any person who shall falsely make, forge, or counterfeit any railroad passenger ticket, purporting to be made or issued by any railroad company or companies doing business within or without this state, with intent to injure or defraud, or who shall with like intent, alter any railroad passenger ticket made or issued by any such railroad company or companies, shall be guilty of a felony.

Any change of any such ticket made or issued by any railroad company or companies, if made with intent to injure or defraud, whether made by writing, printing, stamping, punching, obliteration, or otherwise, shall be deemed an alteration within the meaning of this section.

Any person who shall sell, or offer to sell or who shall have in his possession with intent to sell, any such false, forged, altered or counterfeit railroad passenger ticket knowing the same to be false, forged, altered or counterfeit, shall be guilty of a felony.

The words "railroad passenger ticket or tickets", as used in this section, shall be construed to embrace any ticket, card, pass, certificate or paper providing, or intended to provide for the carriage or transportation of any person or persons upon any railroad, and shall include not only tickets of any railroad company fully prepared for use, but those not fully prepared for use, and all others which have been once used. At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the information or indictment to show that such company was doing business as a railroad company at the time named in the information or indictment.

HISTORY: CL 1948, 750.266. This section supersedes Sec. 8 of Act 164 of 1869, Add. 1881, p. 138, Act 146, Eff. Sept. 10;—How. 9207;—CL 1897, 11630;—CL 1915, 15395;—CL 1929, 17031; and Sec. 9 of Act 164 of 1869, Add. 1881, p. 138, Act 146, Eff. Sept. 10;—How. 9208;—CL 1897, 11631;—CL 1915, 15396;—CL 1929, 17032; and re-enacts except changes "in the preceding sections" to "this section", Sec. 10 of Act 164 of 1869, Add. 1881, p. 139, Act 146, Eff. Sept. 10;—How. 9209;—CL 1897, 11632;—CL 1915, 15397;—CL 1929, 17033.

CHAPTER XLII
FORTUNE TELLING**750.267 Fortune telling for gain; by cards, etc.**

Sec. 267. Fortune telling by cards, etc., for gain—Any person who shall pretend for money or gain, to predict future events by cards, tokens, trances, the inspection of the hands or the conformation of the skull of any person, mind reading so-called, or by consulting the movements of the heavenly bodies, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.267. This section supersedes Sec. 1 of Act 38 of 1913, being CL 1915, 15065;—CL 1929, 16634.

750.268 Fortune telling for gain; by other means.

Sec. 268. Fortune telling by other means for gain—Any person who shall pretend for money or gain to tell fortunes or foretell future events by other means than those mentioned in the next preceding section, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.268. This section supersedes Sec. 2 of Act 38 of 1913, being CL 1915, 15066;—CL 1929, 16635.

750.269 Pretending to enable one to recover lost property.

Sec. 269. Pretending by palmistry, etc., to enable one to recover lost property, etc.—Any person who shall pretend by or through means of palmistry, phrenology, clairvoyancy, astrology or fortune telling by cards or other devices for money or gain, to enable any one to get or recover lost or stolen property, or to give success in business, enterprise, speculation or games of chance, or to make 1 person dispose of property, business or valuable thing in favor of another, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.269. This section supersedes Sec. 3 of Act 38 of 1913, being CL 1915, 15067;—CL 1929, 16636.

750.270 Evidence; exemptions.

Sec. 270. Evidence; exemptions—If any person shall publish by card, circular, sign, newspaper or any other means whatsoever, that he or she shall or will predict future events, the said publication may be given in evidence to sustain an indictment under this chapter. Any person whose fortune may have been told as aforesaid, shall be a competent witness against all persons charged with any violation of this chapter. Nothing contained in sections 267, 268 or 269 of this act shall be deemed to apply to services conducted by a duly ordained minister of any spiritualist church incorporated under the laws of the state of Michigan.

HISTORY: Am. 1939, p. 472, Act 256, Eff. Sept. 29;—CL 1948, 750.270. This section as originally enacted, re-enacted except "or persons", Sec. 4 of Act 38 of 1913, being CL 1915, 15068;—CL 1929, 16637.

CHAPTER XLIII
FRAUDS AND CHEATS**750.271 Domestic corporations; securities, fraudulent issue and sale.**

Sec. 271. Fraudulent issue and sale of securities of domestic corporations—Any person or persons who shall fraudulently issue or cause to be issued, any stock, scrip, or evidence of debt, of any bank, insurance, mining or other incorporated company of this state, or who shall sell or offer for sale, hypothecate, or otherwise dispose of any such stock, scrip or other evidence of debt, knowing the same to be so fraudulently issued, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.271. This section supersedes Sec. 1 of Act 128 of 1855, being CL 1857, 5908;—CL 1871, 7753;—How. 9349;—CL 1897, 11362;—CL 1915, 15080;—CL 1929, 9804.

FRAUDULENT SECURITIES: Penalty for issuance by railroad corporation officers, see Compilers' § 467.9; by brine pipe line corporation officers, see Compilers' § 483.226.

750.272 Foreign corporations; stock, fraudulently issued, sale.

Sec. 272. Knowingly selling fraudulently issued stock of foreign corporations—Any person or persons who shall sell or offer for sale any stock fraudulently issued, and purporting to be the stock, scrip or evidence of debt of any corporation located out of the

state of Michigan, knowing the same to be so fraudulently issued, or shall hypothecate, or in any manner dispose of the same for value, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.272. This section supersedes Sec. 2 of Act 128 of 1855, being CL 1857, 5909;—CL 1871, 7754;—How. 9350;—CL 1897, 11363;—CL 1915, 15061;—CL 1929, 9905.

750.273 Signature; fraudulently obtaining.

Sec. 273. Fraudulently obtaining signature to note, etc.—Any person who shall, by representing that he is the agent of any person, company, firm or corporation, or by any other means, fraudulently obtain the signature of any person with the intent to cheat and defraud such person, to any promissory note, bill of exchange, due bill, order, contract or any paper writing whatever, shall be guilty of felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.273. This section supersedes Sec. 1 of Act 228 of 1879, being How. 9353;—CL 1897, 11366;—CL 1915, 15064;—CL 1929, 16994.

750.274 Note; fraudulent signature; knowingly purchasing, collection.

Sec. 274. Purchasing and attempting to collect a note, knowing signature was fraudulently obtained—Any person who shall receive into his possession for collection or sale or who shall purchase any promissory note, bill of exchange, due bill, order, contract, or paper writing whatever, obtained in the manner mentioned in the preceding section of this chapter, knowing the same to have been obtained with the intent to cheat and defraud, and any person who shall take any steps to collect any promissory note, bill of exchange, due bill, order, contract, paper or writing whatever, knowing the signature to have been obtained by fraud, with intent to cheat and defraud, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.274. This section supersedes Sec. 2 of Act 228 of 1879, being How. 9354;—CL 1897, 11367;—CL 1915, 15085;—CL 1929, 16995.

750.275 Warranty deed or similar words; use.

Sec. 275. Use of words “warranty deed” or similar words—Any person who shall print, sell or keep for sale any blank forms of deeds containing the words “warranty deed”, or “warranty-deed-covenant-own-acts”, or any similar words printed or written thereon, unless such deed is in fact an absolute warranty deed, and any person who shall knowingly use any such deed for the purpose of conveying title unless the same is an absolute warranty deed, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.275. This section supersedes part of and merges Sec. 1 of Act 177 of 1885, being How. 9354a;—CL 1897, 11368;—CL 1915, 15096;—CL 1929, 13325; and Sec. 2 of Act 177 of 1885, being How. 9354b;—CL 1897, 11369;—CL 1915, 15067;—CL 1929, 13326.

750.276 Promise to vendee of grain to sell at fictitious price; signature to note.

Sec. 276. Procuring signature to note, etc., as consideration for promise to vendee of grain to sell same at fictitious price—Any person who, either for his own benefit, or as the agent of any corporation, company, association or person, procures the signature of any person or maker, indorser, guarantor or surety thereon, to any bond, bill, receipt, promissory note, draft, check or any other evidence of indebtedness as the whole or part consideration for any bond, contract, agreement or promise given to the vendee of any grain, seed or other cereals, binding the vendor or any other person, corporation, company or association, or the agent thereof, to sell for such vendee any grain, seed, or cereals at a fictitious price, or at a price equal to or more than twice the market price of such grain, seed or cereals, shall be guilty of a felony.

HISTORY: CL 1948, 750.276. This section supersedes and merges Sec. 1 of Act 20 of 1887, being How. 9354c;—CL 1897, 11370;—CL 1915, 15098;—CL 1929, 16631; and Sec. 3 of Act 20 of 1887, being How. 9354e;—CL 1897, 11372;—CL 1915, 15090;—CL 1929, 16633.

750.277 Promise to vendee of grain to sell at fictitious price; sale and transfer.

Sec. 277. Sale and transfer of note, etc., signature to which was procured as consideration for promise to vendee of grain to sell at fictitious price—Any person who shall sell, barter or dispose of, either for his own benefit or as the agent of any corporation, company, association or person, any bond, bill receipt, promissory note, draft, check or other evidence of indebtedness, knowing the same to have been obtained as the whole or part consideration for any bond, contract, agreement, or promise given to the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company or association, or agent thereof, to sell for such vendee any grain, seed or cereals, at a fictitious price, or at a price equal to or more than twice the market price of such grain, seed, or cereals, shall be guilty of a felony.

HISTORY: CL 1948, 750.277. This section supersedes and merges Sec. 2 of Act 20 of 1887, being How. 9354d;—CL 1897, 11371.—CL 1915, 15089;—CL 1929, 16632; and Sec. 3 of Act 20 of 1887, being How. 9354e;—CL 1897, 11372.—CL 1915, 15090;—CL 1929, 16633.

750.278 Fraudulent warehouse receipts; executing and delivering.

Sec. 278. Knowingly executing and delivering fraudulent warehouse receipts—Any warehouseman or forwarding merchant or any other person, or the agent or servant of any warehouseman or forwarding merchant or other person, who shall knowingly execute and deliver to any person a receipt or certificate purporting to be for flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, as being at the time of executing and delivering such receipt in possession of such warehouseman or forwarding merchant, or other person, or in store for the person or persons, copartnership, or firm named in any such receipt or certificate, without being at the time of executing and delivering such receipt in the actual possession of such flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, as expressed in such certificate or receipt, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars.

The sending or forwarding to a person who shall be duly entitled or authorized to receive the same, by the public mails, or through the government postoffice, or by the hands of any person, of any such receipt or certificate as aforesaid, shall be deemed to be a good and lawful delivery thereof, within the meaning of this section.

HISTORY: CL 1948, 750.278. This section supersedes Sec. 35 of Ch. 154 of the R.S. 1846, being CL 1857, 5779;—CL 1871, 7596;—Am. 1881, p. 381, Act 270, Eff. Sept. 10;—How. 9157;—CL 1897, 11571;—CL 1915, 15316;—CL 1929, 16912.

WAREHOUSEMEN: In general, see Compilers' § 443.1 et seq.; in particular for provisions similar to this section, see Compilers' § 440.7201 et seq.

750.279 Personal property; fraudulent disposition.

Sec. 279. Fraudulent disposition of personal property—Whenever money, or any goods, wares or merchandise or other personal property, shall be delivered, committed or entrusted to, or put in charge of any person as agent with written instructions, or upon any written agreement signed by the party so instructed as agent, or such written instructions shall be delivered or such written agreement shall be made, at any time after delivery to such agent, of any money or goods, wares, merchandise, or other personal property, which instructions or agreements shall express the appropriation, purpose, or use to which such money shall be applied, or the terms, mode or manner of the application or employment of such money, or which shall express or direct the disposition or use to be made by such agent, of any goods, wares, merchandise or other personal property, so delivered or entrusted to such agent; if the person to whom any such money or goods, wares, merchandise or other personal property shall be so delivered, committed or entrusted, shall purposely and intentionally apply, appropriate,

dispose of, or use any such money or goods, wares, merchandise or other personal property in any other way or manner, or for any other purpose, use or intent, than such as shall be expressed in such written instrument or agreement touching the same, the person or persons so doing, shall be guilty of felony.

HISTORY: CL 1948, 750.279. This section supersedes Sec. 36 of Ch. 154 of the R.S. 1846, being CL 1857, 5780;—CL 1871, 7587;—How. 9158;—CL 1897, 11572;—CL 1915, 15317;—CL 1929, 16913.

750.280 Gross frauds and cheats at common law.

Sec. 280. Gross frauds and cheats at common law—Any person who shall be convicted of any gross fraud or cheat at common law, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.280. This section supersedes Sec. 40 of Ch. 154 of the R.S. 1846, being CL 1857, 5784;—CL 1871, 7591;—How. 9162;—CL 1897, 11576;—CL 1915, 15321;—CL 1929, 16917.

750.281 Livery stable keepers; defrauding.

Sec. 281. Defrauding livery stable keepers—Any person who, directly or indirectly, hires from the owner or keeper of any livery stable any horse, mare, stallion, filly, gelding, pony, mule, hack, carriage, buggy, surrey, wagon, sleigh or sled, with intent to defraud such owner or keeper, shall be guilty of a misdemeanor.

Proof that such person refused to pay for such horse, mare, stallion, filly, gelding, pony, mule, hack, carriage, buggy, surrey, wagon, sleigh or sled, or that he absconded without paying or offering to pay for the same, shall be prima facie evidence of such fraudulent intent.

It shall be the duty of the owner or keeper of every livery stable within this state to keep a copy of this section, printed in large plain English type, posted in a prominent place in the barn or stable where his business is carried on, and no conviction shall be had under this section until it be made to appear to the satisfaction of the court that the provisions of this section have been complied with by the person making the complaint.

HISTORY: CL 1948, 750.281. This section supersedes Sec. 1 of Act 269 of 1905, being CL 1915, 15357;—CL 1929, 16965; and Sec. 2 of Act 269 of 1905, being CL 1915, 15358;—CL 1929, 16966; and re-enacts except changes "act" to "section", Sec. 3 of Act 269 of 1905, being CL 1915, 15359;—CL 1929, 16967.

750.282 Public utility service; injury, interference, use.

Sec. 282. Fraudulent connecting, using, etc., of water, steam, electric or gas service and supply—Any person who wilfully or fraudulently injures, or suffers to be injured, any motor, wire, line, pipe or appliance belonging to any water, steam, electric or gas company, or prevents any water, steam, electric or gas meter belonging to such company from duly registering the quantity of water, steam, electric current or gas measured through the same, or in any way hinders or interferes with its proper action or just registration, or attaches any line, wire or pipe to any line, wire, pipe or main belonging to such water, steam, electric or gas company, or otherwise uses or burns or causes to be burned or used any water, steam, electric current or gas supplied by such company, without the written consent of such company, or its duly authorized agent or officer, unless the same passes through a meter or is measured by a motor set by said company, or fraudulently uses its water, steam, electric current or gas, or wastes the same, shall, for every such offense, if such water, steam, electric current, gas or damage so caused shall be of the value of 50 dollars or less, be guilty of a misdemeanor. If such water, steam, electric current, gas or damage so caused, shall exceed in value the sum of 50 dollars, such person shall be guilty of a felony: Provided, That such criminal prosecution shall not in any way impair the right of such company to a full compensation in damages by civil suit.

The provisions of this section shall extend and apply to all offenses against all water, steam, electric or gas companies and boards or municipalities owning or operating

plants for producing, manufacturing, furnishing, transmitting or conducting water, steam, electricity or gas, either natural or artificial.

In all prosecutions under this section it shall be prima facie evidence on the part of the people of the violation of the provisions of this section to show that the defendant other than a lessor had control of or occupied the premises where the offense was committed, or received the benefit of such water, steam, electric current or gas so used or consumed.

HISTORY: CL 1948, 750.282. This section supersedes Sec. 1 of Act 277 of 1911, being CL 1915, 15361;—CL 1929, 17042, and Sec. 3 of Act 277 of 1911, being CL 1915, 15363;—CL 1929, 17044; and re-enacts except changes "act" to "section" Sec. 2 of Act 277 of 1911, being CL 1915, 15362;—CL 1929, 17043.

750.283 Fruits and vegetables sold in closed package; fraud prevention.

Sec. 283. Preventing fraud in sale of fruits and vegetables. In this section, unless the contents otherwise require, the term "closed package" shall be construed to mean a barrel, box, basket, carrier or crate, of which all the contents cannot readily be seen or inspected when such package is prepared for market. Fresh fruits or vegetables in baskets or boxes, packed in closed or open crates, and packages covered with burlap, tarlatan or slat covers shall come within the meaning of the term "closed package."

Every person who, by himself, his agent or employee, packs or repacks fresh fruits or vegetables in closed packages intended for sale in the open market, shall cause the same to be marked in a plain and indelible manner, as follows:

First, With his full name and address, including the name of the state where such fresh fruits and vegetables are packed, before such fresh fruits or vegetables are removed from the premises of the packer or dealer;

Second, The name and address of such packer or dealer shall be printed or stamped on said closed packages in letters not less than 1/4 inch in height.

No person shall sell, offer, expose or have in his possession for sale, in the open market, any fresh fruits or vegetables packed in a closed package and intended for sale, unless such package is marked as is required by this section.

No person shall sell, offer, expose or have in his possession for sale, any fresh fruits or vegetables packed in a closed or open package, upon which package is marked any designation which represents such fruit as "number one", "finest", "best", "extra good", "fancy", "selected", "prime", "standard", or other superior grade or quality, unless such fruit or vegetables consist of well grown specimens, sound, of nearly uniform size, normal shape and good color, for the variety, and not less than 90 per cent free from injurious or disfiguring bruises, diseases, insect injuries or other defects, natural deterioration and decay in transit or storage excepted.

No person shall sell, offer, expose or have in his possession for sale any fresh fruits or vegetables packed in any package in which the faced or shown surface gives a false representation of the contents of such package, and it shall be considered a false representation when more than 20 per cent of such fresh fruits or vegetables are substantially smaller in size than or inferior in grade to, or different in variety from, the faced or shown surface of such package, natural deterioration and decay in transit or storage excepted.

Any person who violates any of the provisions of this section shall be guilty of a misdemeanor. The commissioner of agriculture is hereby charged with the enforcement of this section and is given power unto himself and his inspectors to enter into and upon any premises where fruits and vegetables are graded or packed or stored to inspect the same as to grade, pack and condition.

HISTORY: Am. 1937, p. 184, Act 116, Imd. Eff. June 25;—CL 1948, 750.283. This section as originally enacted re-enacted except changed "act" to "section", Sec. 1 of Act 207 of 1913, being CL 1915, 15365;—CL 1929, 5559, and re-enacted except "or by", Sec. 2 of Act 207 of 1913, being CL 1915, 15366;—CL 1929, 5560, and re-enacted except "or" and changed "act" to "section", Sec. 3 of Act 207 of 1913, being CL 1915, 15367;—CL 1929, 5561; and re-enacted except "or", Sec. 4 of Act 207 of 1913, being CL 1915, 15368;—CL 1929, 5562; and re-enacted except "or", Sec. 5 of Act 207 of 1913, being CL 1915, 15369;—CL 1929, 5563, and superseded Sec. 6 of Act 207 of 1913, being CL 1915, 15370;—CL 1929, 5564.

750.284 Genuine article; selling goods other than; marking.

Sec. 284. Selling other than genuine goods, etc., under a genuine label, stamp, etc.—Any person who, from any box, phial, case, package or other form of enclosure, having thereon impressed, or in any manner attached, the printed label, brand, engraving, stamp, mark or other device of any mechanic or manufacturer, druggist or apothecary, shall sell, barter or trade therefrom, or therein, any other goods, wares or merchandise than such as are the genuine production of the manufacturer or mechanic, druggist or apothecary, whose label, mark, stamp or device may be imprinted upon or affixed to such box, or other form of enclosure, with intent to deceive such purchaser, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.284. This section supersedes Sec. 4 of Act 22 of 1863, CL 1871, 7652;—How. 9234;—CL 1897, 11680;—CL 1915, 15453;—CL 1929, 8969.

750.285, 750.286 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections made it misdemeanor to sell or offer for sale as Michigan wheat any wheat not grown in the state.

750.287 Sterling or sterling silver marked articles; fraud in sale.

Sec. 287. Fraud in sale of articles marked “sterling” or “sterling silver”—Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with the words “sterling” or “sterling silver”, or encased or enclosed in any box, package, cover or wrapper, or other thing in or by which the said article is packed, enclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark or trade-mark, indicating or denoting by such marking, stamping, branding, engraving or printing, that such article is silver, sterling silver or solid silver, unless 925/1000 of the component parts of the metal of which the said article is manufactured are pure silver, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.287. This section supersedes Sec. 1 of Act 122 of 1895, being CL 1897, 5468;—CL 1915, 7186;—CL 1929, 8942.

750.288 Coin or coin silver; fraud in sale of articles marked.

Sec. 288. Fraud in sale of articles marked “coin” or “coin silver”—Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with the words “coin”, or “coin silver”, or encased or enclosed in any box, package, cover or wrapper, or other thing in or by which the said article is packed, inclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark or trade-mark, indicating or denoting by such marking, stamping, branding, engraving or printing, that such article is coin or coin silver, unless 900/1000 of the component parts of the metal of which the said article is manufactured are pure silver, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.288. This section supersedes Sec. 2 of Act 122 of 1895, being CL 1897, 5469;—CL 1915, 7187;—CL 1929, 8943.

750.289 Common carrier; false billing of goods.

Sec. 289. False billing of goods to common carrier—Any person offering goods, property or effects to any common carrier within this state for the purpose of transportation shall furnish to such carrier a true description of the goods, property or effects so offered, and any person who shall knowingly offer any goods, property or effects to any common carrier for transportation within this state with a false description of the same, or who shall offer any such goods, property or effects under a false billing, false classification or false weight and thereby procure or attempt to procure the transportation of any such goods, property or effects at a less cost than would be due under a

true description, true billing, true classification or true weight, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.289. This section supersedes and merges Sec. 1 of Act 253 of 1911, being CL 1915, 8230;—CL 1929, 11572; and Sec. 2 of Act 253 of 1911, being CL 1915, 8231;—CL 1929, 11573.

DESCRIPTION: See Compilers' § 440.7301 et seq.

750.290 Imitation leather; boots and shoes.

Sec. 290. Boots and shoes composed of imitation leather—The term “imitation leather” as used herein shall, for the purposes of this section, be defined to be all leather composed in whole or in part of paper, scraps and portions of hides of animals, used in the manufacture of boots or shoes, which being pressed together with an adhesive substance to keep such component parts intact, is used in place of solid leather in the making of such foot gear.

Every person within this state, who is engaged in the manufacture, sale, exchange, or offers for sale, or has in possession with intent to sell, boots or shoes in the construction of which any imitation leather is used, shall cause to be stamped upon such boots or shoes the words “imitation leather” in a distinct and legible manner: Provided, however, That the letters in the words “imitation leather” shall not be less than 1/8 of an inch in length.

When such imitation leather shall be used either as soles, in-soles, heels or counters of such boots or shoes, the words “imitation leather” shall be stamped upon the outside of the soles near the heel of such boots or shoes; and when such imitation leather shall be used in the making of any other part or parts of such boots or shoes, the words “imitation leather” shall be stamped thereon, in a conspicuous place: Provided, however, Excepting the soles of such boots or shoes the words “imitation leather” need not be stamped upon the outside thereof.

The possession of any boots or shoes which are composed in whole or in part of any imitation leather and which are not stamped as herein required, shall be prima facie evidence of intent to sell the same.

Any person who shall knowingly violate any of the provisions of this section, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.290. This section re-enacts except changes “act” to “section”, Sec. 1 of Act 264 of 1897, being CL 1897, 5474;—CL 1929, 8950; and supersedes Sec. 2 of Act 264 of 1897, being CL 1897, 5475;—CL 1915, 7193;—CL 1929, 8951; and Sec. 3 of Act 264 of 1897, being CL 1897, 5476;—CL 1915, 7194;—CL 1929, 8952; and Sec. 4 of Act 264 of 1897, being CL 1897, 5477;—CL 1915, 7195;—CL 1929, 8953; and Sec. 5 of Act 264 of 1897, being CL 1897, 5478;—CL 1915, 7196;—CL 1929, 8954.

750.291 Boarding house keepers; defrauding.

Sec. 291. Defrauding boarding house keepers—Any person who shall stop, put up, board or lodge at any boarding house as a guest or boarder by the day, week or month, or shall procure any food, entertainment or accommodation without paying therefor, unless there is a distinct and express agreement made by such person with the owner, proprietor or keeper of such boarding house for credit, with intent to defraud such owner, proprietor or keeper out of the pay for such board, lodging, food, entertainment or accommodation, or any person who, with intent so to defraud, shall obtain credit at any boarding house for such board, lodging, food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, shall be guilty of a misdemeanor: Provided, That no conviction shall be had under the provisions of this section unless complaint shall be made within 10 days of the time of the violation hereof.

HISTORY: CL 1948, 750.291. This section supersedes Sec. 1 of Act 81 of 1907, Am. 1915, p. 153, Act 87, Eff. Aug. 24;—CL 1915, 6964;—CL 1929, 8801.

750.292 Hotel, motel, inn restaurant, cafe; defrauding; limitation on proceedings.

Sec. 292. Any person who shall put up at any hotel, motel, inn, restaurant or cafe as a guest and shall procure any food, entertainment or accommodation without paying

therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or, who, with intent to defraud such keeper out of the pay therefor, shall obtain credit at any hotel, motel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, is guilty of a misdemeanor. No conviction shall be had under the provisions of this section unless complaint is made within 60 days of the time of the violation hereof.

HISTORY: Am. 1939, p. 765, Act 314, Eff. Sep. 29;—CL 1948, 750.292;—Am. 1962, p. 16, Act 19, Eff. Mar. 28, 1963.

This section as originally enacted superseded Sec. 1 of Act 133 of 1907, being CL 1915, 6966;—CL 1929, 8798.

750.293 Hotel, motel, inn, restaurant, cafe; prima facie evidence.

Sec. 293. Prima facie evidence—Obtaining such food, lodging or accommodation by false pretense, or by false or fictitious show of baggage or other property, or refusal or neglect to pay therefor on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefore, or surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of such intent to defraud mentioned in the 2 next preceding sections of this chapter.

HISTORY: Am. 1939, p. 765, Act 314, Eff. Sept. 29;—CL 1948, 750.293. This section as originally enacted superseded Sec. 2 of Act 133 of 1907, being CL 1915, 6967;—CL 1929, 8799; and Sec. 2 of Act 81 of 1907, being CL 1915, 6965;—CL 1929, 8802.

750.294 Animals; fraudulent registration as pure-bred.

Sec. 294. Fraudulent registration of animals as pure-bred—Any person who shall by fraud or misrepresentation obtain, or attempt to obtain, the registration of animals as pure-bred upon the herd books of any of the recognized registry associations, when such animals are not entitled to such registration, or who shall by fraud or misrepresentation obtain, or attempt to obtain, any false record of the transfer of ownership of any such registered animals, or who shall designedly make any false statements in reference to the breeding ownership, color, markings or registration of animals or in reference to any application for the registration or transfer of animals, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.294. This section supersedes Sec. 1 of Act 216 of 1921, being CL 1929, 5289.

750.295 Milk and butter fat production; fraudulent practices.

Sec. 295. Fraudulent practices in recording milk and butter fat production of cows—Any person who shall connive at, commit or attempt to commit any fraudulent or dishonest practice in connection with the making of official or semi-official records of milk and butter fat production of cows, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.295. This section supersedes Sec. 1 of Act 221 of 1921, being CL 1929, 5323.

750.296 Condensed milk; marking, sale.

Sec. 296. Sale and marking of condensed milk—Every container of evaporated, concentrated or condensed whole milk, and every container of evaporated, concentrated or condensed skimmed milk, sold or offered for sale or had in possession or custody with intent to sell by any person within this state, shall have plainly printed thereon in the English language, or attached thereto on some firmly affixed tag or label, a formula for extending the said evaporated, concentrated or condensed milk and said evaporated, concentrated or condensed skimmed milk, respectively, with water. The formula for the extension of said evaporated, concentrated or condensed whole milk shall be such that the resulting milk product shall not be below the Michigan standard of milk solids or fat for whole milk, and shall be in the following form: By adding parts of water to 1 part of the contents of this can a resulting milk product will be ob-

tained which will not be below the legal standard for whole milk. The formula for the extension of said evaporated, concentrated or condensed skimmed milk shall be such that the resulting milk product shall not be below the Michigan standard of milk solids for skimmed milk, and shall be in the following form: By adding parts of water to 1 part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for skimmed milk.

Any person and the servant or agent of any person, who sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver any container of evaporated, concentrated or condensed milk, within this state, not marked or labeled in compliance with the provisions of this section, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.296. This section re-enacts except "firm or corporation", Sec. 1 of Act 176 of 1913, being CL 1915, 6423;—CL 1929, 5355; and supersedes Sec. 2 of Act 176 of 1913, being CL 1915, 6424;—CL 1929, 5356.

750.297-750.297d Repealed. 1966, p. 103, Act 78, Imd. Eff. Jun. 10.

Sections related to fraudulent sales and identification of kosher meat products.

750.297e Kosher food products; definition; sale and marketing; investigation; penalty.

Sec. 297e. (1) As used in this section, "kosher" means prepared or processed in accordance with orthodox Hebrew religious requirements sanctioned by a recognized orthodox rabbinical council.

Kosher food products; representations and labels; illegal acts; presumptive evidence of fraud.

(2) A person who, with intent to defraud, sells or exposes for sale any meat or meat preparations, article of food or food products, and falsely represents the same to be kosher, whether such meat or meat preparations, article of food or food products are raw or prepared for human consumption, either by direct statement orally, or in writing, which might reasonably be calculated to deceive or lead a reasonable man to believe that a representation is being made that such food is kosher or falsely represents any food products or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, or both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and nonkosher meat sold here" or "kosher and nonkosher food sold here"; or who exposes for sale in any show window or place of business both kosher and nonkosher meat or meat preparations, or kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least 4 inches in height reading "kosher meat" or "nonkosher meat", or "kosher food" or "nonkosher food", or who displays on his window, door or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher", or any sign, emblem, insignia, 6-pointed star, symbol or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols or marks, the words "we sell kosher meat and food only" or "we sell nonkosher meat and food only", or "we sell both kosher and nonkosher meat and food" is guilty of a misdemeanor. Possession of nonkosher meat and food, in any place of business advertising the sale of kosher meat and food only, is presumptive evidence that the person in possession exposes the same for sale with intent to defraud, in violation of the provisions of this section.

Kosher food products; fraudulent sale in hotels or restaurants; presumptive evidence of fraud.

(3) A person who, with intent to defraud, sells or exposes for sale in any hotel, restaurant or other place where food products are sold for consumption on or off the premises, any meat or meat preparations, article of food or food products, and falsely represents the same to be kosher, whether such meat or meat preparations, article of food or food products be raw or prepared for human consumption, either by direct statement orally, or in writing, which might reasonably be calculated to deceive or lead a reasonable man to believe that a representation is being made that such food is kosher or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, or both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and nonkosher food sold here", or who exposes for sale in any show window or place of business both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to display over each kind of food or food preparation so exposed a sign in block letters at least 4 inches in height reading "kosher food" or "nonkosher food", or who displays on his window, door or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher", or any sign, emblem, insignia, 6-pointed star, symbol or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols or marks the words "we sell kosher food only" or "we sell nonkosher food only", or "we sell both kosher and nonkosher food", is guilty of a misdemeanor. Possession of nonkosher food, in any place of business advertising the sale of kosher food only, is presumptive evidence that the person in possession exposes the same for sale with intent to defraud, in violation of the provisions of this section.

Fraudulent labeling or identification prohibited.

(4) No person shall:

(a) Wilfully mark, stamp, tag, brand, label or in any other way or by any other means of identification represent or cause to be marked, stamped, tagged, branded, labeled or represented as kosher food or food products not kosher or not so prepared.

(b) Wilfully remove, deface, obliterate, cover, alter or destroy, or cause to be removed, defaced, obliterated, covered, altered or destroyed the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or any other means of identification affixed to foods or food products to indicate that such foods or food products are kosher.

(c) Knowingly sell, dispose of or have in his possession, for the purpose of resale to any person as kosher, any food or food products not having affixed thereto the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or other means of identification employed to indicate that such food or food products are kosher or any food or food products to which such plumba, mark, stamp, tag, brand, label or other means of identification has or have been fraudulently affixed.

Inspection and supervision of sale of meat products; rules and regulations.

(5) The department of agriculture shall investigate, inspect and supervise the sale of meat and meat preparations and enforce the provisions of this act. The department may promulgate rules and regulations for the enforcement and administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as

amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Violations; penalty.

(6) Any person who violates the provisions of this section is guilty of a misdemeanor.

HISTORY: Add. 1966, p. 101, Act 78, Imd. Eff. Jun. 10.

750.298 Medicine; practicing under false or assumed name.

Sec. 298. Practicing medicine under false or assumed name—Any person who shall practice medicine or advertise to practice medicine under a false or assumed name, or under a name other than his own, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.298. This section supersedes Sec. 1 of Act 291 of 1929, being CL 1929, 6756.

750.298a Representation of service as under supervision of physician; product or appliance approved by medical profession.

Sec. 298a. If any person, partnership, corporation or enterprise shall offer to furnish any service, product or appliance designed or represented to affect human health, well-being or appearance, and shall advertise, state or represent in any offer, inducement or contract that the rendering of such service will be under the guidance or supervision of a physician, or that such product or appliance has been indorsed or approved by the medical profession, it shall be unlawful for such person, partnership, corporation or enterprise to render such service or cause or permit the same to be rendered except by or under the direct, continuing personal supervision of a physician licensed to practice in Michigan, or to furnish such product or appliance unless the same had, in fact, been indorsed or approved in writing by a bona fide organization of licensed physicians. Any person violating any provisions of this section is guilty of a misdemeanor punishable by a fine not to exceed \$1000.00 or imprisonment for not more than 1 year, or both.

HISTORY: Add. 1966, p. 512, Act 302, Eff. Mar. 10, 1967.

750.299 Agricultural seeds; false statement.

Sec. 299. False statements regarding agricultural seeds—Any person or his agent or employe, who, in writing or in a newspaper, circular or other publication published in this state, makes or disseminates any statement or assertion of fact concerning the superior qualifications, quality, value or locality where grown of any agricultural seeds sold or offered for sale in this state, or the possession of rewards, prizes or distinctions conferred on account of such seeds, or the motive or purpose of such sale, intended to give the appearance of an offer advantageous to the purchaser, or as an inducement for the planting of such seeds, which is untrue or calculated to mislead and to induce a person to purchase such seeds, is guilty of a misdemeanor.

HISTORY: CL 1948, 750.299. This section supersedes Sec. 1 of Act 176 of 1919, being CL 1929, 5082.

750.300 Insurance company; killing or injuring animals to defraud.

Sec. 300. Killing or injuring animals with intent to defraud insurance company—Any person who shall injure or kill any horse, mule or other live stock which shall be insured by any insurance company authorized to do business in this state, when such killing or injury shall be with the wilful intent on the part of such person to defraud such insurance company, whether such person shall be the owner of such insured property or not shall be guilty of a felony, punishable by imprisonment for not more than 2 years or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.300. This section supersedes Sec. 1 of Act 165 of 1893, being CL 1897, 11597;—CL 1915, 15352;—CL 1929, 17001.

CHAPTER XLIV

GAMBLING

750.301 Accepting money or valuable thing contingent on uncertain event.

Sec. 301. Accepting money or valuable thing contingent upon result of contest or happening of uncertain event—Any person or his agent or employe who shall, directly or indirectly take, receive or accept from any person any money or valuable thing with the agreement, understanding or allegation that any money or valuable thing will be paid or delivered to any person where such payment or delivery is alleged to be or will be contingent upon the result of any race, contest or game or upon the happening of any event not known by the parties to be certain, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.301. This section supersedes and merges Sec. 1 of Act 176 of 1925, being CL 1929, 9121; and Sec. 11 of Act 176 of 1925, being CL 1929, 9131.

750.302 Gambling; building, keeping and occupying house.

Sec. 302. Keeping and occupying building for gaming, etc.—Any person, or his agent or employe who shall, directly or indirectly, keep or occupy or assist in keeping or occupying any common gambling house or any building or place where gaming is permitted or suffered or who shall suffer or permit on any premises owned, occupied or controlled by him any apparatus used for gaming or gambling or who shall use such apparatus for gaming or gambling in any place within the state of Michigan, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.302. This section supersedes and merges Sec. 2 of Act 176 of 1925, being CL 1929, 9122; and Sec. 11 of Act 176 of 1925, being CL 1929, 9131.

750.303 Gaming room or table; keeping for hire, gain or reward.

Sec. 303. Keeping gaming room, etc., for hire, gain or reward—Any person who shall for hire, gain or reward, keep or maintain a gaming room, or a gaming table, or any game of skill or chance, or partly of skill and partly of chance, used for gaming, or who shall knowingly suffer a gaming room, or gaming table, or any such game to be kept, maintained or played on any premises occupied or controlled by him, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than 1,000 dollars; and any person aiding, assisting or abetting in the keeping or maintaining of any such gaming room, gaming table, or game, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.303. This section supersedes Sec. 15 of Ch. 43 of the R.S. 1846, being CL 1857, 1588;—CL 1871, 1998;—Am. 1877, p. 168, Act 171, Eff. Aug. 21;—How. 2029;—CL 1897, 5935;—CL 1915, 7801;—CL 1929, 9117.

750.304 Selling pools and registering bets.

Sec. 304. Selling pools and registering bets—Any person or his agent or employe, who shall, directly or indirectly keep, maintain, operate or occupy any building or room or any part thereof or any place with apparatus, books or any device for registering bets or buying or selling pools upon the result of a trial or contest of skill, speed or endurance or upon the result of a game, competition, political nomination, appointment or election or any purported event of like character or who shall register bets or buy or sell pools, or who shall be concerned in buying or selling pools or who shall knowingly permit any grounds or premises, owned, occupied or controlled by him to be used for any of the purposes aforesaid, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.304. This section supersedes and merges Sec. 3 of Act 176 of 1925, being CL 1929, 9123; and Sec. 11 of Act 176 of 1925, being CL 1929, 9131.

750.305 Publication or distribution of betting odds; penalty.

Sec. 305. Any person, or his agent or employee, who shall, directly or indirectly, by means of any newspaper, periodical, poster, notice or other mode of publication or reproduction, write, print, publish, advertise, deliver or distribute or offer to deliver or distribute to the public or to any part thereof or to any person, any statement or information concerning the making or laying of wagers or bets or the selling of pools or evidences of betting odds on any contest or game or on the happening of any event not known by the parties to be certain, or any purported event of like character, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00.

The acts herein prohibited may be deemed violations hereof when committed before any game, contest or event; and the possession of evidence for the publication of any statement or information concerning the making or laying of wagers or bets or the selling of pools or betting odds, shall in the same manner be deemed a violation, when possessed for publication before the act evidenced thereby.

HISTORY: CL 1948, 750.305;—Am. 1959, p. 333, Act 229, Eff. Mar. 19, 1960.

This section supersedes and merges Sec. 4 of Act 176 of 1925, being CL 1929, 9124; and Sec. 11 of Act 176 of 1925, being CL 1929, 9131.

750.305a Racing results; unlawful use of teletype ticker, exceptions; prima facie evidence; penalties.

Sec. 305a. It shall be unlawful for any corporation, association, firm, co-partnership or person, either directly, or indirectly, or by or through any agent or employee, to lease, loan, sell, assign or in any way cause to be furnished any machine, device or instrumentality, excluding the telephone, and including but not limited to the device commonly referred to as a teletype ticker, registering or recording by any words, figures, signs, characters or hieroglyphics information concerning and the results of racing as defined in section 331 of Act No. 328 of the Public Acts of 1931, being section 750.331 of the Compiled Laws of 1948, or any statement or information concerning the making or laying of wagers, or bets, or the selling of pools or evidences of betting odds on any such race, to any person, firm, association, co-partnership or corporation, directly, indirectly or otherwise, or to their agents or employees within this state; and it shall likewise be unlawful for any corporation, association, firm, co-partnership or person, either directly or indirectly, or by or through any agent or employee, to transmit, convey or otherwise cause to be transmitted or conveyed through facilities owned, operated, leased by, serviced by, or otherwise under the control of such corporation, association, firm, co-partnership or person, such information to a teletype ticker or other device or instrumentality recording the same within this state; and it shall likewise be unlawful for any corporation, association, firm, co-partnership or person to string wires or other means of transmitting such information to such device or instrumentality within this state, used for recording such information, or to maintain, service, repair, lease, rent or install such communication lines and such recording devices or instrumentalities to, in and upon any premises in this state: Provided, however, That the provisions hereof shall not apply to the transmission and recording of such information to bona fide newspapers, having a general circulation and carrying principally local, sports, or national news of general interest and shall not apply to duly licensed radio and television stations or to press associations for distribution to such newspapers, radio or television stations nor to the use of totalizers and mechanical devices legally used, under the provisions of section 13, Act No. 199, Public Acts of 1933 as amended, being section 431.13 of the Compiled Laws of 1948, it being the intention of this section to make unlawful the transmission of such information and the furnishing and maintenance of facilities for the receipt and recordation of such information to so-called hand-books, bookies, pool rooms and to any and all other agencies within this state for illegal gambling purposes. The presence of a so-called teletype

ticker machine or other device or instrumentality for recording such information and the presence of wires installed for the transmitting of such information in, upon and to any premises within this state other than hereinbefore excepted is hereby declared to be prima facie evidence of the criminal intent of the person, firm, association, co-partnership or corporation and its agents and employees, lending, leasing, renting, conveying, supplying, servicing or otherwise maintaining said wires, devices or instrumentalities: Provided, however, That said presumption of criminal intent shall be rebutted if the corporation, association, firm, co-partnership, person, agent, or employee, furnishing, maintaining, servicing, or installing such device or facilities or transmitting such information, prior to the issuance of a warrant for the violation of this section, shall have notified the prosecuting attorney of the county where the violation is alleged to have occurred in writing that such device and facilities may be used for unlawful and illegal purposes. Any person, co-partnership, firm, association or corporation and any agent and employee thereof who shall, directly or indirectly, do or cause to be done any act or acts hereinbefore declared to be unlawful shall be guilty of a misdemeanor punishable by imprisonment in the state prison for not more than 2 years or by a fine of \$5,000.00, or both fine and imprisonment: Provided, however, That no public utility corporation engaged in the distribution and selling of electrical energy shall be deemed to be in violation of this act by reason of its sale of electrical energy to a telephone or telegraph company, or by reason of its permitting its poles or conduits to be occupied by the wires and cables of a telephone or telegraph company.

HISTORY: Add. 1952, p. 293, Act 199, Eff. Sep. 18.

750.306 Pool tickets; declaration as nuisance.

Sec. 306. Pool tickets, etc., declared nuisance—All policy or pool tickets, slips or checks, memoranda of any combination or other bet, manifold or other policy or pool books or sheets, are hereby declared a common nuisance and the possession thereof a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

The possession of any such articles, or of any other implements, apparatus or materials of any other form of gaming, shall be prima facie evidence of their use, by the person having them in possession, in the form of gaming in which like articles are commonly used. And such article found upon the person of one lawfully arrested for violation of any law relative to lotteries, policy lotteries or policy, the buying or selling of pools or registering of bets or other form of gaming shall be competent evidence upon the trial of an indictment to which it may be relevant.

HISTORY: CL 1948, 750.306. This section supersedes and merges Sec. 5 of Act 176 of 1925, being CL 1929, 9125; and Sec. 11 of Act 176 of 1925, being CL 1929, 9131.

750.307 Gambling; prima facie evidence.

Sec. 307. Prima facie evidence—In a prosecution or proceeding relative to lotteries, policy lotteries or policy, buying and selling pools or registering bets, any words, figures or characters, written, printed or exposed upon a blackboard, placard or otherwise in a place alleged to be used or occupied for such business, purporting or appearing to be a name of a horse or jockey, or a description of or reference to a trial or contest of skill, speed or endurance of man, beast, bird or machine, or game, competition, political nomination, appointment or election, or other act or event, or any odds, bet, combination bet or other stake or wager, or any code, cipher or substitute therefor, shall be prima facie evidence of the existence of the race, game, contest or other act or event so purporting or appearing to be referred to, and that such place is kept or occupied for gaming; and in all cases a copy or oral description thereof shall be competent evidence of the same.

HISTORY: CL 1948, 750.307. This section re-enacts Sec. 6 of Act 176 of 1925, being CL 1929, 9126.

750.308 Gambling house; search warrant; seizure of apparatus; arrest.

Sec. 308. If a person makes oath before justice of the peace or committing magistrate that he has probable cause to believe and does believe that a house or other building, room or place is used as and for a common gaming house, for gaming for money or other property, or is occupied, used or kept for promoting a lottery, or for the sale of lottery tickets, or for promoting the game known as a policy lottery or policy, or for the buying or selling of pools or registering of bets upon any race, game, contest, act or event, and that persons resort thereto for any such purpose, such magistrate or trial justice, whether the names of the persons last mentioned are known to the complainant or not, shall, if he be satisfied there is reasonable cause for such belief, issue a warrant commanding the sheriff or his deputy or any constable or police officer to enter and search such house, building, room or place, and if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus or material of any form of gaming be found in said place, to take into his custody all the implements, apparatus or material of gaming as aforesaid, including any articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place; and upon the finding of such apparatus and material of any form of gaming as aforesaid, the officers shall be authorized to arrest the keepers of such place, all persons in any way assisting in keeping the same, whether as capper, tout, guard, doorkeep, lookout, or otherwise, and all persons who are there found, and to keep said persons, implements, apparatus or material of gaming, including any punch board prizes, articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes, and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place, so that they may be forthcoming before some court or magistrate to be dealt with according to law. The provisions of law relative to destroying or other disposition of gaming articles shall apply to all articles and property seized as herein provided for.

HISTORY: Am. 1941, p. 23, Act 25, Eff. Jan. 10, 1942;—CL 1948, 750.308;—Am. 1953, p. 59, Act 64, Eff. Oct. 2.

This section as originally enacted re-enacted Sec. 7 of Act 176 of 1925, being CL 1929, 9127.

750.308a Disposition of articles or property seized.

Sec. 308a. On application of a sheriff, chief of police of a police department, commissioner of the Michigan state police, or other peace officer, a court or magistrate of competent jurisdiction may upon due notice and hearing turn over to said sheriff, chief of a police department, commissioner of the Michigan state police, or peace officer, any articles or property listed under the provisions of section 308 of this chapter lawfully seized by any such peace officer for such disposition as the court or magistrate shall prescribe, or said court or magistrate may provide for the destruction or other disposition of said articles or property.

Any funds derived from the disposition of any such articles or property shall be turned over to the treasurer of the city, township or county whose law enforcement officer made application for the disposition of such articles or property, or to the state treasurer if such application is made by the commissioner of the Michigan state police.

HISTORY: Add. 1953, p. 59, Act 64, Eff. Oct. 2.

750.309 Frequenting or attending gaming places.

Sec. 309. Frequenting or attending gaming places—Any person who shall attend or frequent any place where gaming or gambling is suffered or permitted, or any place

operated or occupied as a common gaming or gambling house or room, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.309. This section supersedes Sec. 10 of Act 176 of 1925, being CL 1929, 9129.

750.310 Exceptions.

Sec. 310. Exceptions—The preceding sections of this chapter shall not be construed to prohibit or make unlawful the giving or payment of purses, prizes or premiums to players in any games or participants in any contest or to the owner, driver, manager or trainer of animals or the drivers, mechanics or operators of any machine or the giving or payment of entry fees or the payment of expenses or reward for services or labor in connection with any race, contest or game but it shall apply to the selling of pools or to any transaction whereby any money or valuable thing shall be paid as a gain or speculation on the result of any contest, race, game or event not known to the parties to be certain and concerning which the parties to the transaction render no service directly related to the holding of such contest, race or game or the bringing about of such event.

HISTORY: CL 1948, 750.310. This section re-enacts except changes "this act" to "The preceding sections of this chapter", Sec. 8 of Act 176 of 1925, being CL 1929, 9128.

750.311 Gambling in stocks, bonds, grain or produce.

Sec. 311. Gambling in stocks, bonds, grain, etc.—It shall be unlawful for any corporation, association, firm, copartnership or person to keep or cause to be kept by any agent or employe within this state, any office, store or other place, wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other produce, either on margins or otherwise, without any intention of receiving and paying for the property so bought or of delivering the property so sold; or wherein is conducted or permitted the pretended buying or selling of such property on margins, when the party selling the same or offering to sell the same does not have the property on hand to deliver upon such sale; or when the party buying any of such property, or offering to buy the same, does not intend actually to receive the same if purchased or to deliver the same if sold; all such acts and all purchases and sales, or contracts and agreements for the purchase and sale of any of the property aforesaid in manner aforesaid, and all offers to sell the same or to purchase the same in manner aforesaid, as well as all transactions in stocks, bonds, petroleum, cotton, grains or provisions in the manner as aforesaid, on margins for future or optional delivery, are hereby declared gambling and criminal acts, whether the person buying or selling or offering to buy or sell acts for himself or as an agent, employe or broker for any firm, copartnership, company, corporation, association or broker's office.

HISTORY: CL 1948, 750.311. This section supersedes Sec. 1 of Act 199 of 1887, being How. 9354f.;—CL 1897, 11373;—CL 1915, 15091;—CL 1929, 16618, and supersedes and merges part of Sec. 1 of Act 336 of 1907, being CL 1915, 7805;—CL 1929, 9133; and Sec. 2 of Act 336 of 1907, being CL 1915, 7806;—CL 1929, 9134.

BUCKET SHOPS: See Compilers' § 750.126 et seq.

750.312 Commission merchants, statements on demand.

Sec. 312. Commission merchants, etc., to furnish written statement, etc., on demand—It shall be the duty of every commission merchant, firm, copartnership, association, corporation or broker doing business as such, to furnish upon demand, to any customer or principal for whom such commission merchant, broker, firm, copartnership, corporation or association has executed any order for the actual purchase or sale of any of the commodities mentioned in the next preceding section of this chapter either for immediate or future delivery, a written statement containing the names of the

parties from whom any such property was bought or to whom it shall have been sold, as the case may be, the time when, the place where and the price at which the same was either bought or sold; and in case such commission merchant, broker, firm, co-partnership, corporation or association shall refuse promptly to furnish such statement upon reasonable demand, the fact of such refusal shall be prima facie evidence that such property was not sold or bought in legitimate manner upon the open market.

HISTORY: CL 1948, 750.312. This section supersedes Sec. 2 of Act 199 of 1887, being How. 9354g;—CL 1897, 11374;—CL 1915, 15092;—CL 1929, 16619; and Sec. 4 of Act 336 of 1907, being CL 1915, 7808;—CL 1929, 9136.

750.313 Gambling in stocks, bonds, grain or produce; penalty.

Sec. 313. Penalty for gambling and using property for gambling in stocks, bonds, grain, etc.—Any person who shall knowingly permit any of the acts set forth in the eleventh section of this chapter in his building, house or in any out-house, booth, arbor or erection of which he has the title, care or possession, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or by a fine of not less than 500 dollars or more than 1,000 dollars, and any penalty so adjudged shall be a lien upon the premises on or in which such unlawful acts are carried on or permitted, and any person whether acting for himself, or as a broker, agent or employe of any person, or as an officer, broker, agent or employe of any corporation, association, firm or co-partnership, who shall violate any of the provisions of the eleventh section of this chapter, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years, or by fine of not less than 500 dollars nor more than 1,000 dollars.

HISTORY: CL 1948, 750.313. This section supersedes Sec. 3 of Act 199 of 1887, being How. 9354h;—CL 1897, 11375;—CL 1915, 15093;—CL 1929, 16620.

750.314 Winning at gambling.

Sec. 314. Winning at gambling—Any person who by playing at cards, dice, or any other game, or by betting or putting up money on cards, or by any other means or device in the nature of betting on cards, or betting of any kind, shall win or obtain any sum of money or any goods, or any article of value whatever shall, if the money, goods, or articles so won or obtained be of the value of 50 dollars or less, be guilty of a misdemeanor. If the money, goods, or articles so won or obtained be of the value of more than 50 dollars such person shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year, or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.314. This section supersedes part of Sec. 9 of Ch. 43 of the R.S. 1846, being CL 1857, 1582;—CL 1871, 1992;—Am. 1877, p. 167, Act 171, Eff. Aug. 21;—How. 2023;—CL 1897, 5929;—CL 1915, 7795;—CL 1929, 9111.

750.315 Losing at gambling.

Sec. 315. Losing at gambling—Any person who shall lose any sum of money, or any goods, article or thing of value, by playing or betting on cards, dice or by any other device in the nature of such playing or betting, and shall pay or deliver the same or any part thereof to the winner, and shall not, within 3 months after such loss, without collusion, prosecute with effect for such money or goods, the winner to whom such money or goods shall have been so paid or delivered, shall be guilty of a misdemeanor, punishable by a fine not exceeding 3 times the value of such money or goods. Such loser may sue for and recover such money in an action for money had and received to the use of the plaintiff; and such goods, article or valuable thing in an action of replevin, or the value thereof in an action on the case.

HISTORY: CL 1948, 750.315. This section supersedes Sec. 10 of Ch. 43 of the R.S. 1846, being CL 1857, 1583;—CL 1871, 1993;—How. 2024;—CL 1897, 5930;—CL 1915, 7796;—CL 1929, 9112; and supersedes part of Sec. 9 of Ch. 43 of the R.S. 1846, being CL 1857, 1582;—CL 1871, 1992;—Am. 1877, p. 167, Act 171, Eff. Aug. 21;—How. 2023;—CL 1897, 5929;—CL 1915, 7795;—CL 1929, 9111.

750.316 First degree murder; penalty.

Sec. 316. All murder which shall be perpetrated by means of poison, or lying in wait, or any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate any arson, rape, robbery, burglary, larceny of any kind, extortion or kidnapping, shall be murder of the first degree, and shall be punished by solitary confinement at hard labor in the state prison for life.

HISTORY: CL 1948, 750.316;—Am. 1969, p. 749, Act 331, Eff. Mar. 20, 1970.

This section re-enacts Sec. 1 of Ch. 153 of the R.S. 1846, being CL 1857, 5711;—CL 1871, 7510;—How. 9075;—CL 1897, 11470;—CL 1915, 15192;—CL 1929, 16708.

750.317 Second degree murder; penalty.

Sec. 317. Second degree murder—All other kinds of murder shall be murder of the second degree, and shall be punished by imprisonment in the state prison for life, or any term of years, in the discretion of the court trying the same.

HISTORY: CL 1948, 750.317. This section re-enacts except "deemed", Sec. 2 of Ch. 153 of the R.S. 1846, being CL 1857, 5712;—CL 1871, 7511;—How. 9076;—CL 1897, 11471;—CL 1915, 15193;—CL 1929, 16709.

750.318 Degree of murder; determination; testimony, open court, transcript.

Sec. 318. The jury before whom any person indicted for murder shall be tried shall, if they find such person guilty thereof, ascertain in their verdict, whether it be murder of the first or second degree; but, if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime, and shall render judgment accordingly. All testimony taken at such examination shall be taken in open court and a typewritten transcript or copy thereof, certified by the court reporter taking the same, shall be placed in the file of the case in the office of the county clerk.

HISTORY: Am. 1947, p. 466, Act 295, Eff. Oct. 11;—CL 1948, 750.318. This section as originally enacted re-enacted Sec. 3 of Ch. 153 of the R.S. 1846, being CL 1857, 5713;—CL 1871, 7512;—How. 9077;—CL 1897, 11472;—CL 1915, 15194;—CL 1929, 16710.

750.319 Death as result of fighting duel.

Sec. 319. Death as result of fighting a duel—Any person, being an inhabitant or resident of this state, who shall, by previous appointment or engagement made within the same, fight a duel without the jurisdiction of this state, or who shall fight a duel within this state, and in so doing shall inflict a mortal wound upon any person, whereof the person so injured shall afterwards die within this state, shall be guilty of murder of the first degree within this state, and may be indicted, tried and convicted in the county where such death shall happen.

HISTORY: CL 1948, 750.319. This section re-enacts except changes "every" to "any" and leaves out "deemed", Sec. 4 of Ch. 153 of the R.S. 1846, being CL 1857, 5714;—CL 1871, 7513;—How. 9078;—CL 1897, 11473;—CL 1915, 15195;—CL 1929, 16711.

750.320 Seconds in duels resulting in death.

Sec. 320. Seconds in duels resulting in death—Any person, being an inhabitant or resident of this state, who shall be the second of either party in such duel as is mentioned in the next preceding section, and shall be present as a second when such mortal wound is inflicted, whereof death shall ensue within this state, shall be deemed to be an accessory before the fact to the crime of murder in this state, and may be indicted, tried and convicted in the county where the death shall happen, or in which such wound shall have been inflicted.

HISTORY: CL 1948, 750.320. This section re-enacts except changes "every" to "any" and inserts "next", Sec. 5 of Ch. 153 of the R.S. 1846, being CL 1857, 5715;—CL 1871, 7514;—How. 9079;—CL 1897, 11474;—CL 1915, 15196;—CL 1929, 16712.

750.321 Manslaughter.

Sec. 321. Manslaughter—Any person who shall commit the crime of manslaughter shall be guilty of a felony punishable by imprisonment in the state prison, not more

than 15 years or by fine of not more than 7,500 dollars, or both, at the discretion of the court.

HISTORY: CL 1948, 750.321. This section supersedes Sec. 10 of Ch. 153 of the R.S. 1846, being CL 1857, 5720;—CL 1871, 7519;—How. 9064;—CL 1897, 11479;—CL 1915, 15201;—CL 1929, 16717.

750.322 Manslaughter; wilful killing of unborn quick child.

Sec. 322. Wilful killing of unborn quick child—The wilful killing of an unborn quick child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, shall be deemed manslaughter.

HISTORY: CL 1948, 750.322. This section re-enacts Sec. 32 of Ch. 153 of the R.S. 1846, being CL 1857, 5742;—CL 1871, 7541;—How. 9106;—CL 1897, 11501;—CL 1915, 15223;—CL 1929, 16739.

750.323 Manslaughter; death of quick child or mother from use of medicine or instrument.

Sec. 323. Death of quick child or mother from use of medicine, etc., with intent to destroy such child—Any person who shall administer to any woman pregnant with a quick child any medicine, drug or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, shall, in case the death of such child or of such mother be thereby produced, be guilty of manslaughter.

In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed.

HISTORY: CL 1948, 750.323. This section supersedes Sec. 33 of Ch. 153 of the R.S. 1846, being CL 1857, 5743;—CL 1871, 7542;—How. 9107;—CL 1897, 11502;—CL 1915, 15224;—CL 1929, 16740.

750.324 Negligent homicide; penalty.

Sec. 324. Any person who, by the operation of any vehicle upon any highway or upon any other property, public or private, at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than \$2,000.00, or by both such fine and imprisonment.

HISTORY: Am. 1947, p. 230, Act 162, Eff. Oct. 11;—CL 1948, 750.324;—Am. 1965, p. 54, Act 38, Eff. Mar. 31, 1966.

This section as originally enacted superseded Sec. 1 of Act 98 of 1921, being CL 1929, 16743.

750.325 Negligent homicide; manslaughter where due to operation of motor vehicle.

Sec. 325. The crime of negligent homicide shall be deemed to be included within every crime of manslaughter charged to have been committed in the operation of any vehicle, and in any case where a defendant is charged with manslaughter committed in the operation of any vehicle, if the jury shall find the defendant not guilty of the crime of manslaughter, it may render a verdict of guilty of negligent homicide.

HISTORY: CL 1948, 750.325;—Am. 1965, p. 54, Act 38, Eff. Mar. 31, 1966.

This section re-enacts Sec. 2 of Act 98 of 1921, being CL 1929, 16744.

750.326 Immoderate speed not dependent on legal speed.

Sec. 326. Immoderate speed not dependent on legal rate of speed—In any prosecution under the 2 next preceding sections, whether the defendant was driving at an immoderate rate of speed shall not depend upon the rate of speed fixed by law for operating such vehicle.

HISTORY: CL 1948, 750.326. This section supersedes Sec. 3 of Act 98 of 1921, being CL 1929, 16745.

750.327 Death due to explosives.

Sec. 327. Death due to explosives—No person shall order, send, take or carry, or attempt to order, send, take or carry dynamite, nitro-glycerine or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk, box or in any other manner, either as freight or baggage, on any passenger

boat or vessel, or any railroad car or train of cars, street car, motor bus, stage or other vehicle used wholly or partly for carrying passengers.

In case any person violates any of the provisions of this section, he, and any consignee to whom any such dynamite, nitro-glycerine, or other explosive substance has been consigned by his procurement in violation of any of the provisions hereof, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years, in case such dynamite, nitro-glycerine or other explosive substance explodes and destroys human life while in possession of any carrier or on any boat, vessel, railroad car, street car, motor bus, stage or other vehicle contrary to any of the provisions hereof.

HISTORY: CL 1948, 750.327.

750.327a Sale of explosives to minor.

Sec. 327a. Any person who sells or furnishes to any minor under the age of 18, without first having procured the written consent of the parent or guardian of the minor, any bulk gunpowder, dynamite, blasting caps or nitroglycerine is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 13, Act 12, Eff. Sep. 8.

750.328 Death due to explosives; placed with intent to destroy building or object.

Sec. 328. Death from explosives placed with intent to destroy, etc., building or object—Any person who with intent to destroy, throw down or injure the whole or any part of any building or object, places or causes to be placed in, upon, under, against or near such building or object any gun powder or other explosive substance which upon explosion causes the death of any person, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

HISTORY: CL 1948, 750.328.

750.329 Death; firearm pointed intentionally, but without malice.

Sec. 329. Death from wound, etc., from firearm pointed intentionally, but without malice—Any person who shall wound, maim or injure any other person by the discharge of any firearm, pointed or aimed, intentionally but without malice, at any such person, shall, if death ensue from such wounding, maiming or injury, be deemed guilty of the crime of manslaughter.

HISTORY: CL 1948, 750.329.

CHAPTER XLVI

HORSE RACING

750.330 Betting odds; publishing and selling.

Sec. 330. Publishing and selling betting odds on horse races—Any person, firm or corporation, who by means of any newspaper, periodical, poster, notice or other mode of publication or reproduction, shall publish, or sell reports of betting odds on horse races wherever conducted shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

This section shall not be construed as applying to trotting or pacing races permitted to be held in this state, nor to races conducted at state or county fairs or other fairs conducted by agricultural societies; nor as prohibiting the publication of matters pertaining to pedigrees, entries or results of races excepted by this section, or programs for the use solely of spectators at races nor to any publication designed solely for the benefit of breeders or purchasers of stock.

HISTORY: CL 1948, 750.330. This section supersedes and merges Sec. 1 of Act 328 of 1917, being CL 1929, 16628; and Sec. 2 of Act 328 of 1917, being CL 1929, 16629; and re-enacts except changes "act" to "section", Sec. 3 of Act 328 of 1917, being CL 1929, 16630.

RACING ACT: See Compilers' § 431.31 et seq.

750.331 Racing; definition, penalty.

Sec. 331. Racing defined and punished—All running, trotting or pacing of horses, or any other animals, for any bet or stakes, in money, goods or other valuable thing, excepting such as are by special laws for that purpose expressly allowed, shall be deemed racing within the meaning of this section, and are hereby declared to be common and public nuisances and all parties concerned therein, either as authors, betters, stakers, stake-holders, judges to determine the speed of animals, riders, contrivers or abettors thereof, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by fine of not more than 500 dollars. That the giving of premiums by agricultural and other societies and associations, for the running and trotting of horses at fairs or regularly appointed meetings, shall not be illegal or unlawful.

Every person who shall contribute or collect any money, goods, or things in action, for the purpose of making up a purse, plate or other valuable thing, to be raced for by any animal, contrary to law, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.331. This section supersedes Sec. 1 of Ch. 40 of the R.S. 1846, being CL 1857, 5920;—CL 1871, 7777;—How. 9387;—CL 1897, 11398;—CL 1915, 15114;—CL 1929, 16621; and Sec. 3 of Ch. 40 of the R.S. 1846, being CL 1857, 5922;—CL 1871, 7779;—How. 9389;—CL 1897, 11398;—CL 1915, 15116;—CL 1929, 16623.

CITED IN OTHER SECTIONS: The above section is cited in § 750.305a.

750.332 Fraudulent entry of horses in speed contests.

Sec. 332. Fraudulent entry of horses in speed contests—Any person who shall knowingly and corruptly enter, or cause to be entered for competition, or to compete for any prize, purse, premium, stake or sweepstakes, offered by any agricultural society or driving club, or other society organized under the laws of this state, or by any association of persons in this state where the same is to be decided by a contest of speed, any horse, mare, gelding, colt or filly, under an assumed or false name, or out of its proper class or division, with intent to cheat or deceive such society or organization or association, shall be guilty of a felony.

The class or division in which an entry is made, within the meaning of this section, shall be determined by the rules and regulations of the society, organization or association under whose auspices the contest is to be conducted and the published terms and conditions under which the prize, purse, premium, stake or sweepstakes is offered, opened or announced.

The true name of any horse, mare, gelding, colt or filly, within the meaning of this section, shall be the name by which it is known under and according to the rules and regulations of such society, organization or association, and the name by which any horse, mare, gelding, colt or filly has once competed for any prize, purse, premium, stake or sweepstakes, shall be regarded as its true name, unless the name is changed as provided by said rules and regulations.

HISTORY: CL 1948, 750.332. This section supersedes Sec. 1 of Act 63 of 1891, being CL 1897, 11769;—CL 1915, 15583;—CL 1929, 16625; and re-enacts except changes "act" to "section", Sec. 2 of Act 63 of 1891, being CL 1897, 11770;—CL 1915, 15584;—CL 1929, 16626; and Sec. 3 of Act 63 of 1891, being CL 1897, 11771;—CL 1915, 15585;—CL 1929, 16627.

CHAPTER XLVII

INCEST

750.333 Incest; sexually delinquent persons, penalty.

Sec. 333. Any person who is within the degree of consanguinity with another within which marriages are prohibited or declared by law to be incestuous and void, or the marriage of whom is prohibited by sections 3 and 4 of chapter 83 of the Revised Statutes of 1846, being sections 551.3 and 551.4, respectively, of the Compiled Laws of 1948, and shall marry such other person, or shall commit adultery or fornication with such other person, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or if such person was at the time of the said offense

a sexually delinquent person, may be punishable by imprisonment for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: Am. 1943, p. 18, Act 19, Eff. Jul. 30,—CL 1948, 750.333;—Am. 1952, p. 80, Act 73, Eff. Sep. 18.
This section as originally enacted superseded Sec. 1 of Act 36 of 1927, being CL 1929, 16857.

750.334 Incriminating testimony and immunity of witnesses.

Sec. 334. Incriminating testimony and immunity of witness except for perjury—No person shall be excused from attending and testifying before any court or magistrate upon any investigation, proceeding or trial, for a violation of this chapter, upon the ground or for the reason that the testimony or evidence required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify, and no testimony so given shall be received against him upon any criminal investigation, proceeding or trial: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.334. This section supersedes Sec. 2 of Act 36 of 1927, being CL 1929, 16856.

CHAPTER *XLVII

INDECENCY AND IMMORALITY

750.335 Lewd and lascivious cohabitation and gross lewdness.

Sec. 335. Any man or woman, not being married to each other, who shall lewdly and lasciviously associate and cohabit together, and any man or woman, married or unmarried, who shall be guilty of open and gross lewdness and lascivious behavior, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than \$500.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

HISTORY: CL 1948, 750.335;—Am. 1952, p. 81, Act 73, Eff. Sep. 18.

This section supersedes Sec. 6 of Ch. 158 of the R.S. 1846, being CL 1857, 5961;—CL 1871, 7696;—How. 9282;—CL 1897, 11693;—CL 1915, 15467;—CL 1929, 16822; and supersedes and merges part of Sec. 7 of Ch. 158 of the R.S. 1846, being CL 1857, 5962;—CL 1871, 7697;—How. 9283;—CL 1897, 11694;—CL 1915, 15468;—CL 1929, 16823.

NOTE: This chapter should be numbered XLVIII.

750.335a Indecent exposure.

Sec. 335a. Any person who shall knowingly make any open or indecent exposure of his or her person or of the person of another shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life: Provided, That any other provision of any other statute notwithstanding, said offense shall be triable only in a court of record.

HISTORY: Add. 1952, p. 81, Act 73, Eff. Sep. 18.

750.336 Child under 16; indecent liberties; penalty.

Sec. 336. Any person or persons over the age of 16 years, who shall assault a child under the age of 16 years, and shall take or attempt to take indecent and improper liberties with the person of such child, without committing or intending to commit the crime of rape or the crime of sodomy or gross indecency upon such child, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or by fine of not more than \$5,000.00, or if such person was at the time of the

said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: CL 1948, 750.336;—Am. 1952, p. 81, Act 73, Eff. Sep. 18;—Am. 1954, p. 58, Act 51, Eff. Aug. 13.

This section supersedes Sec. 1 of Act 153 of 1887, being How. 9314b;—CL 1897, 11719;—CL 1915, 15503;—Am. 1925, p. 469, Act 311, Eff. Aug. 27;—Am. 1927, p. 53, Act 41, Eff. Sep. 5;—CL 1929, 16854.

750.337 Women and children; improper language in presence.

Sec. 337. Indecent, etc., language in presence of women or children—Any person who shall use indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any woman or child shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.337. This section supersedes Sec. 1 of Act 219 of 1897, being CL 1897, 11737;—CL 1915, 15533;—CL 1929, 16888.

750.338 Gross indecency; between male persons.

Sec. 338. Any male person who, in public or in private, commits or is a party to the commission of or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: CL 1948, 750.338;—Am. 1952, p. 81, Act 73, Eff. Sep. 18.

This section supersedes Sec. 1 of Act 198 of 1903, being CL 1915, 15511;—CL 1929, 16851.

750.338a Gross indecency; female persons.

Sec. 338a. Any female person who, in public or in private, commits or is a party to the commission of, or any person who procures or attempts to procure the commission by any female person of any act of gross indecency with another female person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: Add. 1939, p. 294, Act 148, Eff. Sep. 29;—CL 1948, 750.338a;—Am. 1952, p. 81, Act 73, Eff. Sep. 18.

750.338b Gross indecency; between male and female persons.

Sec. 338b. Any male person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a female person shall be guilty of a felony, punishable as provided in this section. Any female person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a male person shall be guilty of a felony punishable as provided in this section. Any person who procures or attempts to procure the commission of any act of gross indecency by and between any male person and any female person shall be guilty of a felony punishable as provided in this section. Any person convicted of a felony as provided in this section shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

HISTORY: Add. 1939, p. 294, Act 148, Eff. Sep. 29;—CL 1948, 750.338b;—Am. 1952, p. 81, Act 73, Eff. Sep. 18.

750.339 Males under 15; debauching by females.

Sec. 339. Females debauching morals of males under 15 years of age—Any female person over the age of 15 years, who shall knowingly and wilfully debauch the person and deprave the morals of any boy under the age of 15 years, either by lewdly induc-

ing or enticing any such boy to carnally know any such female person, or by indecent bodily contact with the person of any such boy communicating to him any venereal or other loathsome disease, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

HISTORY: CL 1948, 750.339. This section supersedes Sec. 1 of Act 95 of 1897, being CL 1897, 11722;—CL 1915, 15509;—CL 1929, 16852.

750.340 Males under 15; debauching by males.

Sec. 340. Males debauching morals of males under 15 years of age—Any male person over the age of 15 years who shall debauch and deprave the morals of any boy under 15 years of age, by enticing or soliciting such boy to commit the abominable and detestable crime against nature, either with any man or beast, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

HISTORY: CL 1948, 750.340. This section supersedes Sec. 2 of Act 95 of 1897, being CL 1897, 11723;—CL 1915, 15510;—CL 1929, 16853.

750.341 Female patient in institution for insane; ravishing, abuse.

Sec. 341. Ravishing, etc., female patient in any state or county institution for the care of the insane—Any person who shall ravish or carnally know and abuse any female who is a patient in any state or county institution for the care of the insane, feeble-minded, epileptic or mentally incompetent shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years nor less than 5 years; and such carnal knowledge shall be deemed complete upon proof of penetration only.

The term "patient" as used herein shall be construed to mean any female committed to any state or county institution aforesaid and who has not been discharged according to law.

In all prosecutions under the provisions of this section the validity of the commitment shall not be questioned.

HISTORY: CL 1948, 750.341. This section supersedes Sec. 1 of Act 263 of 1911, being CL 1915, 15506;—CL 1929, 16848; and re-enacts Sec. 2 of Act 263 of 1911, being CL 1915, 15507;—CL 1929, 16849; and re-enacts except changes "act" to "section", Sec. 3 of Act 263 of 1911, being CL 1915, 15506;—CL 1929, 16850.

750.342 Female ward; carnal knowledge.

Sec. 342. Carnal knowledge of female ward by guardian, etc.—Any guardian of any female under the age of 18 years, or any other person to whose care or protection any such female shall have been confided, who shall defile her by carnally knowing her while she remains in his care, custody or employment, shall in any case not otherwise provided for be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years or by a fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.342. This section supersedes Sec. 1 of Act 170 of 1917, being CL 1929, 16856.

750.343 Repealed. 1957, p. 353, Act 265, Imd. Eff. Jun. 13.

Section prohibited distribution of obscene literature.

750.343a Obscene, sadistic, or masochistic literature; recording or image, penalty for sale, transmutation, or possession.

Sec. 343a. Any person who knowingly either sells, lends, gives away, distributes, shows or transmutes or offers either to sell, lend, give away, distribute, show or transmute, or has in his possession with intent either to sell, lend, give away, distribute, show or transmute, or advertise in any manner, or who otherwise knowingly offers for either loan, gift, sale or distribution, any obscene, lewd, lascivious, filthy or indecent, sadistic or masochistic book, magazine, pamphlet, newspaper, story paper, writing, paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of an indecent character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representations of such character, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county

jail for not more than 1 year or by a fine of not more than \$1,000.00, or by both such fine and imprisonment.

For the purpose of this section, possession of 6 or more identical copies, or 6 or more articles of any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, phonograph record, picture drawing, photograph, slide, motion picture film, figure, image, wire or tape recording, or any written, printed or recorded matter of an indecent character, shall be prima facie evidence of possession with intent to sell, lend, give away, distribute, show or transmute the thing.

HISTORY: Add. 1957, p. 353, Act 265, Imd. Eff. Jun. 13;—Am. 1961, p. 367, Act 217, Eff. Sep. 8;—Am. 1962, p. 52, Act 64, Eff. Mar. 28, 1963;—Am. 1964, p. 136, Act 143, Eff. Aug. 28.

750.343b Obscene literature; recording or image; impact upon average person of community.

Sec. 343b. The test to be applied in cases under section 343a of this act shall not be whether sexual desires or sexually improper thoughts would be aroused in those comprising a particular segment of the community, the young, the immature or the highly prudish, or would leave another segment, the scientific or highly educated or the so-called worldly wise and sophisticated, indifferent and unmoved. But such test shall be the effect of the book, picture or other subject to complaint considered as a whole, not upon any particular class, but upon all those whom it is likely to reach, that is, its impact upon the average person in the community. The book, picture or other subject of complaint must be judged as a whole in its entire context, not by considering detached or separate portions only, and by the standards of common conscience of the community of the contemporary period of the violation charged.

HISTORY: Add. 1958, p. 141, Act 127, Eff. Sep. 13.

750.343c Portrayal of illicit sex; perversion.

Sec. 343c. Any person who publishes or distributes for resale or for reading or other perusal any book, magazine or pamphlet, so composed as to constitute a compilation of pictures, illustrations, caricatures, cartoons, words, stories and advertisements, or any combination or combinations thereof, featuring and primarily devoted for the purpose of commercial exploitation, to the description or portrayal or suggestion of illicit sex, or sexual relations, of perversion, lust or sexual passion, or to any combination or combinations thereof, shall be guilty of a violation of section 343a of this act and punished as therein provided.

HISTORY: Add. 1958, p. 141, Act 127, Eff. Sep. 13.

750.343d Distribution conditioned upon inclusion of illegal matter; penalty.

Sec. 343d. Any person who shall as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other article, book or other publication which is contrary to section 343a of this act, or shall deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure of any person to accept such articles, books or publications, or by reason of the return thereof, shall be guilty of a violation of section 343a of this act and punished as therein provided.

HISTORY: Add. 1958, p. 141, Act 127, Eff. Sep. 13.

750.343e Obscene, sadistic or masochistic literature; recording, or image; distribution to minors, penalty.

Sec. 343e. Whoever knowingly either sells, distributes, or imports for the purpose of selling or distributing, to a person under the age of 18 years any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of an indecent

character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representations of such character, manifestly tending to corrupt the morals of youth, or introduces into a family, school or place of education, or buys, procures, receives or has in his possession any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of an indecent character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representations of such character, either for the purpose of sale, exhibition, loan or circulation to a person under the age of 18 years or with intent to introduce the same into a family, school or place of education, shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$1,000.00, or by both such fine and imprisonment.

HISTORY: Add. 1962, p. 86, Act 96, Eff. Mar. 28, 1963;—Am. 1964, p. 136, Act 143, Eff. Aug. 28.

750.344 Publications devoted to criminal news and accounts of lust.

Sec. 344. Publications devoted primarily to recording criminal news and accounts of lust—Any person who sells, lends, gives away, or shows, or has in his possession with intent to sell, or give away, or to show, advertise, or otherwise offers for loan, gift, or distribution, any book, pamphlet, magazine, newspaper, or other printed paper, devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust or crime shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.344. This section supersedes part of Sec. 1 of Act 138 of 1885, being How. 9290a;—CL 1897, 11702;—CL 1915, 15476;—CL 1929, 16875.

750.345 Obscene literature; distribution by minors.

Sec. 345. Distribution, etc., by minors of obscene books, prints, pictures, etc.—Any person who in any manner hires, uses, or employs any minor child to sell, or give away, or in any manner to distribute, or who having the care, custody or control of any minor child, permits such child to sell, give away or in any other manner to distribute any book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, photograph, or other article or matter coming within the descriptions of articles and matter mentioned in the next 2 preceding sections of this chapter, or either of them, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.345. This section supersedes part of Sec. 1 of Act 138 of 1885, being How. 9290a;—CL 1897, 11702;—CL 1915, 15476;—CL 1929, 16875.

750.345a Obscene literature; penalty for second, third or any subsequent offense.

Sec. 345a. Any person who shall be adjudged guilty a second time of a violation of any of the provisions of sections 343, 344 and 345 of this chapter, the offense being charged as a second offense, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail or in the Detroit house of correction not more than 1 year or by a fine of not more than \$500.00; and any person adjudged guilty a third or any subsequent time of a violation of any of said sections, the offense being charged as a third or subsequent offense, shall be guilty of a felony.

HISTORY: Add. 1943, p. 275, Act 188, Eff. July 30;—CL 1948, 750.345a.

750.346 Search warrants.

Sec. 346. Search warrants—All municipal courts and justices of the peace, on complaint supported by oath or affirmation, that any person has in his possession or control any indecent books, papers, articles, and things described in the next 3 preceding sections of this chapter, shall issue a warrant directed to the sheriff of the county, within which such complaint shall be made, or to any constable, marshal, or police

officer within said county directing him, them or any of them to search for, seize and take possession of such obscene and indecent books, papers, magazines, articles or things mentioned in said sections, and said court or justice of the peace shall, upon conviction of the person or persons offending, under the law, any of the provisions of said sections, forthwith in the presence of the person or persons upon whose complaint the said seizure or arrest is made, if he or they shall, after notice thereof elect to be present, destroy, or cause to be destroyed, the aforesaid books, papers, articles or things, and shall cause to be entered upon the records of his court the fact of such destruction.

HISTORY: CL 1948, 750.346. This section supersedes Sec. 14 of Ch. 158 of the R.S. 1846, being CL 1857, 5869;—CL 1871, 7704;—How. 9290;—CL 1897, 11701;—CL 1915, 15475;—CL 1929, 16830, and Sec. 2 of Act 138 of 1885, being How. 9290b;—CL 1897, 11703;—CL 1915, 15477;—CL 1929, 16876.

SEARCH WARRANTS: See Compilers' § 780.651.

750.347 Deformed human beings; exhibition.

Sec. 347. Exhibition of deformed human beings, etc.—Any physician or other person, who shall expose or keep on exhibition any deformed human being or human monstrosity, except as used for scientific purposes before members of the medical profession or medical classes, shall be guilty of a misdemeanor.

Any person who shall so expose or exhibit in museums or elsewhere diseased or deformed human bodies, or parts thereof, or representations of the same, which would be indecent in the case of a living person, except as used for scientific purposes before members of the medical profession or medical classes, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.347. This section supersedes and merges Sec. 1 of Act 103 of 1903, being CL 1915, 15515;—CL 1929, 16890; and supersedes and merges Sec. 2 of Act 103 of 1903, being CL 1915, 15519;—CL 1929, 16891; and Sec. 3 of Act 103 of 1903, being CL 1915, 15520;—CL 1929, 16892.

CHAPTER XLIX

INDIANS

750.348 Inciting Indians.

Sec. 348. Inciting Indians to violate treaty, etc.—Any person who shall incite, or attempt to incite any Indian nation, tribe, chief or individual to violate any treaty of peace with any other Indian nation or tribe, or with the United States, or to disturb the peace and tranquility existing between any Indian nation or tribe, and any other Indian nation or tribe, or the people of the United States, or who shall incite or attempt to incite any Indian nation, tribe, chief or individual to violate any law of the United States, or of this state, shall be guilty of a felony.

HISTORY: CL 1948, 750.348. This section supersedes Sec. 9 of Ch. 157 of the R.S. 1846, being CL 1857, 5855;—CL 1871, 7689;—How. 9272;—CL 1897, 11342;—CL 1915, 15009;—CL 1929, 16606.

CHAPTER L

KIDNAPING

750.349 Kidnaping.

Sec. 349. Confining person against will, etc.—Any person who wilfully, maliciously and without lawful authority shall forcibly or secretly confine or imprison any other person within this state against his will, or shall forcibly carry or send such person out of this state, or shall forcibly seize or confine, or shall inveigle or kidnap any other person with intent to extort money or other valuable thing thereby or with intent either to cause such person to be secretly confined or imprisoned in this state against his will, or in any way held to service against his will, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

Every offense mentioned in this section may be tried either in the county in which the same may have been committed or in any county in or through which the person

so seized, taken, inveigled, kidnaped or whose services shall be sold or transferred, shall have been taken, confined, held, carried or brought; and upon the trial of any such offense, the consent thereto of the person, so taken, inveigled, kidnaped or confined, shall not be a defense, unless it shall be made satisfactorily to appear to the jury that such consent was not obtained by fraud nor extorted by duress or by threats.

HISTORY: CL 1948, 750.349. This section supersedes Sec. 25 of Ch. 153 of the R.S. 1846, being CL 1857, 5735.—Am. 1859, p. 526, Act 189, Eff. May 19.—CL 1871, 7534.—Am. 1875, p. 224, Act 191, Eff. Aug. 3.—Am. 1889, p. 154, Act 135, Eff. Oct. 2.—How. 9099.—CL 1897, 11494.—CL 1915, 15216.—CL 1929, 16732; and Sec. 26 of Ch. 153 of the R.S. 1846, being CL 1857, 5736.—CL 1871, 7535.—Am. 1875, p. 224, Act 191, Eff. Aug. 3.—How. 9100.—CL 1897, 11495.—CL 1915, 15217.—CL 1929, 16733.

750.350 Kidnaping; child under 14.

Sec. 350. Enticing away, etc., child under 14 years of age—Any person who shall maliciously, forcibly or fraudulently lead, take or carry away, or decoy or entice away, any child under the age of 14 years, with intent to detain or conceal such child from its parent or guardian, or from the person or persons who have lawful adopted said child or from any other person having the lawful charge of said child, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years. In case such child shall have been adopted by a person or persons other than its parents, in accordance with the statute providing for such adoption, then this section shall apply as well to such taking, carrying, decoying or enticing away of such child, by its father or mother, as by any other person.

HISTORY: CL 1948, 750.350. This section supersedes Sec. 30 of Ch. 153 of the R.S. 1846, being CL 1857, 5740.—CL 1871, 7539.—How. 9104.—Am. 1885, p. 275, Act 195, Eff. Sept. 10.—CL 1897, 11499.—CL 1915, 15221.—Am. 1929, p. 236, Act 95, Eff. Aug. 28.—CL 1929, 16737.

CHAPTER LI

LABORERS, MECHANICS, EMPLOYEES AND WORKERS

750.351 Consideration for employment.

Sec. 351. Receiving remuneration, etc., from employe in consideration of employment—Any employer or agent or representative of an employer or other person having authority from his employer to hire, employ, or direct the services of other persons in the employment of said employer, who shall demand or receive directly or indirectly from any person when in the employment of said employer, any fee, gift or other remuneration or consideration, or any part or portion of any tips or gratuities received by such employe while in the employment of said employer, in consideration or as a condition of such employment or hiring or employing any person to perform such services for such employer or of permitting said person to continue in such employment is guilty of a misdemeanor.

Nothing contained in this section shall be construed to apply to employment agencies or employment agents licensed and operating under the laws of this state.

HISTORY: CL 1948, 750.351. Title of Ch. LI Am. 1947, p. 467, Act 297, Eff. Oct. 11. This section supersedes Sec. 1 of Act 322 of 1919, being CL 1929, 8520; and re-enacts except changes "act" to "section", Sec. 2 of Act 322 of 1919, being CL 1929, 8521.

750.352 Molesting and disturbing persons in pursuit of occupation, vocation or avocation.

Sec. 352. Any person or persons who shall, by threats, intimidations, or otherwise, and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any person, in the quiet and peaceable pursuit of his lawful occupation, vocation or avocation, or on the way to and from such occupation, vocation or avocation, or who shall aid or abet in any such unlawful acts, shall be guilty of a misdemeanor.

HISTORY: Am. 1947, p. 467, Act 297, Eff. Oct. 11.—CL 1948, 750.352. This section as originally enacted superseded Sec. 1 of Act 163 of 1867, being CL 1871, 7660.—How. 9273.—CL 1897, 11343.—CL 1915, 15010.—CL 1929, 8612.

750.353 Contributions to charitable purposes, deduction from wages.

Sec. 353. Contributions by laborers, etc., to charitable purposes and deductions from wages—Any employer of labor, who, by himself, his agent, clerk or servant, shall require any employe, or person seeking employment, as a condition of such employment or continuance therein, to make and enter into any contract, oral or written, whereby such employe or applicant for employment shall agree to contribute directly or indirectly to any fund for charitable, social or beneficial purpose or purposes, shall be guilty of a misdemeanor.

Any such employer, who, by himself, his agent, clerk or servant, shall deduct from the wages of any employe, directly or indirectly, any part thereof without the full and free consent of such employe, obtained without intimidation or fear of discharge for refusal to permit such deduction, shall be guilty of a misdemeanor.

If the employer be a firm or corporation, each and every member of said firm, and each and every managing officer of the corporation, shall be liable to punishment under this section; and any clerk, servant or agent of any such employer who shall do or attempt to do any act forbidden by this section, shall be equally liable with his employer or employers as principal, for any such violation of this section.

HISTORY: CL 1948, 750.353. This section supersedes and merges Sec. 1 of Act 192 of 1893, being CL 1897, 11400;—CL 1915, 15118;—CL 1929, 8513; and Sec. 2 of Act 192 of 1893, being CL 1897, 11401;—CL 1915, 15119;—CL 1929, 8514; and Sec. 3 of Act 192 of 1893, being CL 1897, 11402;—CL 1915, 15120;—CL 1929, 8515; and Sec. 4 of Act 192 of 1893, being CL 1897, 11403;—CL 1915, 15121;—CL 1929, 8516.

750.353a Employee welfare plan, failure of employer to contribute as promised.

Sec. 353a. Any employer who promises in writing to make payments to an employee welfare plan, vacation plan, health plan, dental plan, insurance plan, supplemental unemployment benefit plan, profit sharing plan, pension plan or any employee welfare plan, either by contract with an individual employee, by a collective bargaining agreement or by agreement with such employee plan, and who fails to make such payments within 3 weeks after they become due and payable, shall be guilty of a misdemeanor. This section shall not apply where the failure to make payments is prevented by act of God, proceedings in bankruptcy, orders or processes of any court of competent jurisdiction or circumstances over which the employer has no control. Conviction for violation of this section does not relieve the employer of liability for moneys under such agreement or contract.

HISTORY: Add. 1980, p. 14, Act 15, Eff. Aug. 17;—Am. 1988, p. 89, Act 45, Eff. Mar. 10, 1987.

750.354 Insurance with particular company, requirement.

Sec. 354. Unlawful for employers to require employes to insure with any particular company—It shall hereafter be unlawful for any person doing business in this state or for any of the agents of such person to require any of the employes of such person to take out or obtain a life, accident or life and accident policy in favor of such employe or other person in any particular or designated life, accident or life and accident company or association.

All contracts hereinafter made between any such person and any employe of said person requiring or stipulating that the employe so contracting shall procure, obtain or have a policy of insurance in any particular or designated company or association shall be void: Provided, That nothing in the foregoing provisions of this section is intended to prohibit, or shall be construed as prohibiting the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and where such person is a company or corporation it shall be punished by a fine of not more than 200 dollars for each and every offense, and any shareholder, officer or agent of any such company or corporation violating the provisions of this section, shall be punished by imprisonment in the county jail not more than 90 days, or by a fine of not more than 100 dollars for each offense.

HISTORY: CL 1948, 750.354. This section supersedes Sec. 1 of Act 209 of 1895, being CL 1897, 8584;—CL 1915, 11357;—CL 1929, 8517; and Sec. 2 of Act 209 of 1895, being CL 1897, 8585;—CL 1915, 11358;—CL 1929, 8518; and Sec. 3 of Act 209 of 1895, being CL 1897, 8586;—CL 1915, 11359;—CL 1929, 8519.

750.354a Unlawful to compel certain employees to pay cost of medical examination, photographing or fingerprinting; penalty.

Sec. 354a. It shall be unlawful for any employer in the state of Michigan to compel newly hired employees or employees reporting back to work after a furlough or leave of absence to pay the cost of a medical examination or to pay for being photographed and finger printed, when requested by the employer.

Any employer operating in the state of Michigan violating the provisions of this act shall be liable to a penalty of not more than \$100.00 for each and every violation. It shall be the duty of the commissioner of labor to enforce this act.

HISTORY: Add. 1947, p. 277, Act 198, Eff. Oct. 11;—CL 1948, 750.354a;—Am. 1949, p. 13, Act 13, Eff. Sep. 23.

750.355 Temporary water closets.

Sec. 355. Temporary waterclosets for workmen in buildings in course of construction—Any architect who shall refuse, fail or neglect to insert a clause in the specifications for all buildings providing for suitable temporary water closets for the use of workmen employed on such buildings while in the course of erection, unless closets are already maintained on such premises; and any contractor or person erecting such building who shall refuse, fail or neglect to erect such closet within the first week after commencing work thereon, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.355. This section supersedes and merges Sec. 1 of Act 205 of 1890, being CL 1915, 5578;—CL 1929, 6677; and Sec. 2 of Act 205 of 1899, being CL 1915, 5579;—CL 1929, 6678.

750.355a Consideration for employing or not discharging.

Sec. 355a. Any person who is in the employment of any other person and whose duties in whole or in part consist of the engaging of the services of persons for employment by his employer and/or who has authority to discharge persons in the employment of his employer and who accepts from such person or any other person, any money, gift or anything of value as a part of the consideration for securing such employment or who shall make the purchase of any article of value from any person obligatory on the part of such person seeking employment, or forces an employee to purchase or contract for the purchase of goods, wares or merchandise from any person, as a whole or part consideration for not ordering the discharge of such person shall be deemed guilty of a misdemeanor.

HISTORY: Add. 1939, p. 418, Act 223, Eff. Sept. 29;—CL 1948, 750.355a.

CHAPTER LII

LARCENY

750.356 Larceny.

Sec. 356. Any person who shall commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen exceed the value of \$100.00, shall be guilty of a

felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than \$2,500.00. If the property stolen shall be of the value of \$100.00 or less, such person shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.356;—Am. 1957, p. 76, Act 69, Eff. Sep. 27.

This section supersedes Sec. 18 of Ch. 154 of the R.S. 1846, being CL 1857, 5762;—CL 1871, 7569;—Am. 1879, p. 221, Act 242, Eff. Aug. 30;—How. 9140;—CL 1897, 11553;—CL 1915, 15296;—Am. 1929, p. 557, Act 222, Eff. Aug. 28;—CL 1929, 16899.

750.356a Larceny; from motor vehicles or trailers; attached accessories; breaking or entering, damaging.

Sec. 356a. Any person who shall commit the offense of larceny by stealing or unlawfully removing or taking any wheel, tire, radio, heater or clock in or on any motor vehicle, house trailer, trailer or semi-trailer, shall be guilty of a felony, punishable by a fine not to exceed \$1,000.00, or by imprisonment in the state prison not more than 5 years.

Any person who shall enter or break into any motor vehicle, house trailer, trailer or semi-trailer, for the purpose of stealing or unlawfully removing therefrom any goods, chattels or property of the value of not less than \$5.00, or who shall break or enter into any motor vehicle, house trailer, trailer or semi-trailer, for the purpose of stealing or unlawfully removing therefrom any goods, chattels or property regardless of the value thereof if in so doing such person breaks, tears, cuts or otherwise damages any part of such motor vehicle, house trailer, trailer or semi-trailer, shall be guilty of a felony, punishable by a fine not to exceed \$1,000.00, or by imprisonment in the state prison not more than 5 years.

HISTORY: Add. 1937, p. 304, Act 194, Imd. Eff. July 14;—Am. 1939, p. 471, Act 254, Eff. Sept. 29;—Am. 1947, p. 165, Act 124, Eff. Oct. 11;—CL 1948, 750.356a.

750.356b Breaking and entering coin operated telephone, penalty.

Sec. 356b. Any person who breaks or enters into any coin operated telephone or a coin device attached to or an integral part thereof for the purpose of stealing or unlawfully removing therefrom any money, regardless of the value thereof, if in so doing such person breaks, tears, cuts or otherwise damages any part of the telephone or any coin device attached to or an integral part thereof, is guilty of a felony.

HISTORY: Add. 1961, p. 81, Act 81, Eff. Sep. 8;—Am. 1969, p. 485, Act 254, Eff. Mar. 20, 1970.

750.357 Larceny from the person.

Sec. 357. Larceny from the person—Any person who shall commit the offense of larceny by stealing from the person of another shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.357. This section supersedes Sec. 17 of Ch. 154 of the R.S. 1846, being CL 1857, 5761;—CL 1871, 7568;—How. 9139;—CL 1897, 11552;—CL 1915, 15297;—CL 1929, 16898.

750.357a Larceny of livestock.

Sec. 357a. Larceny of livestock—Any person who shall commit the offense of larceny by stealing the livestock of another shall be guilty of a felony.

The term "livestock" shall apply to horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine.

HISTORY: Add. 1943, p. 233, Act 171, Eff. July 30;—CL 1948, 750.357a.

750.358 Larceny at a fire.

Sec. 358. Larceny at a fire—Any person who shall commit the offense of larceny by stealing in any building that is on fire, or by stealing any property removed in consequence of alarm caused by fire, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.358. This section supersedes Sec. 16 of Ch. 154 of the R.S. 1846, being CL 1857, 5760;—CL 1871, 7567;—How. 9138; CL 1897, 11551;—CL 1915, 15296;—CL 1929, 16897.

750.359 Larceny from vacant dwelling.

Sec. 359. Larceny, etc., from vacant building—Any person or persons who shall steal or unlawfully remove or in any manner damage any fixture, attachment or other property belonging to, connected with or used in the construction of any vacant structure or building, whether built or in the process of construction or who shall break into any vacant structure or building with the intention of unlawfully removing, taking therefrom or in any manner damaging any fixture, attachment or other property belonging to, connected with or used in the construction of such vacant structure or building whether built or in the process of construction, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.359. This section supersedes Sec. 1 of Act 99 of 1929, being CL 1929, 16956.

750.360 Larceny; places of abode, work, storage, conveyance, worship and other places.

Sec. 360. Any person who shall commit the crime of larceny by stealing in any dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, barn, granary, ship, boat, vessel, church, house of worship, locker room or any building used by the public shall be guilty of a felony.

HISTORY: Am. 1947, p. 287, Act 190, Eff. Oct. 11;—CL 1948, 750.360. This section as originally enacted superseded Sec. 1 of Act 179 of 1929, being CL 1929, 16959.

750.361 Larceny; or maliciously removal journal bearings or brasses.

Sec. 361. Larceny or maliciously removing journal bearings or brasses—Any person who shall steal or maliciously remove, take, change, add to, take from or in any manner interfere with any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connecting with or used by any railway, railroad or transportation company in this state shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not less than 1 year nor more than 2 years: Provided, That if the stealing or removal of such journal bearings or brasses, or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used on any locomotive, tender or car as aforesaid shall be the cause of wrecking any train, locomotive or other car in this state, whereby the life of any person or persons shall be lost as a result of the felonious or malicious stealing, nothing in this section shall be construed as preventing prosecution for such crime.

Possession of any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used in operating any locomotive, tender or car owned, leased or used by any railroad, railway or transportation company in this state, without the authority of the railroad company owning or leasing the same, shall be prima facie evidence that the same has been stolen or maliciously taken or removed by the person in whose possession the same is found or proved to have been.

HISTORY: CL 1948, 750.361. This section supersedes Sec. 1 of Act 333 of 1917, being CL 1929, 17039; and re-enacts Sec. 2 of Act 333 of 1917, being CL 1929, 17040.

750.362 Larceny; by conversion.

Sec. 362. Larceny by conversion, etc.—Any person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered, who shall embezzle or fraudulently convert to his own use, or shall secrete with the intent to embezzle, or fraudulently use such goods, money or other property, or any part thereof, shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided in the first section of this chapter.

HISTORY: CL 1948, 750.362. This section supersedes Sec. 34 of Ch. 154 of the R.S. 1846, being CL 1857, 5778;—CL 1871, 7585;—Am. 1875, p. 195, Act 168, Eff. Aug. 3;—How. 9156;—CL 1897, 11570;—CL 1915, 15315;—CL 1929, 16911.

750.362a Larceny; rented motor vehicle, trailer or other tangible property; penalty.

Sec. 362a. Any person to whom a motor vehicle, trailer or other tangible property is delivered on a rental or lease basis under any agreement in writing providing for its return to a particular place at a particular time who refuses or wilfully neglects to return such vehicle, trailer or other tangible property, after the expiration of the time stated in a notice in writing proved to have been duly mailed by registered or certified mail addressed to the last known address of the person who rented or leased the motor vehicle, trailer or other tangible property, and with intent to defraud the lessor, is guilty of larceny. If the vehicle, trailer or other tangible property exceeds the value of \$100.00 he shall be guilty of a felony punishable by imprisonment for not more than 2 years or by a fine of not more than \$1,000.00, or both. If the vehicle, trailer or other tangible property is of the value of \$100.00 or less, he shall be guilty of a misdemeanor.

HISTORY: Add. 1964, p. 336, Act 241, Eff. Aug. 28;—Am. 1966, p. 503, Act 297, Eff. Mar. 10, 1967.

750.363 Larceny; by false personation.

Sec. 363. Larceny by false personation—Any person who shall falsely personate or represent another, and in such assumed character shall receive any money, or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed by so doing, to have committed the crime of larceny, and shall be punished as provided in the first section of this chapter.

HISTORY: CL 1948, 750.363. This section supersedes Sec. 38 of Ch. 154 of the R.S. 1846, being CL 1857, 5782;—CL 1871, 7569;—How. 9160;—CL 1897, 11574;—CL 1915, 15319;—CL 1929, 16915.

750.364 Larceny; from libraries.

Sec. 364. Larceny from libraries—Any person who shall procure, or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or who having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, shall thereafter convert the same to his own use or fraudulently deprive the owner thereof, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.364. This section supersedes Sec. 2 of Act 3 of 1881, being How. 9211;—CL 1897, 11641;—Am. 1911, p. 74, Act 58, Eff. Aug. 1;—CL 1915, 15407;—CL 1929, 17020.

750.365 Larceny; from car or persons detained or injured by accident.

Sec. 365. Larceny from car or persons detained or injured by accident—Any person who shall steal from any car, while detained by accident or injury to any railroad, locomotive, tender or car, or who shall steal the property of, or rob any person detained, injured or killed by reason of any accident or injury to any such railroad, locomotive, tender or car, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years or by a fine of not more than 10,000 dollars.

At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

HISTORY: CL 1948, 750.365. This section supersedes Sec. 2 of Act 164 of 1869, being CL 1871, 7620;—How. 9201;—CL 1897, 11624;—CL 1915, 15389;—CL 1929, 17025; and supersedes part of Sec. 10 of Act 164 of 1869, Add. 1881, p. 139, Act 146, Eff. Sept. 10;—How. 9209;—CL 1897, 11632;—CL 1915, 15397;—CL 1929, 17033.

750.366 Larceny; railroad passenger tickets.

Sec. 366. Larceny of railroad passenger tickets—Any person who shall feloniously or fraudulently take and carry away any railroad passenger ticket or tickets belonging to any railroad company or companies, shall be guilty of a felony.

The words “railroad passenger ticket or tickets” as used in this section shall be construed to embrace any ticket, card, pass, certificate or paper providing, or intended to provide, for the carriage or transportation of any person or persons upon any railroad, and shall include, not only tickets of any railroad company fully prepared for use, but those not fully prepared for use, and all others which have been once used. At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

HISTORY: CL 1948, 750.366. This section supersedes and merges Sec. 7 of Act 164 of 1869, Add. 1881, p. 138, Act 146, Eff. Sept. 10;—How. 9206;—CL 1897, 11629;—CL 1915, 15394;—CL 1929, 17030; and Sec. 10 of Act 164 of 1869, Add. 1881, p. 139, Act 146, Eff. Sept. 10;—How. 9209;—CL 1897, 11632;—CL 1915, 15397;—CL 1929, 17033.

750.367 Taking or injuring trees, shrubs, vines, plants.

Sec. 367. Taking or injuring fruit, shade, ornamental trees, shrubs, vines, etc.—Any person who shall wrongfully take and carry away from any place any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing or being, with intent to deprive the owner thereof, or who shall without right and with wrongful intent, detach from the ground or injure any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, vegetable or produce shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided in the first section of this chapter.

HISTORY: CL 1948, 750.367. This section supersedes Sec. 1 of Act 174 of 1855, being CL 1857, 5801;—CL 1871, 7610;—Am. 1875, p. 232, Act 202, Eff. Aug. 3;—How. 9194;—CL 1897, 11647;—CL 1915, 15416;—CL 1929, 17003.

750.367a Larceny of rationed goods, wares and merchandise.

Sec. 367a. Larceny of rationed goods, wares or merchandise—Any person who shall steal any goods, wares, or merchandise, the manufacture, distribution, sale or use of which is restricted or rationed by the federal government, or any of its agencies or instrumentalities, during a state of war between the United States and any other country or nation, shall be guilty of the applicable crime or crimes set forth in Act No. 328 of the Public Acts of 1931, as amended, and upon conviction thereof shall be punished by not to exceed double the fines and imprisonment therein provided. Any prosecution hereunder shall be in circuit court or in a court having similar criminal jurisdiction. The term “steal” as used in this section shall be construed to include the obtaining of any such property or the possession thereof in any manner or by any means defined, or the penalty for which is prescribed, by any section of chapters 31, 36, 52 or 61, or section 280 of chapter 43 of Act No. 328 of the Public Acts of 1931 as amended.

HISTORY: Add. 1942, 1st Ex. Ses., p. 13, Act 5, Imd. Eff. Jan. 28;—CL 1948, 750.367a.

NOTE: Act 328, 1931, is this act.

750.367b Taking possession of and use of airplane.

Sec. 367b. Taking possession of and use of an airplane—Any person who shall, wilfully and without authority, take possession of or use an airplane, and any person who shall assist in or be a party to such taking possession of or use of an airplane, belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

HISTORY: Add. 1942, 2nd Ex. Ses., p. 51, Act 11, Imd. Eff. Feb. 25;—CL 1948, 750.367b.

NOTE: Similar provision, see Compilers' § 259.183.

CHAPTER LIII
LEGAL PROCESS**750.368 Simulating legal process.**

Sec. 368. Notice or demand of payment simulating legal process—Any person or his agent who shall serve or cause to be served upon any debtor a notice or demand of payment of money on behalf of any creditor, by personal service or by mail or otherwise, such notice not being authorized by any statute or court of this state, and which notice on demand of payment shall, in form and substance, simulate any legal process issued out of any of the courts of this state, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.368. This section supersedes Sec. 1 of Act 284 of 1927, being CL 1929, 16596.

750.369 Abuse of legal process.

Sec. 369. Abuse of legal process—Any officer or person who shall wilfully make any arrest or institute any legal proceedings, or sue out any process for the purpose of obtaining the fees or mileage that might accrue thereto or therefor, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.369. This section supersedes Sec. 1 of Act 187 of 1879, being How. 9263;—CL 1897, 11333;—CL 1915, 15000;—CL 1929, 16595.

CHAPTER LIV
LIBEL AND SLANDER**750.370 Falsely and maliciously accusing another.**

Sec. 370. Falsely and maliciously accusing another of crime, etc.—Any person who shall falsely and maliciously, by word, writing, sign, or otherwise accuse, attribute, or impute to another the commission of any crime, felony or misdemeanor, or any infamous or degrading act, or impute or attribute to any female a want of chastity, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.370. This section supersedes Sec. 1 of Act 192 of 1879, being How. 9315, —Am. 1885, p. 287, Act 210, Eff. Sept. 19, CL 1897, 11762;—CL 1915, 15573;—CL 1929, 16812.

CIVIL ACTIONS: See Compilers' § 800.2911 et seq.

INDICTMENT: See Compilers' § 767.70.

750.371 Second or subsequent violations.

Sec. 371. Second or subsequent violations—No justice shall have jurisdiction to try any person for a second or subsequent violation of this chapter. Whenever it shall appear from the complaint that any person has been charged with a second or subsequent violation of this chapter, the justice before whom the complaint is made shall proceed therein, as provided by chapter 6 of Act No. 175 of the Public Acts of Michigan for 1927, being sections 17193 to 17214 inclusive of the Compiled Laws of 1929, and acts and parts of acts amendatory thereof.

Any person who shall be convicted of a second or subsequent violation of the provisions of this chapter shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not more than 1 year or by fine or [of] not less than 50 dollars or more than 500 dollars: Provided, That no complaint for a second or subsequent offense under this chapter can be made before the justice who issued the first or any prior complaint against the same person for the same offense.

HISTORY: CL 1948, 750.371. This section supersedes Sec. 2 of Act 192 of 1879, Add. 1885, p. 287, Act 210, Eff. Sept. 19;—How. 9315a, —CL 1897, 11763;—CL 1915, 15574;—CL 1929, 16813.

NOTE: Ch. 6, Act 175, 1927, above referred to, is Compilers' § 766.1 et seq.

CHAPTER LV
LOTTERIES**750.372 Lotteries and gift enterprises.**

Sec. 372. Lotteries and gift enterprises—Any person who shall set up or promote within this state any lottery or gift enterprise for money, or shall dispose of any prop-

erty, real or personal, goods, chattels or merchandise or valuable thing, by the way of lottery or gift enterprise, and any person who shall aid, either by printing or writing, or shall in any way be concerned in the setting up, managing or drawing of any such lottery or gift enterprise, or who shall in any house, shop or building owned or occupied by him or under his control, knowingly permit the setting up, managing or drawing of any such lottery or gift enterprise, or the sale of any lottery ticket or share of a ticket, or any other writing, certificate, bill, goods, chattels or merchandise, token or other device purporting or intended to entitle the holder or bearer or other person to any prize or gift, or to any share of or interest in any prize or gift to be drawn in any such lottery or gift enterprise, or who shall knowingly suffer money or other property to be raffled for in such house, shop or building, or to be there won by throwing or using dice, or by any other game or course of chance, shall for every such offense be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.372. This section supersedes Sec. 1 of Ch. 160 of the R.S. 1846, being CL 1857, 5891;—Am. 1867, p. 122, Act 86, Eff. June 27;—CL 1871, 7735;—How. 9331;—CL 1897, 11344;—CL 1915, 15050;—CL 1929, 16613.

SEARCH WARRANTS: See Compilers' § 780.651 et seq.

750.372a Game promotion; defined; force or coercion to purchase, presumption; predetermining identity of one entitled to prize; disclosing description, amount, number of prizes; penalty, misdemeanor.

Sec. 372a. (a) For purposes of this section, the term game promotion shall mean any game or contest in which the elements of chance and prize are present but in which the element of consideration is not present.

(b) No person shall force or coerce his lessee, agent or franchise dealer to purchase game promotions. For the purposes of this subsection, coercion or force may be presumed in those circumstances in which a course of business conduct extending over a period of 1 year or longer between a lessor and lessee or a principal and agent or an owner and franchise dealer is materially changed coincident with a failure or refusal of a lessee, agent or franchise dealer to purchase game promotions.

(c) No person who shall conduct a game promotion within this state shall, in connection with such promotion, predetermine the identity of any individual entitled to receive a prize in such game promotion.

(d) Any person who shall conduct a game promotion within this state shall disclose to participants as to such game promotion, on a prominent poster in case such game promotion is conducted by a retail outlet, or on any card, game piece, entry blank or any other paraphernalia required for participation in a game promotion in case such game promotion is not conducted in a retail outlet, the geographic area or number of outlets in which the game promotion is proposed to be conducted, an accurate description of each type of prize to be made available, the minimum number and minimum amount of cash prizes to be made available and the minimum number of each other type of prize to be made available.

(e) Any person guilty of a violation of this section, shall be guilty of a misdemeanor.

HISTORY: Add. 1968, p. 673, Act 348, Eff. Nov. 15.

750.373 Game promotion; tickets; selling, possession, exchange.

Sec. 373. Selling, etc., lottery or gift enterprise tickets—Any person who shall sell either for himself or for any other person, or shall offer for sale, or shall have in his possession with intent to sell or offer for sale, or to exchange or negotiate, or shall in any wise aid or assist in the selling, negotiating or disposing of a ticket in any such lottery

or gift enterprise, or a share of a ticket, or any such writing, certificate, bill, goods or merchandise, token or other device as mentioned in the next preceding section, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.373. This section supersedes Sec. 2 of Ch. 160 of the R.S. 1846, being CL 1857, 5692;—Am. 1867, p. 122, Act 66, Eff. June 27;—CL 1871, 7736;—How. 9332;—CL 1897, 11345;—CL 1915, 15051;—CL 1929, 16614.

750.374 Game promotion; second offense.

Sec. 374. Second offense—If any person shall, after being convicted of any offense mentioned in either of the 2 next preceding sections, commit the like offense, or any other of the offenses therein mentioned, he shall be guilty of a felony.

HISTORY: CL 1948, 750.374. This section supersedes Sec. 3 of Ch. 160 of the R.S. 1846, being CL 1857, 5693;—Am. 1867, p. 123, Act 66, Eff. June 27;—CL 1871, 7737;—How. 9333;—CL 1897, 11346;—CL 1915, 15052;—CL 1929, 16615.

750.375 Game promotion; advertising, printing, publishing tickets.

Sec. 375. Advertising, printing, etc., lottery tickets or gift enterprises—Any person who shall advertise, print or publish any lottery ticket or gift enterprise, or any share in any such ticket, for sale either by himself or by another person, or who shall set up or exhibit, or shall devise and make for the purpose of being set up and exhibited, any sign, symbol or any emblematic or other representation of a lottery or gift enterprise, or of the drawing thereof, in any way indicating where a lottery ticket or a share thereof, or any such writing, certificate, bill, goods, merchandise or chattels, token or other device, before mentioned, may be purchased or obtained, or shall in any way invite or entice, or attempt to entice, any other person to purchase or receive the same, he shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.375. This section supersedes Sec. 4 of Ch. 160 of the R.S. 1846, being CL 1857, 5694;—Am. 1867, p. 123, Act 66, Eff. June 27;—CL 1871, 7738;—How. 9334;—CL 1897, 11347;—CL 1915, 15053;—CL 1929, 16616.

750.376 Extent of application of chapter.

Sec. 376. Extent of application of chapter—The provisions of this chapter shall extend and apply in every particular to lotteries owned and carried on in any other state.

HISTORY: CL 1948, 750.376. This section re-enacts except changes "act" to "chapter", Sec. 5 of Ch. 160 of the R.S. 1846, Add. 1859, p. 875, Act 237, Eff. May 18;—CL 1871, 7739;—How. 9335;—CL 1897, 11348;—CL 1915, 15054;—CL 1929, 16617.

CHAPTER LVI

MALICIOUS AND WILFUL MISCHIEF AND DESTRUCTION

750.377 Maliciously destroying or injuring animals; poisoning.

Sec. 377. Maliciously destroying or injuring animals and personal property—Any person who shall wilfully and maliciously kill, maim, or disfigure any horses, cattle, or other beasts of another, or shall wilfully and maliciously administer poison to any such horses, cattle or other beasts, or expose any poisonous substance with intent that the same should be taken or swallowed by them, shall be guilty of a felony.

HISTORY: Am. 1941, p. 48, Act 51, Eff. Jan. 10, 1942;—CL 1948, 750.377. This section as originally enacted superseded Sec. 45 of Ch. 154 of the R.S. 1846, being CL 1857, 5789;—CL 1871, 7596;—How. 9167;—CL 1897, 11581;—CL 1915, 15326;—CL 1929, 16622.

750.377a Malicious destruction of property; personality.

Sec. 377a. Any person who shall wilfully and maliciously destroy or injure the personal property of another, by any means not particularly mentioned or described in the preceding section, if the damage resulting from such injury shall exceed \$100.00, shall be guilty of a felony. If the damage done shall be \$100.00 or less, such person shall be guilty of a misdemeanor.

HISTORY: Add. 1941, p. 48, Act 51, Eff. Jan. 10, 1942;—CL 1948, 750.377a;—Am. 1957, p. 76, Act 69, Eff. Sep. 27.

750.377b Malicious destruction of property; property of police or fire department.

Sec. 377b. Maliciously destroying or injuring certain personal property—Any person who shall wilfully and maliciously destroy or injure the personal property of any fire or police department, including the Michigan state police, shall be guilty of a felony.

HISTORY: Add. 1941, p. 316, Act 209, Eff. Jan. 10, 1942;—CL 1948, 750.377b.

750.378 Malicious destruction of property; dam, reservoir, canal, trench.

Sec. 378. Maliciously destroying, injuring, etc., dams, canals, etc.—Any person who shall wilfully and maliciously break down, injure, remove, or destroy any dam, reservoir, canal or trench, or any gate, flume, flash-boards, or other appurtenances thereof, or any levee or structure for the purpose of conveying water to any such dam or reservoir, or any of the wheels, mill-gear, or machinery of any mill, or shall wilfully or wantonly, without color of right, draw off the water contained in any millpond, reservoir, canal, or trench, shall be guilty of a felony.

HISTORY: CL 1948, 750.378. This section supersedes Sec. 46 of Ch. 154 of the R.S. 1846, being CL 1857, 5790;—CL 1871, 7597;—Am. 1875, p. 239, Act 211, Eff. Aug. 3;—How. 9168;—CL 1897, 11582;—CL 1915, 15327;—CL 1929, 16923.

750.379 Malicious destruction of property; bridges.

Sec. 379. Maliciously injuring or destroying bridges, etc.—Any person who shall wilfully and maliciously break down, injure, remove or destroy any public or toll bridge, or any railroad, or any lock in any dam, or any lock, culvert or embankment of any canal, or who shall wilfully and maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be guilty of a felony.

HISTORY: CL 1948, 750.379. This section supersedes Sec. 47 of Ch. 154 of the R.S. 1846, being CL 1857, 5791;—CL 1871, 7598;—How. 9169;—CL 1897, 11583;—CL 1915, 15328;—CL 1929, 16924.

750.380 Malicious destruction of property; house, barn or building of another.

Sec. 380. Any person who shall wilfully and maliciously destroy or injure any house, barn, or other building of another, or the appurtenances thereof, if the damage resulting from such injury shall exceed \$100.00, shall be guilty of a felony. If the damage done shall be \$100.00 or less, he shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.38;—Am. 1857, p. 76, Act 69, Eff. Sep. 27.

This section supersedes Sec. 48 of Ch. 154 of the R.S. 1846, being CL 1857, 5792;—CL 1871, 7599;—Am. 1877, p. 20, Act 31, Eff. Aug. 21;—How. 9170;—CL 1897, 11584;—CL 1915, 15329;—CL 1929, 16925.

750.381 Malicious destruction of property; fences or opening gates.

Sec. 381. Maliciously breaking down or injuring fences or opening gates, etc.—Any person who shall maliciously break down, injure, mar or deface any fence belonging to or enclosing lands not his own, or shall maliciously throw down or open any gate, bars or fence, and leave the same down or open, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.381. This section supersedes part of Sec. 49 of Ch. 154 of the R.S. 1846, Am. 1848, p. 314, Act 206, Eff. June 2;—Am. 1849, p. 40, Act 47, Imd. Eff. Feb. 27;—CL 1857, 5793;—CL 1871, 7600;—How. 9171;—CL 1897, 11585;—CL 1915, 15330;—CL 1929, 16926.

750.382 Malicious destruction of property; trees.

Sec. 382. Maliciously injuring or destroying fruit, shade or ornamental trees—Any person who shall wilfully and maliciously, or wantonly and without cause, cut down or destroy or otherwise injure any tree or shrub not his own, standing or growing on the land of another, the damage for which said cutting down, destruction or injury to the owner or owners of said tree or shrubs shall amount to the sum of more than 50 dollars shall be guilty of a felony. If the damage shall amount to 50 dollars or less, such person shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.382. This section supersedes with addition, part of Sec. 49 of Ch. 154 of the R.S. 1846, Am. 1848, p. 314, Act 206, Eff. June 2;—Am. 1849, p. 40, Act 47, Imd. Eff. Feb. 27;—CL 1857, 5793;—CL 1871, 7600;—How. 9171;—CL 1897, 11585;—CL 1915, 15330;—CL 1929, 16926; and Sec. 1 of Act 174 of 1855, being CL 1857, 5801;—CL 1871, 7610;—Am. 1875, p. 232, Act 202, Eff. Aug. 3;—How. 9194;—CL 1897, 11647;—CL 1915, 15416;—CL 1929, 17003.

750.383 Malicious destruction of property; boundary markers; defacing inscriptions, buildings and sign boards; light bulbs.

Sec. 383. Maliciously injuring or destroying boundary markers, guide posts, etc.—Any person who shall wilfully or maliciously break down, injure, remove or destroy any monument erected for the purpose of designating the boundaries of this state or any municipality thereof, or of any tract or lot of land, or any tree marked for that purpose, or shall so break down, injure, remove or destroy any milestone, mileboard, guidepost or guide board, lawfully erected upon any highway, or other public way or railroad, or shall wilfully or maliciously deface, or alter the inscription on any such stone, post or board, or shall wilfully or maliciously mar or deface any building or sign board, or extinguish any lamp, or break, injure, destroy or remove any gas lamp, oil lamp, electric light globe or bulb, or any railing or lamp post, erected on any bridge, sidewalk, street, highway, court or passage, or shall wilfully or maliciously injure, remove, deface or destroy any board or structure lawfully erected or used for the posting of bills, posters, or other notices, or shall wilfully or maliciously mutilate, deface or destroy any bill, poster, or other printed or written notice lawfully posted on any board or structure used for that purpose, without the consent of the owner or occupant thereof, shall be guilty of a misdemeanor.

HISTORY: Am. 1941, p. 286, Act 190, Imd. Eff. June 16;—CL 1948, 750.383. This section as originally enacted superseded Sec. 50 of Ch. 154 of the R.S. 1846, being CL 1857, 5794;—CL 1871, 7801;—Am. 1877, p. 83, Act 106, Eff. Aug. 21;—How. 9172;—CL 1897, 11596;—Am. 1913, p. 543, Act 280, Eff. Aug. 14;—CL 1915, 15331;—CL 1929, 16927.

TELEGRAPH ACT: See Compilers' § 484.157.

750.383a Malicious destruction of property; wilfully cutting, breaking, obstructing, destroying or manipulating without authority utility equipment or appliances.

Sec. 383a. Any person or persons who shall wilfully cut, break, obstruct, injure, destroy, tamper with or manipulate any machinery, tools, equipment, telephone line or post, telegraph line or post, electric line, post, tower or supporting structures, electric wire, insulator, switch or signal, natural gas pipe line, water pipe line, steam heat pipe line or the valves or other appliances or equipment appertaining to or used in connection with such lines, or any other appliance whether herein particularly mentioned or not, being the property of any utility, with the intention and without authority to interrupt or disrupt communications or electric, gas, water or steam heat service, or to curtail or impair the utilization thereof, or who shall conspire, aid, abet in or cause to be done any such unlawful acts, shall be guilty of a felony.

“Utility” includes any pipe line, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication or other system, by whomsoever owned or operated for the public use.

HISTORY: Add. 1941, p. 286, Act 190, Imd. Eff. June 16;—Am. 1947, p. 66, Act 61, Imd. Eff. April 28;—CL 1948, 750.383a.

750.384 Malicious destruction of property; logs, timber.

Sec. 384. Maliciously injuring logs, timber, etc.—Any person who shall wilfully and maliciously drive, or cause to be driven or imbedded, any nail, spike, or piece of iron, steel or other metallic substance into any timber, log, or bolt which may now be or may hereafter be put on the banks of or in any of the waters, or any mill yards of this state for the purposes of being made into lumber or marketed, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.384. This section supersedes Sec. 1 of Act 162 of 1869, being CL 1871, 7618;—How. 9183;—CL 1897, 11596;—CL 1915, 15351;—CL 1929, 17009.

750.385 Malicious destruction of property; signs, bills and notices placed on private property.

Sec. 385. Destroying and injuring signs, bills and notices placed on private property—Any person who shall wilfully tear down, destroy or in any manner deface any

signs, bill or notices on any private lands of this state, or on any lots or premises in any township, city or village shall be guilty of a misdemeanor: Provided, That such signs, bill or notices are not in violation of any general law of the state or municipal ordinance, and were placed by the owner or lessee or by their consent.

HISTORY: CL 1948, 750.385. This section supersedes with addition and merges Sec. 1 of Act 89 of 1897, being CL 1897, 11606;—CL 1915, 15371;—CL 1929, 17004; and Sec. 2 of Act 89 of 1897, being CL 1897, 11607;—CL 1915, 15372;—CL 1929, 17005.

750.386 Malicious destruction of property; machinery and appliances.

Sec. 386. Maliciously injuring or destroying machinery and appliances used for pumping, signaling or hoisting of men or materials in mines—Any person who shall wilfully and maliciously cut, break, obstruct, injure or destroy or cause to be cut, broken, obstructed, injured or destroyed, any pump, pumprod, man-engine, ladder, ladderway, skip, skip-track, car, car-track, bell, signal, rope, cable, cage, air-compressor, steam boiler, electric generator, or any other appliance or thing whether herein particularly mentioned or not, the same being above ground or under ground in any mine, used for or connected with the hoisting or pumping apparatus, or means of conveyance or escape from any mine; or any stull, timber, plank, platform or other appliance or other thing, whether herein particularly mentioned or not, used for or connected with securing or upholding rock, or used for or connected with the purpose of securing the safety of workmen, the same being under ground in any mine; or shall do the like to any engine house, boiler house, electrical generator house, shaft house or any other structure above ground containing machinery or appliances [appliances] used for or connected with the pumping, signaling or hoisting of men or materials, or with securing the safety of workmen underground, such mine not being then and there an abandoned mine, shall be guilty of felony, punishable by imprisonment in the state prison not more than 20 years, or by fine of not more than 10,000 dollars.

HISTORY: CL 1948, 750.386. This section supersedes Sec. 1 of Act 2 of 1889, being How. 9209b;—CL 1897, 11651;—CL 1915, 15422;—Am. 1927, p. 37, Act 31, Eff. Sept. 4;—CL 1929, 17017.

750.387 Malicious destruction of property; tombs and memorials to dead.

Sec. 387. Wilfully destroying or injuring tombs and memorials of the dead—Any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb or other thing intended for the protection or for the ornament of any tomb, monument, gravestone or other structure before mentioned, or of any inclosure for the burial of the dead, or who shall wilfully destroy, mutilate, remove, cut, break or injure any tree, shrub or plant, placed or being within any such enclosure, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.387. This section supersedes Sec. 22 of Ch. 158 of the R.S. 1846, being CL 1857, 5877;—CL 1871, 7712;—How. 9296;—CL 1897, 11711;—CL 1915, 15485;—CL 1929, 16637.

750.388 Malicious destruction of property; personal property seized by legal process.

Sec. 388. Removing, injuring or destroying personal property seized by legal process—Any person or persons who shall remove, destroy, damage or dispose of any personal property that shall have been seized by due process of law issued from any court of competent jurisdiction in this state, while such seizure or levy is in force, without first giving the bond or other security therefor, if any, required by law, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.388. This section supersedes Sec. 1 of Act 164 of 1887, being How. 9186a;—CL 1897, 11617;—CL 1915, 15381;—CL 1929, 16645; and Sec. 2 of Act 164 of 1887, being How. 9186b;—CL 1897, 11618;—CL 1915, 15382;—CL 1929, 16646.

750.389 False or malicious statements re insurance companies.

Sec. 389. False or malicious statements regarding fraternal beneficiary societies, insurance companies, etc.—Any person who shall make, utter, circulate or transmit to

another or others, any untrue, false or malicious statement, as to the financial condition of any fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer doing business in this state, and shall thereby injure any such fraternal beneficiary society, insurance company, reciprocal exchange or other insurer, or who shall counsel, aid, procure or induce another to originate, make, utter, transmit or circulate any such statement with like purpose shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.389. This section supersedes Sec. 1 of Act 283 of 1923, being CL 1929, 12674.

750.390 Malicious annoyance by writing.

Sec. 390. Malicious annoyance by writing—Any person who shall knowingly send or deliver or shall make, and for the purpose of being delivered or sent, shall part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with a view or intent to extort or gain any money or property of any description belonging to another, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.390. This section supersedes Sec. 1 of Act 162 of 1883, being How. 9315b;—CL 1897, 11764;—CL 1915, 15575;—CL 1929, 16814.

750.391 Maliciously injuring or mutilating library books.

Sec. 391. Maliciously injuring or mutilating library books—Any person who shall wilfully, maliciously or wantonly tear, deface or mutilate or write upon, or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.391. This section supersedes Sec. 1 of Act 3 of 1881, being How. 9210;—CL 1897, 11640;—Am. 1911, p. 74, Act 58, Eff. Aug. 1;—CL 1915, 15406;—CL 1929, 17019.

PUBLIC LIBRARIES: State library, see Compilers' § 397.51 et seq.; local libraries, see Compilers' § 397.201 et seq.

CITY COUNCIL: Power to pass ordinances imposing penalty for injury to library property, see Compilers' § 397.208.

TOWNSHIP BOARD: Power to make rules for protection of library, see Compilers' § 340.901 et seq.

750.392 Vessels, wilfully destroying.

Sec. 392. Wilfully destroying vessels, etc.—Any person who shall wilfully cast away, burn, sink or otherwise destroy any ship, boat or vessel within the body of any county, with intent to injure or defraud any owner of such ship, boat or vessel, or the owner of any property on board the same, or any insurer of such ship, boat or vessel or property or any part thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: CL 1948, 750.392. This section supersedes Sec. 41 of Ch. 154 of the R.S. 1846, being CL 1857, 5785;—CL 1871, 7592;—How. 9163;—CL 1897, 11577;—CL 1915, 15322;—CL 1929, 16918.

750.393 Buoy or beacon, wilfully removing or destroying.

Sec. 393. Wilfully removing or destroying buoy or beacon—Any person who shall wilfully remove or destroy any buoy or beacon placed in any of the waters of the state, by the authority of the United States, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.393.

750.394 Train, car, or vehicle, throwing stone or missile at.

Sec. 394. Throwing stone or missile at train, automobile, etc.—Any person who shall throw any stone, brick or other missile at any passenger train, sleeping car, passenger

coach, express car, mail car, baggage car, locomotive, caboose, freight train or at any street car, trolley car or motor vehicle, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.394. This section supersedes Sec. 1 of Act 246 of 1907, being CL 1915, 8448;—Am. 1923, p. 4, Act 2, Eff. Aug. 30;—CL 1929, 17038.

750.395 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Section prohibited publishing and circulating of false and malicious statements about candidate for public office.

CHAPTER LVII

MASKS AND DISGUISES

750.396 Wearing masks or face coverings in public.

Sec. 396. Wearing masks or face coverings in public—Any person who shall assemble, march or parade on any street, highway or public place in this state while wearing a mask or covering which conceals in whole or in part, the face of the wearer, shall be guilty of a misdemeanor: Provided, This chapter shall not apply to the pranks of children on Hallowe'en, to those going to and from masquerade parties, to those participating in any public parade of an educational, religious or historical character and to those participating in the parades of minstrel troupes, circuses or other amusement or dramatic shows.

HISTORY: CL 1948, 750.396. This section supersedes Sec. 1 of Act 276 of 1923, being CL 1929, 16809; and Sec. 2 of Act 276 of 1923, being CL 1929, 16810.

CHAPTER LVIII

MAYHEM

750.397 Mayhem.

Sec. 397. Mayhem—Any person who, with malicious intent to maim or disfigure, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or cut off or disable a limb, organ or member, of any other person, and every person privy to such intent, who shall be present, aiding in the commission of such offense, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.397. This section supersedes Sec. 11 of Ch. 153 of the R.S. 1846, being CL 1857, 5721;—CL 1871, 7520;—How. 9085;—CL 1897, 11480;—CL 1915, 15202;—CL 1929, 16718.

CHAPTER LIX

MILITARY

750.398 Member of state militia; depriving or obstructing employment.

Sec. 398. Depriving or obstructing employment of one because he is a member of state militia—Any person who shall either by himself or another deprive a member of the organized militia of this state of employment or prevent, obstruct or annoy any such member or his employer in respect of such employment because such member is commissioned or enlisted in the organized militia of this state or because such person performs military duty under orders from competent authority; and any person who shall dissuade any other person from enlisting in the organized militia of this state by threats of injury, in case he shall enlist, in respect of his employment, trade or business, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.398. This section supersedes and merges Sec. 1 of Act 194 of 1909, being CL 1915, 971;—CL 1929, 728; and Sec. 4 of Act 194 of 1909, being CL 1915, 974;—CL 1929, 731.

750.399 Member of state militia; discrimination.

Sec. 399. Discrimination by associations, etc., against a member of the state militia—Any association or corporation constituted or organized for the purpose of promoting the success of any trade, employment or business of the members thereof and any association whose membership is confined to persons of a particular race, which

shall, by any constitution, rule, by-law, regulation, vote or resolution discriminate against any member of the organized militia of this state in respect to the eligibility of the officer or soldier to membership in such association or corporation, or in respect to his right to retain his membership in such association or corporation, and any person who shall aid in enforcing any such provision against any officer or soldier of the organized militia of this state with intent to discriminate against such member on account of his membership, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.399. This section supersedes and merges Sec. 2 of Act 194 of 1909, being CL 1915, 972;—CL 1929, 729; and Sec. 4 of Act 194 of 1909, being CL 1915, 974;—CL 1929, 731.

750.400 Member of state militia; molesting or abusing.

Sec. 400. Molesting or abusing member of state militia because of such membership—Any person who shall unlawfully molest, insult or abuse any member of the organized militia of this state while in the performance of military duty, or unlawfully molest, insult or abuse any such member because of his membership or on account of the performance of military duty while a member, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.400. This section supersedes and merges Sec. 3 of Act 194 of 1909, being CL 1915, 973;—CL 1929, 730; and Sec. 4 of Act 194 of 1909, being CL 1915, 974;—CL 1929, 731.

750.401 Army, navy or national guard uniform, unauthorized wearing.

Sec. 401. Unauthorized wearing of army, navy or national guard uniform—Any person other than an officer or enlisted man of the national guard of the state of Michigan, or of any other state, or of the United States army or navy, marine corps or revenue service or forest service, or instructor or student in a military school, or inmate of any veterans' or soldiers' home, who at any time wears the uniform of the United States army or navy or national guard, or any part of such uniform, or a uniform or part of a uniform similar thereto, within the bounds of the state of Michigan, shall be guilty of a misdemeanor: Provided, That nothing in this section shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theatre while actually engaged in following said profession: Provided further, That nothing in this section shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room: Provided further, That whenever the national guard or any part thereof is in active service, or is called into actual service, no civic organization or member thereof shall parade or appear in uniform in the locality where said national guard is in service.

HISTORY: CL 1948, 750.401. This section supersedes Sec. 1 of Act 201 of 1909, being CL 1915, 998;—CL 1929, 911.

750.402 Societies parading under arms.

Sec. 402. Certain societies parading under arms—Any society whose membership is confined to members of a certain race, which has heretofore adopted a uniform similar to the uniform of the organized militia of this state, may continue to wear the same when appearing in public, but the governor of this state may, by a proper order, in times of public tumult, direct that such societies shall not parade under arms, and if any society disobey such order, the persons so violating said order shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.402. This section supersedes Sec. 2 of Act 201 of 1909, being CL 1915, 999;—CL 1929, 912.

750.403 Desertion from military service.

Sec. 403. Desertion from military service—Any commissioned officer, non-commissioned officer, musician or private who shall desert the service of the United States, or of this state, shall, unless claimed and punished under the authority and by the law of the United States, be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years; and it shall be the duty of any sheriff, undersheriff, deputy sheriff, constable, city or village marshal, to arrest any such deserter wherever he may be found in this state, whenever such officer shall have knowledge,

or reasonable evidence, by affidavit, of such desertion, and shall thereupon forthwith notify the adjutant general of this state.

HISTORY: CL 1948, 750.403. This section supersedes Sec. 1 of Act 128 of 1863, being CL 1871, 7761;—How. 9358;—CL 1897, 11387;—CL 1915, 15105;—CL 1929, 16638.

750.404 Desertion from military service; after having been sworn into.

Sec. 404. Desertion after having been sworn into service—Any person who shall have enlisted into the service of the United States, or of this state, and who shall have been sworn into such service, or who shall offer himself as a substitute for a citizen of this state, duly drafted into the service of the United States or of this state and shall, after having been duly sworn into such service, desert the same, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.404. This section supersedes Sec. 6 of Act 128 of 1863, being CL 1871, 7766;—How. 9363;—CL 1897, 11392;—CL 1915, 15110;—CL 1929, 16643.

750.405 Desertion from military service; inciting.

Sec. 405. Inciting soldiers to desert—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall maliciously and advisedly endeavor to seduce any person or persons serving in the forces of the United States or of this state, by land or water, from his or their duty and allegiance, or who shall incite or stir up any such person or persons to commit any act of mutiny, or to desert, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

HISTORY: CL 1948, 750.405. This section supersedes Sec. 2 of Act 128 of 1863, being CL 1871, 7762;—How. 9359;—CL 1897, 11388;—CL 1915, 15106;—CL 1929, 16639.

750.406 Military stores, larceny, embezzlement or destruction.

Sec. 406. Larceny, embezzlement or destruction of military stores—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall wilfully and maliciously embezzle, steal, injure, destroy or secrete any arms or ammunition, or military stores or equipments of the United States, or of this state, or of any officer, soldier or soldiers in the service of the United States, or of this state, or shall wilfully and maliciously destroy, remove or injure any buildings, machinery or material used or intended to be used in the making, repairing or storing of any arms, ammunition, military stores or equipments for the service of the United States, or of this state, whether such buildings, machinery or materials be public or private property, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.406. This section supersedes Sec. 3 of Act 128 of 1863, being CL 1871, 7763;—How. 9360;—CL 1897, 11389;—CL 1915, 15107;—CL 1929, 16640.

750.407 Military draft; resisting and inciting resistance.

Sec. 407. Resisting and inciting resistance to military draft—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall forcibly resist any military draft ordered by the authority of the United States, or of this state, or shall incite, encourage or command any other person or persons so to resist such draft, or shall unlawfully and wilfully dissuade, discourage or endeavor to hinder any other person or persons from volunteering, enlisting or mustering into the military service of the United States, or of this state, or shall forcibly resist, or attempt to resist, such volunteering, enlisting or mustering into such service, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.407. This section supersedes Sec. 4 of Act 128 of 1863, being CL 1871, 7764;—How. 9361;—CL 1897, 11390;—CL 1915, 15108;—CL 1929, 16641.

750.408 Deserters, concealing or harboring.

Sec. 408. Concealing or harboring deserters—Any person who shall conceal or harbor any soldier or volunteer enlisted in the service of the United States, or of this state, knowing him to have deserted, and with intent to aid him in such desertion, or shall refuse to deliver him up to the orders of his commanding officer, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.408. This section supersedes Sec. 5 of Act 128 of 1863, being CL 1871, 7765;—How. 9362;—CL 1897, 11391;—CL 1915, 15109;—CL 1929, 16642.

CHAPTER LX

MISCELLANEOUS

750.409 Convict or jail or prison inmate, taunting, accusing.

Sec. 409. Taunting and accusing one of having been a convict or inmate of a jail, etc.—Any person who shall taunt or otherwise accuse another of having been a convict or an inmate of any jail, prison or reformatory shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.409. This section supersedes and merges Sec. 1 of Act 249 of 1907, being CL 1915, 15279;—CL 1929, 16615; and Sec. 2 of Act 249 of 1907, being CL 1915, 15280;—CL 1929, 16616.

750.410 Soliciting personal injury claims; exceptions.

Sec. 410. Any person, firm, copartnership, association or organization of any kind, either incorporated or unincorporated, or any of the officers, agents, servants, employees, or members of any such person, firm, copartnership, association or organization of any kind, either incorporated or unincorporated, or of any division, bureau or committee of such association or organization, either incorporated or unincorporated, who shall directly or indirectly, individually or by agent, servant, employee, or member, solicit any person injured as the result of an accident, his administrator, executor, heirs or assigns, his guardian, or members of the family of the injured person, for the purpose of representing such person in making claim for damages or prosecuting any action or causes of action arising out of any personal injury claim against any other person, firm or corporation, or to employ counsel for the purpose of such solicitation, shall be guilty of a misdemeanor, and shall upon conviction thereof, if a natural person, be punished by a fine not to exceed \$500.00, or by imprisonment in the county jail for a term not to exceed 6 months, or by both such fine and imprisonment, in the discretion of the court. The same penalties shall apply upon conviction to a member of a copartnership, or any officer or agent of any corporation, association or other organization, or any officer or agent, who shall consent to, participate in, or aid or abet any violation of this section upon the part of the copartnership of which he is a member, or of the corporation, association or organization of which he is such an officer or agent. Any contract entered into as a result of such solicitation shall be void: Provided, however, That nothing herein shall affect an unsolicited contract entered into by any person, firm or corporation with an attorney duly admitted to practice law in this state.

HISTORY: Am. 1947, p. 164, Act 123, Eff. Oct. 11;—CL 1948, 750.410. This section as originally enacted superseded and merged Sec. 1 of Act 280 of 1925, being CL 1929, 13807; and Sec. 2 of Act 280 of 1925, being CL 1929, 13808.

750.410a Conspiring to commit person to institution for mental incompetents deemed felony.

Sec. 410a. Any person who shall conspire with another person or persons to commit any person to an institution for mental incompetents without just and reasonable grounds therefor shall be deemed guilty of a felony.

HISTORY: Add. 1949, p. 112, Act 108, Eff. Sep. 23.

750.411 Reporting injuries by hospitals, pharmacies, physicians.

Sec. 411. Reporting personal injuries by hospitals, pharmacies and physicians—It shall be the duty of every person, firm or corporation conducting any hospital or phar-

macy in this state, or the person managing or in charge of such hospital or pharmacy, or in charge of any ward or part of such hospital, to which any person or persons suffering from any wound or other injury inflicted by means of a knife, gun, pistol or other deadly weapon, or by other means of violence shall come or be brought, to report the same immediately, both by telephone and in writing, to the chief of police or other head of the police force of the village or city in which such hospital or pharmacy is located, or to the sheriff of the county, if such hospital or pharmacy is located outside the incorporated limits of a village or city. Such report shall state the name and residence of such person, if known, his whereabouts and the character and extent of such injuries. It shall also be the duty of every physician, or surgeon, who has under his charge or care any person suffering from any wound or injury, inflicted in the manner above mentioned, to make a like report to the appropriate officers hereinabove named.

Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor.

History: CL 1948, 750.411.

750.411a Fictitious crimes, report to police officers, bomb scares.

Sec. 411a. Any person who shall wilfully and knowingly make to any member of the Michigan state police, any sheriff or deputy sheriff, or any police officer of any city or village, or any other peace officer of this state, a fictitious report of the commission of any crime knowing the same to be false, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 90 days or by a fine of not more than \$100.00. If the report of fictitious crime relates to a bombing, an attempted bombing, or threat to bomb and said report shall be wilfully and knowingly communicated to any of the aforementioned peace officers, or to any other person, then the person making such fictitious report shall be deemed to be guilty of a misdemeanor.

HISTORY: Add. 1941, p. 22, Act 24, Eff. Jan. 10, 1942;—CL 1948, 750.411a;—Am. 1958, p. 62, Act 58, Eff. Sep. 13.

750.411b Excess fees to members of legislature, for services.

Sec. 411b. It shall be unlawful for any person after he has been elected or while he is a member of the state legislature to be employed by any person, firm, association or corporation who shall pay or agree to pay for the services rendered or to be rendered any moneys or other valuable consideration in excess of the reasonable value of such service if the same was performed by a person not a member of the legislature when such person, firm, association or corporation will directly or indirectly benefit from the passage of any bill or law or the defeat of any bill or law by the state legislature whether the subject matter of the employment is related to proposed legislation or not. It shall be unlawful for any person who is a member of the legislature to accept payment for any services which he shall perform exclusively in connection with the passage or defeat of any bill, act or amendment thereto.

Any person violating any of the provisions of this section shall be guilty of a felony.

HISTORY: Add. 1945, p. 206, Act 146, Eff. Sept. 6;—CL 1948, 750.411b.

750.411c Asphyxia or death from submersion in water, reports, investigations, penalty.

Sec. 411c. (1) Every physician or surgeon, having under his care a person who suffers from asphyxia or dies due to submersion in water, shall report same to any peace officer, the nearest state police post or the sheriff of the county in which the injury or death occurred. Every coroner or medical examiner who completes a death certificate attributing death to drowning shall make a like report to the appropriate officers hereinabove named.

(2) The officer receiving the report shall investigate the circumstances surrounding the injury or death and shall submit a complete report to the director of state police on

forms prescribed by him. The department of natural resources shall receive from the director of state police a copy of the officer's report where the asphyxia or death occurred in waters under the jurisdiction of that department.

(3) Any person violating any provision of this section shall be guilty of a misdemeanor.

HISTORY: Add. 1982, p. 167, Act 164, Eff. Mar. 28, 1983;—Am. 1989, p. 383, Act 201, Eff. Mar. 20, 1970.

CHAPTER LXI

MOTOR VEHICLES

750.412 Definition.

Sec. 412. Definition—The term “motor vehicle” as used in this chapter shall include all vehicles impelled on the public highways of this state by mechanical power, except traction engines, road rollers and such vehicles as run only upon rails or tracks.

HISTORY: CL 1948, 750.412.

750.413 Motor vehicle; taking possession and driving away.

Sec. 413. Taking possession of and driving away a motor vehicle—Any person who shall, wilfully and without authority, take possession of and drive or take away, and any person who shall assist in or be a party to such taking possession, driving or taking away of any motor vehicle, belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

HISTORY: CL 1948, 750.413. This section supersedes Sec. 1 of Act 44 of 1907, being CL 1915, 15430;—Am. 1917, p. 472, Act 220, Eff. Aug. 10;—Am. 1919, p. 551, Act 313, Eff. Aug. 14;—Am. 1927, p. 62, Act 50, Imd. Eff. April 18;—CL 1929, 16969.

750.414 Motor vehicle; use without authority but without intent to steal.

Sec. 414. Use of motor vehicle without authority but without intent to steal—Any person who takes or uses without authority any motor vehicle without intent to steal the same, or who shall be a party to such unauthorized taking or using, shall upon conviction thereof be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years or by a fine or [of] not more than 1,000 dollars: Provided, That in case of first offense the court may in its discretion reduce the punishment to imprisonment in the county jail for a term of not more than 3 months or a fine of not more than 100 dollars: Provided further, That the provisions of this section shall be construed to apply to any person or persons employed by the owner of said motor vehicle or any one else, who, by the nature of his employment, shall have the charge of or the authority to drive said motor vehicle if said motor vehicle is driven or used without the owner's knowledge or consent.

HISTORY: CL 1948, 750.414. This section supersedes Sec. 1 of Act 33 of 1909, being CL 1915, 15431;—CL 1929, 16970.

STOLEN VEHICLE: Report, see Compilers' § 257.252.

750.414a Unlawful possession of motor vehicle master key; definition; exceptions; penalty.

Sec. 414a. (a) Except as provided in subsection (c) of this section, no person shall have a motor vehicle master key in his possession.

(b) As used in this section, “motor vehicle master key” means a key which is designed to open locks on more than one motor vehicle but excludes keys supplied with the motor vehicle by the manufacturer or dealer or the exact duplicate of such keys, and excludes keys supplied with replacement locks or the exact duplicate of such keys.

(c) The provisions of subsection (a) shall not apply to the following:

(1) Keys in the possession of garage mechanics, parking lot attendants or others engaged in the business of repairing or storing motor vehicles.

(2) Keys in the possession of law enforcement officers.

(3) Keys in the possession of locksmiths, key makers or other persons engaged in the business of making, altering, duplicating or repairing locks or keys.

(d) Violation of the provisions of this section shall be a misdemeanor.

HISTORY: Add. 1966, p. 394, Act 272, Eff. Mar. 10, 1967.

750.415 Motor vehicle; concealing and misrepresenting identity.

Sec. 415. Concealing and misrepresenting identity of motor vehicle by removing serial number, etc.—Any person who shall conceal or misrepresent the identity of a motor vehicle or of any mechanical device, by removing or defacing the manufacturer's serial number or the engine or motor number on such motor vehicle, or by replacing any part of such motor vehicle or mechanical device bearing the serial number or engine or motor number thereof if any, with a new part, upon which the proper serial number or engine or motor number has not been stamped, shall be guilty of a misdemeanor.

In all prosecutions under this section, possession by any person of any motor vehicle, or of any mechanical device with the manufacturer's serial number or the engine or motor number removed, defaced, destroyed or altered or with a part bearing such number or numbers replaced by one on which the proper number does not appear, shall be prima facie evidence of violation of the provisions of this section.

HISTORY: CL 1948, 750.415. This section supersedes and merges Sec. 1 of Act 182 of 1917, Am. 1919, p. 205, Act 115, Eff. Aug. 14;—Am. 1929, p. 296, Act 129, Eff. Aug. 28;—CL 1929, 16972; and Sec. 2 of Act 182 of 1917, Am. 1919, p. 205, Act 115, Eff. Aug. 14;—Am. 1929, p. 296, Act 129, Eff. Aug. 28;—CL 1929, 16973; and Sec. 3 of Act 182 of 1917, being CL 1929, 16974.

750.416 Motor vehicle; damaging, tampering or meddling with.

Sec. 416. Damaging or unauthorized tampering or meddling with motor vehicle—Any person shall be guilty of a misdemeanor, who shall:

Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of said motor vehicle; or

Intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstery of any motor vehicle, the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or

Intentionally release the brake upon any standing motor vehicle, with intent to injure said machine or cause the same to be removed without the consent of the owner: Provided, That this section shall not apply in case of moving or starting of motor vehicles by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

HISTORY: CL 1948, 750.416. This section supersedes Sec. 1 of Act 219 of 1917, being CL 1929, 16971.

750.417 Motor vehicle; removal out of state, consent of mortgagee.

Sec. 417. Removal of and remaining out of state of motor vehicle, under mortgage, without consent of mortgagee—Any person who shall have made or executed any mortgage or instrument in writing intended to operate as a mortgage of any motor vehicle and who shall remove such motor vehicle so mortgaged from the state, without fully paying and satisfying said mortgage, and who shall cause or permit the motor vehicle so mortgaged and removed from the state, to remain outside of the state for a period of 30 days or more, without the consent of mortgagee named in said mortgage, shall be guilty of a felony.

HISTORY: CL 1948, 750.417. This section supersedes Sec. 1 of Act 233 of 1925, being CL 1929, 16975.

750.418 Motor vehicle; removal out of state, consent of vendor.

Sec. 418. Removal of and remaining out of state of motor vehicle, under a conditional sales contract, without consent of vendor—Any person who shall have acquired possession of a motor vehicle under a conditional sales contract or under a property

note, in which said conditional sales contract or property note the title is reserved in the vendor, and who shall remove such motor vehicle so acquired from the state without fully paying for said motor vehicle, and who shall cause or permit said motor vehicle so acquired and removed from the said state, to remain out of the state for a period of 30 days or more, without the consent of the vendor named in said conditional sales contract or property note, shall be guilty of a felony.

HISTORY: CL 1948, 750.418. This section supersedes Sec. 2 of Act 233 of 1925, being CL 1929, 16976.

750.419 Operating bicycle and motor vehicle on sidewalks.

Sec. 419. Operating bicycle and motor vehicle on sidewalks—Any person who shall operate or ride a bicycle, motor cycle or other motor vehicle upon that part of the street or highway where sidewalks have been regularly laid out and constructed for the use of pedestrians, not including cross walks, in any unincorporated village, or plat or plats, not in any incorporated village or city, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.419. This section supersedes and merges Sec. 1 of Act 38 of 1917, being CL 1929, 4221; and Sec. 2 of Act 38 of 1917, being CL 1929, 4222.

750.420 Motor vehicle; equipment with smoke or gas producing devices.

Sec. 420. Motor vehicles equipped with smoke or gas producing devices—Any person who shall own, operate or have in his possession any motor vehicle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle or in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation, shall be guilty of a felony.

HISTORY: CL 1948, 750.420. This section supersedes Sec. 1 of Act 58 of 1929, being CL 1929, 4778.

750.421 Motor vehicles; trailer designed for defense or attack.

Sec. 421. Motor vehicle or trailer designed for purpose of defense or attack—Any person who shall construct, reconstruct, devise, manufacture, purchase, sell, possess or operate any motor vehicle or other vehicle capable of being drawn by a motor vehicle, designed for the use or purpose of defense or attack, from or by explosives, projectiles, ammunition, gases, fumes or other missiles, weapons and firearms, without first obtaining a license therefor from the commissioner of the department of public safety, or his duly authorized deputy, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine not more than 2,500 dollars: Provided, That the provisions of this section shall not apply to any person constructing, reconstructing, devising, manufacturing, purchasing, selling, possessing or operating such vehicles by virtue of any contract with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

Applications for said license shall be upon forms provided by said commissioner of public safety. The applicant shall possess the same qualifications and said license shall be issued and revoked in the same manner and subject to the same conditions as are prescribed by law for the issuing and revoking of licenses for carrying concealed weapons, insofar as the same are applicable. The said commissioner may prescribe such other rules and regulations as are necessary to carry out the purpose of this section.

HISTORY: CL 1948, 750.421.

750.421a Motor vehicle; assignment of title upon trade-in.

Sec. 421a. Whenever a licensed motor vehicle dealer, his agent or representative, shall give a credit allowance to the owner of a motor vehicle as consideration or part consideration of the purchase price of another motor vehicle sold by said dealer, he shall demand from such owner, and such owner shall furnish to such dealer, a properly assigned certificate of title thereof in the dealer's name. Any licensed motor vehicle

dealer, his agent or representative, or the owner of such motor vehicle, who shall assign, or shall permit, aid, counsel or assist in any way in assigning the certificate of title of said motor vehicle to a person other than such dealer, shall be guilty of a misdemeanor.

The term "licensed motor vehicle dealer" as used in this section shall be construed to mean a dealer licensed under the provisions of section 14 of Act No. 46 of the Public Acts of 1921, being section 4671 of the Compiled Laws of 1929, as amended.

HISTORY: Add. 1939, p. 901, Act 345, Imd. Eff. July 5;—CL 1948, 750.421a.

NOTE: Sec. 14, Act 46, 1921, above referred to, is Compilers' § 256.114.

750.421b Motor vehicle; transporting farm or commercial products, hindering.

Sec. 421b. Any person who shall, without lawful authority, by force, stop or hinder the operation of any vehicle transporting farm or commercial products within this state, or the loading or unloading of such vehicle, with the intent to prevent, hinder or delay transportation, loading or unloading of such products, upon conviction thereof, shall be guilty of an offense punishable by imprisonment in the county or municipal jail for not more than 90 days or by a fine of not more than \$100.00, or by both such fine and imprisonment, and upon a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 2 years or by a fine of not more than \$1,000.00, or by both such fine and imprisonment. This section shall not apply to railroads.

HISTORY: Add. 1943, p. 22, Act 24, Eff. July 30;—CL 1948, 750.421b.

750.421c Sale of motor vehicle to unemancipated minor prohibited without consent of parent or guardian; retention of form; penalty.

Sec. 421c. No person shall knowingly sell a motor vehicle to an unemancipated minor under age 18 without the written consent of 1 of the minor's parents or his guardian on a form approved by the secretary of state. No person shall present a false document purporting to be the written consent hereunder. The seller under this section shall retain the required form for a period of 3 years from the date of sale. Any violation of this section constitutes a misdemeanor.

HISTORY: Add. 1966, p. 186, Act 164, Eff. Mar. 10, 1967.

750.421d Odometer; alteration, penalty; exception.

Sec. 421d. Any person who alters the mileage registered on the odometer of a motor vehicle offered for sale or lease other than by setting it at zero, or who offers for sale or lease any vehicle with knowledge that the mileage registered on the odometer thereof has been altered without disclosing the facts to the prospective purchaser other than by setting it at zero, or any person who modifies the odometer by tampering, or by the elimination, substitution or addition of components designed to increase, delete or prevent the registering of mileage, is guilty of a misdemeanor. It is not a violation of this act to delete or change odometer mileage registered in the course of predelivery testing of any motor vehicle by its manufacturer prior to its delivery to a dealer.

HISTORY: Add. 1970, p. 354, Act 104, Eff. Apr. 1, 1971.

750.421e Affidavit of prior owner; use, penalty.

Sec. 421e. No dealer shall be convicted under the provisions of section 421d if he possesses an affidavit from the immediate prior owner of the motor vehicle attesting to the fact that the odometer has not been set back and stating the exact mileage at the time the dealer purchased the motor vehicle. Said affidavit shall be supplied to any prospective buyer on request. Any person who gives a false affidavit under the provisions of this section is guilty of a misdemeanor.

HISTORY: Add. 1970, p. 354, Act 104, Eff. Apr. 1, 1971.

CHAPTER LXII

PERJURY

750.422 Perjury committed in courts.

Sec. 422. Perjury committed in courts—Any person who, being lawfully required to depose the truth in any proceeding in a court of justice, shall commit perjury shall be guilty of a felony, punishable, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the state prison for life, or any term of years, and if committed in any other case, by imprisonment in the state prison for not more than 15 years.

HISTORY: CL 1948, 750.422. This section supersedes Sec. 1 of Ch. 156 of the R.S. 1846, being CL 1857, 5820;—CL 1871, 7653;—How. 9235;—CL 1897, 11305;—CL 1915, 14972;—CL 1929, 16563.

INDICTMENT: See Compilers' §§ 767.44 and 767.73.

750.423 Definition.

Sec. 750.423. Definition—Any person authorized by any statute of this state to take an oath, or any person of whom an oath shall be required by law, who shall wilfully swear falsely, in regard to any matter or thing, respecting which such oath is authorized or required, shall be guilty of perjury, a felony, punishable by imprisonment in the state prison not more than 15 years.

HISTORY: CL 1948, 750.423. This section supersedes Sec. 2 of Ch. 156 of the R.S. 1846, being CL 1857, 5821;—CL 1871, 7654;—How. 9236;—CL 1897, 11306;—CL 1915, 14973;—CL 1929, 16564.

750.424 Subornation of perjury.

Sec. 424. Subornation of perjury—Any person who shall be guilty of subornation of perjury, by procuring another person to commit the crime of perjury, shall be punished as provided in the next preceding section.

HISTORY: CL 1948, 750.424. This section supersedes Sec. 3 of Ch. 156 of the R.S. 1846, being CL 1857, 5822;—CL 1871, 7655;—How. 9237;—CL 1897, 11307;—CL 1915, 14974;—CL 1929, 16565.

750.425 Inciting or procuring one to commit perjury.

Sec. 425. Inciting or procuring one to commit perjury—Any person who shall endeavor to incite or procure any person to commit the crime of perjury, though no perjury be committed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

HISTORY: CL 1948, 750.425. This section supersedes Sec. 4 of Ch. 156 of the R.S. 1846, being CL 1857, 5823;—CL 1871, 7656;—How. 9238;—CL 1897, 11308;—CL 1915, 14975;—CL 1929, 16566.

750.426 Court reasonably believes perjury committed.

Sec. 426. Proceeding when court reasonably believes perjury has been committed—Whenever it shall appear to any court of record that any witness or party who has been legally sworn and examined or has made an affidavit in any proceeding in a court of justice, has testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may immediately commit such witness or party, by an order or process for that purpose, or may take a recognizance with sureties, for his appearing to answer to an indictment for perjury; and thereupon the witness to establish such perjury may, if present, be bound over to the proper court, and notice of the proceedings shall forthwith be given to the prosecuting attorney.

HISTORY: CL 1948, 750.426. This section re-enacts Sec. 5 of Ch. 156 of the R.S. 1846, being CL 1857, 5824;—CL 1871, 7657;—How. 9239;—CL 1897, 11309;—CL 1915, 14976;—CL 1929, 16567.

750.427 Perjury trial; securing and detaining papers.

Sec. 427. Securing and detaining papers, etc., necessary in perjury trial—If, in any proceeding in a court of justice, in which perjury shall be reasonably presumed, as

aforesaid, any papers, books, or documents shall have been produced, which shall be deemed necessary to be used on any prosecution for such perjury, the court may, by order, detain the same from the person producing them so long as may be necessary in order to their being used in such prosecution.

HISTORY: CL 1948, 750.427. This section re-enacts Sec. 6 of Ch. 156 of the R.S. 1846, being CL 1857, 5825;—CL 1871, 7658;—How. 9240;—CL 1897, 11310;—CL 1915, 14977;—CL 1929, 16568.

CHAPTER LXIII

PHYSICIANS AND SURGEONS

750.428 Splitting fees.

Sec. 428. Splitting fees—Any physician or surgeon who shall divide fees with or shall promise to pay a part of his fee to or pay a commission to any other physician or surgeon or person who calls him in consultation or sends patients to him for treatment or operation, and any physician or surgeon who shall receive any money prohibited by this section, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by a fine of not more than 250 dollars.

In case a physician or surgeon shall be convicted of violating any of the provisions of this section the board of registration in medicine, upon a first conviction may and upon a subsequent conviction shall, revoke the license of the person so convicted.

HISTORY: CL 1948, 750.428. This section supersedes and merges Sec. 1 of Act 167 of 1919, being CL 1929, 6753; and Sec. 2 of Act 167 of 1919, being CL 1929, 6754; and Sec. 3 of Act 167 of 1919, being CL 1929, 6755.

750.429 Employing solicitors, cappers or drummers.

Sec. 429. Employing solicitors, cappers or drummers—Any physician or surgeon engaged in the practice of medicine in this state, who shall employ any solicitor, capper or drummer for the purpose of procuring patients, or who shall subsidize any hotel or boarding house, or who shall pay or present to any person money or other valuable gift for bringing patients to him, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months or by a fine of not more than 250 dollars.

HISTORY: CL 1948, 750.429. This section supersedes Sec. 1 of Act 157 of 1907, being CL 1915, 6737;—CL 1929, 6752.

750.430 Prescribing while intoxicated.

Sec. 430. Prescribing medicine, etc., while intoxicated—Any physician or other person who, while in a state of intoxication, shall prescribe any poison, drug or medicine to another person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.430. This section supersedes Sec. 4 of Ch. 159 of the R.S. 1846, being CL 1857, 5889;—CL 1871, 7729;—How. 9318;—CL 1897, 11407;—CL 1915, 15125;—CL 1929, 16694.

CHAPTER LXIV

POISONS

750.431 Poisons and antidotes; marking name by retailers.

Sec. 431. Retailers of poisons to mark same poisons and name antidote—Any apothecary, druggist or other person who shall sell and deliver at retail, any arsenic, corrosive sublimate, prussic acid, or any other substance or liquid usually denominated poisonous, without having the word “poison”, and the true name thereof, and the name of some simple antidote, if any is known, written or printed upon a label attached to the vial, box, or parcel containing the same, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.431. This section supersedes Sec. 5 of Ch. 159 of the R.S. 1846, being CL 1857, 5890;—CL 1871, 7730;—Am. 1873, p. 86, Act 74, Eff. July 31;—How. 9320;—CL 1897, 11406;—CL 1915, 15126;—CL 1929, 16695.

750.432 Recording sales of poisons.

Sec. 432. Recording sales of poisons—Every apothecary, druggist or other person who sells any arsenic, strychnine, corrosive sublimate, prussic acid or other poison,

shall keep a record of the date of such sale, and the article and amount thereof sold, and the person or persons to whom delivered, and their residence, which record shall be open to the inspection of any police officer or physician during the business hours of each day and each and every neglect to keep such record as herein provided, shall be a misdemeanor.

HISTORY: CL 1948, 750.432. This section supersedes Sec. 1 of Act 123 of 1863, being CL 1871, 7732;—How. 9321;—CL 1897, 11435;—CL 1915, 15153;—CL 1929, 16703.

RECORD: See also Compilers' § 338.1120.

750.433 Giving false or fictitious name.

Sec. 433. Giving false or fictitious name—Any person who shall give a false or fictitious name to the apothecary, druggist or other person from whom any poison mentioned in the next preceding section was purchased shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.433. This section supersedes Sec. 2 of Act 123 of 1863, being CL 1871, 7733;—How. 9322;—CL 1897, 11436;—CL 1915, 15154;—CL 1929, 16704.

FALSE NAME: See also Compilers' § 338.1117.

750.434 Marking containers of naphtha and alcohol.

Sec. 434. Marking containers of wood alcohol, etc.—Any person who shall sell, offer for sale, give away, deal in or supply, or have in his or her possession with intent to sell, offer for sale, give away, deal in or supply any methanol (otherwise known as wood naphtha, wood alcohol or methyl alcohol) or completely denatured alcohol, either crude or refined, unless the container in which the same is sold, offered for sale, given away, dealt in or supplied shall have lithographed or imprinted upon said container or upon a label pasted upon said container the following device and words, in bold characters in red color on white, viz.:

(Skull and cross-bones represented)

POISON

shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.434. This section supersedes and merges Sec. 1 of Act 111 of 1927, being CL 1929, 16705; and Sec. 3 of Act 111 of 1927, being CL 1929, 16707.

750.435 Denatured alcohol container; label.

Sec. 435. Label on completely denatured alcohol container—Any person who shall sell, offer for sale, give away, deal in or supply, or have in his or her possession with intent to sell, offer for sale, give away, deal in or supply any completely denatured alcohol unless the container in which the same is sold, offered for sale, given away, dealt in or supplied shall have lithographed, imprinted or pasted upon said container the "poison" label prescribed by the federal government under the provisions of the national prohibition act, or any supplement thereto or amendment thereof, shall be guilty of a misdemeanor: Provided, however, That the provisions of this section shall not apply to completely denatured alcohol transferred from manufacturers' or dealers' storage tanks directly to the radiators of automotive vehicles.

HISTORY: CL 1948, 750.435. This section supersedes and merges Sec. 2 of Act 111 of 1927, being CL 1929, 16706; and Sec. 3 of Act 111 of 1927, being CL 1929, 16707.

750.436 Poisoning food, drink, medicines, wells.

Sec. 436. Poisoning food, wells, etc.—Any person who shall mingle any poison with any food, drink or medicines, with intent to kill or injure any other person, or shall willfully poison any spring, well or reservoir of water, with such intent, shall be guilty of a felony, punishable by imprisonment in the state prison for life, or any term of years.

HISTORY: CL 1948, 750.436. This section supersedes Sec. 27 of Ch. 153 of the R.S. 1846, being CL 1857, 5737;—CL 1871, 7536;—How. 9101;—CL 1897, 11496;—CL 1915, 15218;—CL 1929, 16734.

750.437 Exposing poisonous substances where liable to be eaten by beasts; exception.

Sec. 437. Exposing poisonous substances where liable to be eaten by beasts—Any person who shall expose any known poisonous substance, whether mixed with meat or other food or not, so that the same shall be liable to be eaten by any horses, cattle, dogs or other beasts of another, shall be guilty of a misdemeanor: Provided, That it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances, nor for any person to expose on his own premises, not within the limits of any incorporated city or village, poisons for the destruction of predatory or dangerous prowling animals.

HISTORY: CL 1948, 750.437. This section supersedes Sec. 1 of Act 145 of 1895, being CL 1897, 11598;—CL 1915, 15353;—CL 1929, 17000.

750.438 Poisonous fly killers; regulations, noncompliance; misdemeanor.

Sec. 438. Manufacture, etc., of poisonous fly killers—Any person who shall manufacture, compound, sell or offer for sale, or cause to be manufactured, compounded, sold or offered for sale, any fly paper or other form of fly killer which contains arsenic or other poison in sufficient quantity to be dangerous to the life or health of persons, unless the same, when so manufactured, compounded, sold or offered for sale, shall be so prepared, constructed or guarded that when in use said poisonous paper, substance, compound or solution shall be inaccessible to children or other persons who might eat, drink or swallow the same, or any portion thereof, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.438. This section supersedes and merges Sec. 1 of Act 289 of 1915, being CL 1915, 6344;—CL 1929, 17110; and Sec. 2 of Act 289 of 1915, being CL 1915, 6345;—CL 1929, 17111.

CHAPTER LXV

POLYGAMY

750.439 Polygamy; definition; felony.

Sec. 439. Polygamy—Any person who has a former husband or wife living, who shall marry another person, or shall continue to cohabit with such second husband or wife, in this state, he or she shall, except in the cases mentioned herein, be guilty of the crime of polygamy, a felony.

The provisions of this section shall not extend to any person whose husband or wife shall have voluntarily remained beyond the sea, or shall have voluntarily withdrawn from the other and remained absent for the space of five years next preceding such marriage, the party marrying again, not knowing the other to be living within that time, nor to any person who shall have good reason to believe such husband or wife to be dead, nor to any person who has been legally divorced from the bonds of matrimony.

HISTORY: CL 1948, 750.439. This section supersedes Sec. 4 of Ch. 158 of the R.S. 1846, being CL 1857, 5859;—CL 1871, 7694;—How. 9280;—CL 1897, 11691;—CL 1915, 15465;—CL 1929, 16820; and Sec. 5 of Ch. 158 of the R.S. 1846, being CL 1857, 5860;—Am. 1869, p. 156, Act 91, Eff. July 5;—CL 1871, 7695;—How. 9281;—CL 1897, 11692;—CL 1915, 15466;—CL 1929, 16821.

750.440 Knowingly marrying one to whom marriage is prohibited; felony.

Sec. 440. Knowingly marrying one to whom marriage is prohibited—Any person who knowingly enters into a marriage with another, which is prohibited to the latter by the foregoing provisions of this chapter, is guilty of a felony.

HISTORY: CL 1948, 750.440.

750.441 Teaching, soliciting and advocating polygamy; felony.

Sec. 441. Teaching, soliciting and advocating the practice of polygamy—Any person who shall solicit to a polygamous life, or teach polygamy as a correct form of family life, for the purpose of inducing men and women to enter into the practice of polygamy or advocate the doctrine and practice of polygamy, or attempt to persuade any

person by private or public discourse to adopt a polygamous life, shall be guilty of a felony.

HISTORY: CL 1948, 750.441. This section re-enacts except changes "whosoever" to "any person who", Sec. 1 of Act 249 of 1899, being CL 1915, 15501;—CL 1929, 16845.

CHAPTER LXVI

PRIZE FIGHTS

750.442 Participating in prize fights; felony.

Sec. 442. Participating in prize fight—Any person who shall be a party to, or engage in a prize fight in this state, or who shall aid or abet therein, shall be guilty of a felony.

HISTORY: CL 1948, 750.442. This section supersedes Sec. 1 of Act 46 of 1869, being CL 1871, 7720;—How. 9306;—CL 1897, 11732;—CL 1915, 15526;—CL 1929, 16893.

750.443 Training party for prize fight; aiding and abetting, felony.

Sec. 443. Training party for prize fight—Any person who shall engage in the training of any party to a prize fight, or shall assist therein, or who shall knowingly carry any person or persons to or from a prize fight shall be deemed aiders and abettors, within the meaning of the preceding section.

HISTORY: CL 1948, 750.443. This section re-enacts except changes "all" to "any", Sec. 2 of Act 46 of 1869, being CL 1871, 7721;—How. 9307;—CL 1897, 11733;—CL 1915, 15527;—CL 1929, 16894.

750.444 Attending prize fight; misdemeanor.

Sec. 444. Attending prize fight—Any person who shall wilfully be present at such prize fight in this state, or shall give or publish notice thereof or invite any person or persons to attend the same, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.444. This section supersedes Sec. 3 of Act 46 of 1869, being CL 1871, 7722;—How. 9306;—CL 1897, 11734;—CL 1915, 15528;—CL 1929, 16895.

750.445 Aiders and abettors; misdemeanor.

Sec. 445. Aiders and abettors—Any person who shall, within this state, enter into any agreement or understanding whatsoever or aid, advise or counsel in the making of any such agreement or understanding whatsoever, for a prize fight, to take place either within or without this state, or who shall, in this state, train or prepare any person or persons for a prize fight to take place out of this state, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.445. This section supersedes Sec. 4 of Act 46 of 1869, being CL 1871, 7723;—How. 9309;—CL 1897, 11735;—CL 1915, 15529;—CL 1929, 16896.

750.446 Incriminating testimony and immunity of witnesses.

Sec. 446. Incriminating testimony and immunity of witness except for perjury—No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this chapter, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, proceeding or trial: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.446.

750.447 Inapplicability of chapter.

Sec. 447. Inapplicability of chapter—The provisions of this chapter shall not apply to any boxing, sparring or wrestling matches, contests or exhibitions, conducted, held or given pursuant to the provisions of Act No. 328 of the Public Acts of 1919, as

amended, being sections 8839 to 8859, inclusive, of the Compiled Laws of 1929, and acts amendatory thereof.

HISTORY: CL 1948, 750.447.

NOTE: Act 328, 1919, above referred to, has been repealed and superseded by Act 205, 1939, being Compilers' § 431.101 et seq.

CHAPTER LXVII

PROSTITUTION

750.448 Soliciting and accosting to commit prostitution or immoral act; misdemeanor.

Sec. 448. Any person, male or female, 17 years of age or older, who shall accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.448;—Am. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

This section supersedes Sec. 1 of Act 231 of 1925, being CL 1929, 16871.

750.449 Admitting to place for purpose of prostitution; misdemeanor.

Sec. 449. Any person, male or female, 17 years of age or older, who shall receive or admit or offer to receive or admit any person into any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, or who shall knowingly permit any person to remain in any such place for any such purpose, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.449;—Am. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

This section supersedes Sec. 2 of Act 231 of 1925, being CL 1929, 16872.

750.449a Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty.

Sec. 449a. Any male person who engages or offers to engage the services of a female person, not his wife, for the purpose of prostitution, lewdness or assignation, by the payment in money or other forms of consideration, is guilty of a misdemeanor. Any person convicted of violating this section shall be subject to the provisions of Act No. 6 of the Public Acts of the Second Extra Session of 1942, being sections 329.201 to 329.208 of the Compiled Laws of 1948.

HISTORY: Add. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

750.450 Aiders and abettors; misdemeanor.

Sec. 450. Any person, male or female, 17 years of age or older, who shall aid, assist or abet another to commit, or offer to commit, any act prohibited by sections 448 or 449 shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.450;—Am. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

This section supersedes Sec. 3 of Act 231 of 1925, being CL 1929, 16873.

750.451 Second and subsequent convictions; penalty.

Sec. 451. Any person, male or female, who shall be adjudged guilty of a violation of sections 448, 449, 449a or 450 shall be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, or both. Any person, male or female, 17 years of age or older, who shall be adjudged guilty a second time of a violation of sections 448, 449, 449a or 450, the offense being charged as a second offense, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$500.00, or both. Any person, male or female, adjudged guilty a third or any subsequent time of a violation of sections 448, 449, 449a or 450, the offense being charged as a third or subsequent offense, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 2 years.

HISTORY: CL 1948, 750.451;—Am. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

This section supersedes part of Sec. 4 of Act 231 of 1925, being CL 1929, 16874.

750.451a Law enforcement officers; applicability.

Sec. 451a. Sections 448, 449, 449a, 450 and 451 do not apply to a law enforcement officer while in the performance of his duties as a law enforcement officer.

HISTORY: Add. 1969, p. 474, Act 243, Eff. Mar. 20, 1970.

750.452 House of ill-fame; keeping, maintaining or operating.

Sec. 452. Keeping, etc., a house of ill-fame—Any person who shall keep, maintain or operate, or aid and abet in keeping, maintaining or operating a house of ill-fame, bawdy house or any house or place resorted to for the purpose of prostitution or lewdness shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.452. This section supersedes Sec. 1 of Act 40 of 1927, being CL 1929, 16860; and supersedes part of Sec. 10 of Ch. 158 of the R.S. 1846, being CL 1857, 5865;—CL 1871, 7700;—How. 9286;—Am. 1887, p. 32, Act 34, Imd. Eff. March 18;—CL 1897, 11697;—CL 1915, 15471;—Rep. 1927, p. 50, Act 37, Imd. Eff. April 13 (Repealing act held unconstitutional. *People v. Smith*, 246 Mich. 393);—CL 1929, 16828.

750.453 Incriminating testimony and immunity of witnesses.

Sec. 453. Incriminating testimony and immunity of witness except for perjury—No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this chapter, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, proceeding or trial: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.453. This section supersedes with addition Sec. 2 of Act 40 of 1927, being CL 1929, 16861.

750.454 Leasing houses for purposes of prostitution; misdemeanor.

Sec. 454. Leasing house knowing it is to be used for purposes of prostitution, etc.—Any person who shall let any dwelling house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or who shall knowingly permit such lessee to use the same for such purpose, or who shall receive any rent for any dwelling, house, room or apartment which is used as a house of ill-fame or place of resort for prostitutes, or for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, having reasonable cause to believe such house, room or apartment is used for any such purpose, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or by fine of not more than 250 dollars: Provided, That no person shall be liable for receiving rent as aforesaid for any period prior to the time when he shall have reasonable cause to believe that such house, room or apartment is used for any such purpose.

HISTORY: CL 1948, 750.454. This section supersedes Sec. 12 of Ch. 158 of the R.S. 1846, being CL 1857, 5867;—Am. 1865, p. 486, Act 226, Eff. June 22;—Am. 1873, p. 89, Act 77, Eff. July 31;—CL 1871, 7702;—How. 9288;—CL 1897, 11699;—CL 1915, 15473;—CL 1929, 16828.

750.455 Pandering; felony.

Sec. 455. Pandering—Any person who shall procure a female inmate for a house of prostitution; or who shall induce, persuade, encourage, inveigle or entice a female person to become a prostitute; or who by promises, threats, violence or by any device or scheme, shall cause, induce, persuade, encourage, take, place, harbor, inveigle or entice a female person to become an inmate of a house of prostitution or assignation place, or any place where prostitution is practiced, encouraged or allowed; or any per-

son who shall, by promises, threats, violence or by any device or scheme, cause, induce, persuade, encourage, inveigle or entice an inmate of a house of prostitution or place of assignation to remain therein as such inmate; or any person who by promises, threats, violence, by any device or scheme, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, or having legal charge, shall take, place, harbor, inveigle, entice, persuade, encourage or procure any female person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution; or who shall inveigle, entice, persuade, encourage, or procure any female person to come into this state or to leave this state for the purpose of prostitution; or who upon the pretense of marriage takes or detains a female person for the purpose of sexual intercourse; or who shall receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any female person to become a prostitute or to come into this state or leave this state for the purpose of prostitution, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years.

HISTORY: CL 1948, 750.455. This section supersedes Sec. 1 of Act 63 of 1911, being CL 1915, 15494;—Am. 1925, p. 499, Act 330, Eff. Aug. 27;—Am. 1927, p. 49, Act 37, Imd. Eff. April 13 (Amendatory Act 37 of 1927 held unconstitutional. *People v. Smith*, 246 Mich. 393);—CL 1929, 16862.

EMPLOYMENT AGENCY: Not to send woman to house of prostitution, see *Compilers' § 408.619*.

750.456 Placing wife in house of prostitution; felony.

Sec. 456. Placing wife by fraud, etc., in house of prostitution—Any person who by force, fraud, intimidation or threat places or leaves, or procures any other person to place or leave his wife in a house of prostitution or to lead a life of prostitution, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years.

HISTORY: CL 1948, 750.456. This section supersedes Sec. 2 of Act 63 of 1911, being CL 1915, 15495;—CL 1929, 16863.

750.457 Earnings of prostitute, accepting.

Sec. 457. Accepting money, etc., from earnings of prostitute—Any person who shall knowingly accept, receive, levy or appropriate any money or valuable thing without consideration from the proceeds of the earnings of any woman engaged in prostitution, or any person, knowing a female to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of said prostitute, or from moneys loaned or advanced to or charged against her by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years. And such acceptance, receipt, levy or appropriation of such money or valuable thing, shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration.

HISTORY: CL 1948, 750.457. This section supersedes Sec. 3 of Act 63 of 1911, Am. 1913, p. 547, Act 284, Eff. Aug. 14;—CL 1915, 15496;—Am. 1925, p. 500, Act 330, Eff. Aug. 27;—Am. 1927, p. 49, Act 37, Imd. Eff. April 13;—CL 1929, 16864 (Amendatory Act 37 of 1927 held unconstitutional. *People v. Smith*, 246 Mich. 393); and Sec. 1 of Act 389 of 1919, Rep. 1927, p. 50, Act 37, Imd. Eff. April 13 (Repealing Act 37 of 1927 held unconstitutional. *People v. Smith*, 246 Mich. 393);—CL 1929, 16869.

750.458 Detaining female in house of prostitution for debt.

Sec. 458. Detaining female in house of prostitution for debt contracted while there—Any person who attempts to detain any female person in a disorderly house or house of prostitution because of any debt or debts she has contracted, or is said to have contracted while living in said house, shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 nor more than 20 years.

HISTORY: CL 1948, 750.458. This section supersedes Sec. 4 of Act 63 of 1911, being CL 1915, 15497;—CL 1929, 16865.

750.459 Transporting female for prostitution; felony.

Sec. 459. Transporting female for prostitution—Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of conveyance, into, through or across this state, any female person for the

purpose of prostitution or with the intent and purpose to induce, entice or compel such female person to become a prostitute shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years; any person who may commit the crime in this section mentioned may be prosecuted, indicted, tried and convicted in any county or city in or through which he shall so transport or attempt to transport any female person as aforesaid.

HISTORY: CL 1948, 750.459. This section supersedes Sec. 5 of Act 63 of 1911, being CL 1915, 15496;—CL 1929, 16866.

750.460 Acts committed outside state.

Sec. 460. Acts committed outside state—It shall not be a defense to a prosecution for any of the acts prohibited in the next 5 preceding sections of this chapter that any part of such act or acts shall have been committed outside this state, and the offense shall in such case be deemed and alleged to have been committed and the offender tried and punished in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or any overt act in furtherance of the offense shall have been committed.

HISTORY: CL 1948, 750.460. This section supersedes Sec. 6 of Act 63 of 1911, being CL 1915, 15499;—CL 1929, 16867.

750.461 Competency of female as witness though wife of accused.

Sec. 461. Competency of female as witness though wife of accused—Any such female person referred to in the 6 preceding sections shall be a competent witness in any prosecution under this chapter to testify for or against the accused as to any transaction or as to any conversation with the accused or by him with another person or persons in her presence, notwithstanding her having married the accused before or after the violation of any of the provisions of this chapter, whether called as a witness during the existence of the marriage or after its dissolution. No complaint shall be entertained or warrant issued against any female giving testimony in any proceeding under this chapter by reason of or arising from any testimony so given by such female witness, nor shall any such testimony or any part thereof be used in any way in connection with or as a basis for a criminal prosecution against said witness. No such female witness shall be permitted to refuse to answer any question involving a violation of the provisions of this chapter on the ground that such answer might tend to incriminate or degrade said witness: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.461. This section supersedes Sec. 7 of Act 63 of 1911, being CL 1915, 15500;—Am. 1925, p. 500, Act 330, Eff. Aug. 27;—Am. 1927, p. 49, Act 37, Imd. Eff. April 13 (Amendatory Act 37 of 1927 held unconstitutional. *People v. Smith*, 246 Mich. 393);—CL 1929, 16868; and Sec. 2 of Act 389 of 1919, Rep. 1927, p. 50, Act 37, Imd. Eff. April 13 (Repealing Act 37 of 1927 held unconstitutional. *People v. Smith*, 246 Mich. 393);—CL 1929, 16870.

750.462 Female under seventeen in house of prostitution; misdemeanor.

Sec. 462. Female under 17 years of age not to be employed or remain, etc., in house of prostitution—Any person who, for any purpose whatever, other than prostitution, shall take or convey to, or employ, receive, detain or suffer to remain in any house of prostitution, house of ill-fame, bawdy-house, house of assignation or in any house or place for the resort of prostitutes or other disorderly persons, any female of the age of 17 years or under, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.462. This section supersedes with addition Sec. 2 of Act 209 of 1885, being How. 9314g;—CL 1897, 11725;—CL 1915, 15516;—CL 1929, 16881; and Sec. 3 of Act 209 of 1885, being How. 9314g;—CL 1897, 11726;—CL 1915, 15517;—CL 1929, 16882.

CHAPTER LXVIII

PUBLIC EXHIBITIONS AND ENTERTAINMENT

750.463 Unpublished and undedicated plays and compositions; consent of owner.

Sec. 463. Public presentation for profit of unpublished or undedicated plays and compositions without consent of owner—No unpublished, uncopyrighted or undedi-

cated dramatic play and no unpublished or undedicated musical composition shall be publicly performed or represented for profit, without consent of the owner or proprietor thereof.

Any person who shall cause to be publicly performed or represented for profit any unpublished, uncopyrighted or undedicated dramatic composition, or unpublished or undedicated musical composition, without the consent of the owner or proprietor or who, knowing that such dramatic or musical composition is unpublished or undedicated, and, without the consent of its owner or proprietor, permits, aids or takes part in such a performance or representation, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.463. This section re-enacts Sec. 1 of Act 268 of 1905, being CL 1915, 3476;—CL 1929, 17022; and supersedes Sec. 2 of Act 268 of 1905, being CL 1915, 3477;—CL 1929, 17023.

750.464 Sale of seats in places of public entertainment.

Sec. 464. Sale of seats in places of public entertainment—It shall not be lawful for the proprietor, lessee or manager of any theatre, concert or lecture hall, or other place of public entertainment, to mark, or cause to be marked, any seat or seats in any theatre, concert or lecture hall, or other place of public entertainment, as sold, reserved or taken, unless the seat or seats so marked or designated shall have been actually sold or reserved, at least 1 hour prior to the time of beginning each performance, or entertainment in said theatre, concert or lecture hall, or place of public entertainment, and the purchase of reserved seats for the purpose of selling them is hereby prohibited. Any proprietor, lessee or manager, or other person who shall violate the provisions of this section, shall on conviction thereof, be fined not less than 1 dollar, and not more than 5 dollars, for every seat so marked, designated or purchased.

HISTORY: CL 1948, 750.464. This section supersedes and merges Sec. 1 of Act 12 of 1877, being How. 2089;—CL 1897, 5466;—CL 1915, 7150;—CL 1929, 8892; and Sec. 2 of Act 12 of 1877, being How. 2090;—CL 1897, 5467;—CL 1915, 7151;—CL 1929, 8893.

750.464a Consuming intoxicating liquor in unlicensed places; liability.

Sec. 464a. It shall be unlawful for any person to consume, or any person, persons, co-partnership or corporation engaged in the business of operating any public dance hall to knowingly allow, permit or suffer to be consumed any intoxicating liquor, wine, or beer, in any public dance hall, in any toilet, cloak room or appendage to any such dance hall, or in any other room directly connected therewith unless said premises are duly licensed by the Michigan liquor control commission.

Any person engaged in the business of operating any public dance hall whether as owner, proprietor, manager, or employee, shall be held liable for knowingly permitting the violation of the provisions of this section, and any such owner or proprietor shall be held criminally liable for knowingly permitting the acts of his manager, servant, agent or employee in violation of the provisions of this section. The violation of any of the provisions of this section is hereby declared to be a misdemeanor.

HISTORY: Add. 1945, p. 501, Act 292, Eff. Sept. 6;—CL 1948, 750.464a.

750.465 Ticket scalping; duty.

Sec. 465. Ticket scalping—It shall be the duty of owners, lessees and managers of every theatre, circus, athletic grounds used for athletic games, places of public entertainment or amusement to have printed on all tickets issued for admission thereto or for seats of such theatre, circus, athletic grounds, place of public entertainment or amusement, in conspicuous type, the price of such ticket, and the number on the seat, when such seats are numbered.

Any person owning, occupying, managing or controlling any building, room, park or enclosure for the sale of tickets for theatres, circuses, athletic games or places of public entertainment or amusement, who shall ask, demand or receive from any person for the sale of such ticket or tickets to a theatre, circus, athletic grounds or place of public entertainment, or amusement, a price in excess of the general admission advertised or

charged for the same privilege, or any person, who by himself or his agent or employe, offers for sale upon any public place or thoroughfare, any such ticket or tickets to a theatre, circus, athletic grounds, or place of public entertainment or amusement, for admission thereto, or for a seat or other privilege therein, at a price in excess of that demanded or received from the general public for the same privilege, or in excess of the advertised or printed rate therefor, shall be punished as herein provided.

It shall be unlawful for any person to establish an agency or suboffice for the sale of seat tickets of admission to a theatre, circus, athletic grounds or place of public entertainment or amusement, at a price greater than the sale of seats at the box office of such theatre, circus, athletic grounds, place of public entertainment or amusement, or in excess of the advertised price therefor.

The owner, lessee or occupant of any building, room, enclosure or other place open to the public, who permits any person to sell or exhibit for sale in said building, room or enclosure, or other place open to the public, any ticket or tickets for theatre, circuses, athletic grounds, or place of public entertainment or amusement, for more than the price printed thereon, shall be equally liable and guilty as principal.

Where the owners, lessees or managers of any circus, theatre, athletic grounds or place of public entertainment or amusement have sold tickets or admission thereto to specific persons, under restrictive conditions and at a less rate than the general admission charged, and whose names appear on the face of such tickets or are registered in the office of such owners, lessees or managers as the holder of such tickets and where it is printed on the face of such tickets that they are non-transferable and sold only to the persons whose names appear on the face of such tickets or are registered, it shall be declared unlawful for the holders of such specific tickets to sell them to other persons, and any person selling such tickets shall be punished as herein provided.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.465. This section re-enacts Sec. 1 of Act 138 of 1907, being CL 1915, 7152;—CL 1929, 8894; and supersedes Sec. 2 of Act 138 of 1907, being CL 1915, 7153;—CL 1929, 8895; and Sec. 3 of Act 138 of 1907, being CL 1915, 7154;—CL 1929, 8896; and Sec. 4 of Act 138 of 1907, being CL 1915, 7155;—CL 1929, 8897; and Sec. 5 of Act 138 of 1907, being CL 1915, 7156;—CL 1929, 8898; and Sec. 6 of Act 138 of 1907, being CL 1915, 7157;—CL 1929, 8899.

CHAPTER LXIX

PUBLIC HEALTH

750.466 Selling diseased or unwholesome provisions without notice.

Sec. 466. Selling diseased or unwholesome provisions without notice—Any person who shall knowingly sell any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.466. This section supersedes Sec. 1 of Ch. 159 of the R.S. 1846, being CL 1857, 5886;—CL 1871, 7726;—How. 9316;—CL 1897, 11404;—CL 1915, 15122;—CL 1929, 16691.

750.467 Feeding animals or fowls putrid or unwholesome food.

Sec. 467. Feeding animals or fowls putrid or unwholesome food—Any person who shall feed to animals or fowls the flesh of an animal which has become sick, or which has died from such cause, or offal or flesh that is putrid or unwholesome, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.467. This section supersedes and merges Sec. 1 of Act 179 of 1913, being CL 1915, 15156;—Am. 1919, p. 14, Act 8, Eff. Aug. 14;—CL 1929, 5242; and Sec. 2 of Act 179 of 1913, being CL 1915, 15157;—CL 1929, 5243.

750.468 Baked goods and pastries; sanitary and dust proof containers.

Sec. 468. Shipment of baked goods and pastries in sanitary and dust proof containers—It shall be unlawful for any person engaged in the manufacture of baked goods and pastries, by himself or his agent or employe to convey, ship or transport any baked

goods or pastries from the place where such goods are manufactured to any place in this state where such baked goods and pastries are to be consumed or offered for sale, without first placing such baked goods and pastries in a clean and sanitary container or package sufficiently tight and compact to exclude all dust and dirt and other contamination. None of such containers or packages containing baked goods or pastries shall be opened or exposed to the dust or dirt or other contamination from the place where manufactured until they arrive in the place where such baked goods and pastries are to be consumed or exposed for sale.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.468. This section supersedes Sec. 1 of Act 320 of 1925, being CL 1929, 5479; and Sec. 2 of Act 320 of 1925, being CL 1929, 5480.

750.469 Clinical thermometers.

Sec. 469. Selling clinical thermometers—Any person, dealer, agent or employe of any corporation, who shall directly or indirectly use, sell or offer for sale, give away or offer to give away, any clinical thermometer that does not comply with the definition stated in this section for a standard clinical thermometer, shall be guilty of a misdemeanor.

A standard clinical thermometer is a certified thermometer and is one that registers accurately at every reading and is standardized by the United States bureau of standards for thermometers. These thermometers must not have a variance of over 2/10 of a degree. All clinical thermometers that are used or sold must comply with the United States bureau of standards. If there is a correction there must be a correction slip on the certificate that goes with the thermometer, showing either minus or plus to the amount of the correction but the variance must not exceed 2/10 of a degree.

The board of pharmacy shall make such rules and regulations as may be necessary for the enforcement of this section. It shall be the duty of said board of pharmacy to investigate all complaints under this section and take all steps necessary to its enforcement: Provided, That no person, dealer, or employe of any corporation shall be prosecuted under the provisions of this section when he can establish a guarantee, signed by a wholesaler, jobber, manufacturer or other parties residing in this state, from whom such thermometer or thermometers were purchased, to the effect that the said clinical thermometer or thermometers so purchased were certified to comply with the next preceding paragraph of this section.

HISTORY: CL 1948, 750.469. This section supersedes Sec. 1 of Act 106 of 1927, being CL 1929, 6863; and Sec. 3 of Act 106 of 1927, being CL 1929, 6865; and Sec. 4 of Act 106 of 1927, being CL 1929, 6866; and re-enacts Sec. 2 of Act 106 of 1927, being CL 1929, 6864.

750.470 Cigar or food establishments; employes with disease; misdemeanor.

Sec. 470. Employment in cigar or food establishments of persons affected with venereal disease, etc.—No person who is affected with any infectious disease, or with any venereal disease in a communicable form, shall work, or be permitted to work in any place, where cigars are manufactured or where food or drink is prepared, cooked, mixed, baked, exposed, bottled, packed, handled, stored, manufactured, offered for sale or sold. Whenever required by any local health officer, any person employed in any such places shall submit to a physical examination by such officer, or by some physician designated by such health officer or by a physician regularly in the employ of the person or institution by whom the person to be examined is employed. If as a result of such examination, such person shall be found to be affected with any infectious disease, or with any venereal disease in a communicable form, such employment shall immediately cease and such person shall not be permitted to work in any such place.

Any person, knowingly affected with any infectious disease, or with any venereal disease in a communicable form, who shall work in any place mentioned in this sec-

tion, and any person knowingly employing or permitting such person to work in such place, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.470. This section supersedes with additions, Sec. 1 of Act 25 of 1919, being CL 1929, 6635; and Sec. 2 of Act 25 of 1919, being CL 1929, 6636.

750.471 Transportation of dressed calves, sheep, hogs, and beeves; violation of act, misdemeanor.

Sec. 471. Transportation of dressed calves, sheep, hogs and beeves—All dressed calves, sheep, hogs and beeves, or any portion of the same, when being shipped or transported by freight or express, shall be kept in a clean and sanitary manner. Any carcass, or any portion thereof, which shall be transported in any car, shall when practicable be hung in such car during such transportation. Such carcass, when tendered for shipment, shall be covered with clean covers of cloth of such texture as to exclude all dirt and dust: Provided, This shall not apply to carcasses shipped with the hides left on.

Any person violating any of the provisions of this section, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.471. This section re-enacts except first word "hereafter", Sec. 1 of Act 90 of 1917, being CL 1929, 5461; and supersedes Sec. 2 of Act 90 of 1917, being CL 1929, 5462.

750.472 Treating eyes of newly born infants; manner; noncompliance with provision, misdemeanor.

Sec. 472. Treating the eyes of newly born infants—It shall be the duty of the state health commissioner to officially name and approve a prophylaxis to be used in treating the eyes of newly born infants, and it shall be the duty of the commissioner to publish instructions for using the same.

It shall be the duty of any physician, nurse or midwife who shall assist or be in charge at the birth of any infant, or have care of the same after birth, to treat the eyes of the infant with a prophylaxis approved by the state health commissioner; and such treatment shall be given within 1 hour after the birth of the infant if a physician, nurse or midwife is then present, or as soon thereafter as a physician, nurse or midwife is present; and if any redness, swelling, inflammation or gathering of pus shall appear in the eyes of such infant or upon the lids or about the eyes, within 2 weeks after birth, then any nurse, midwife or other person having care of the infant shall report the same to some competent practicing physician within 6 hours of its discovery.

Any person who shall fail to comply with any of the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.472. This section supersedes Sec. 1 of Act 123 of 1913, being CL 1915, 5037;—CL 1929, 6618; and Sec. 2 of Act 123 of 1913, being CL 1915, 5038;—CL 1929, 6619; and Sec. 3 of Act 123 of 1913, being CL 1915, 5039;—CL 1929, 6620.

750.473 Transporting persons or articles infected with disease; noncompliance with provision, misdemeanor.

Sec. 473. Transportation of persons or articles infected with communicable diseases dangerous to the public health—No person sick with cholera, smallpox, diphtheria, scarlet fever or any other communicable disease, dangerous to the public health, and no article which has been infected or is liable to propagate or convey any such disease, shall come or be brought into any township, city or village in Michigan, without the special permit of the board of health or the health officer of said township, city or village, and then only under the supervision of the health officer of said township, city or village: Provided, however, That any county may construct and maintain hospitals, sanatoria, or other institutions for the treatment of persons suffering from contagious or infectious diseases in any township in said county and may transport persons and property to and from such hospitals, sanatoria, or other institutions by and under the

supervision of the regularly constituted county health department or county health officer, or other public authority having control thereof, without the consent or special permit of the board of health or the health officer of any township within said county.

Any person who shall violate the provisions of this section, or the order of the health officer made in pursuance thereof, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.473. This section re-enacts Sec. 1 of Act 45 of 1895, being CL 1897, 4471;—Am. 1909, p. 426, Act 243, Eff. Sept. 1;—CL 1915, 5142;—Am. 1929, p. 26, Act 10, Imd. Eff. March 19;—CL 1929, 6613; and supersedes Sec. 2 of Act 45 of 1895, being CL 1897, 4472;—CL 1915, 5143;—CL 1929, 6614.

750.474 Exposing others to communicable disease; misdemeanor.

Sec. 474. Exposing others to communicable diseases, dangerous to the public health—Any person affected with smallpox, diphtheria or scarlet fever, or any other communicable disease, dangerous to the public health, who shall wilfully enter a public place or a public conveyance, or shall in any way wilfully subject another person to danger of contracting such disease; and any person who shall knowingly and wilfully take, aid in taking or cause to be taken a child or other irresponsible person, while affected with any of the aforesaid diseases into a public place or public conveyance, or in any way knowingly and wilfully subject another person to danger of contracting any 1 of the aforesaid diseases from such child or irresponsible person; and any person who shall knowingly and wilfully subject another person to danger of contracting any of the aforesaid diseases from the body of a person deceased therefrom; and any person who shall in any way knowingly and wilfully expose, aid in exposing or cause to be exposed a child or other irresponsible person to danger of contracting any 1 of the aforesaid diseases, shall be guilty of a misdemeanor: Provided, That this section shall not apply to necessary transportation of patients suffering from such diseases in proper vehicles provided for such purposes.

HISTORY: CL 1948, 750.474. This section supersedes and merges Sec. 1 of Act 15 of 1891, being CL 1897, 4473;—CL 1915, 5144;—CL 1929, 6615; and Sec. 2 of Act 15 of 1891, being CL 1897, 4474;—CL 1915, 5145;—CL 1929, 6616.

750.475 Drinking cups at public drinking fountains; misdemeanor.

Sec. 475. Drinking cups at public drinking fountains—It shall be the duty of every person within this state, maintaining any public drinking fountain, water cooler or tank, or any other device dispensing water for public drinking purposes, other than a sanitary fountain, to provide for supplying individual drinking utensils by sale or free distribution; any if by sale, at a cost not exceeding 1 cent for each individual utensil. In case there shall be no facilities for furnishing as aforesaid individual drinking utensils at any such fountain, water cooler, tank or other device, the person so maintaining the same shall post in close proximity thereto a placard designating the place at which or the person from whom such individual drinking utensils may be procured.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.475. This section supersedes and merges Sec. 1 of Act 93 of 1913, being CL 1915, 5189;—CL 1929, 6686; and Sec. 2 of Act 93 of 1913, being CL 1915, 5190;—CL 1929, 6687.

750.476 Expectoration on floors.

Sec. 476. Expectorating on floors of railroad cars, passenger stations, etc.—Any person who shall expectorate upon the floor, platform or the interior furnishings, except cuspidors, of a steam railroad, passenger or street railway car, or motor bus or upon the floor, furnishings, registers or radiators of any passenger station or public waiting room, shall be guilty of a misdemeanor: Provided, however, That no person shall be prosecuted under the provisions of this section unless its provisions are posted in a conspicuous place in such cars, buses, stations and public waiting rooms, and suitable cuspidors are furnished.

HISTORY: CL 1948, 750.476. This section supersedes Sec. 1 of Act 210 of 1909, being CL 1915, 5169;—CL 1929, 6679.

750.477 Free distribution of medicines; misdemeanor.

Sec. 477. Free distribution of medicines—Any person who shall, directly or indirectly, take part in the free distribution of any medicines of any kind and nature from house to house, or from any vehicle, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.477. This section supersedes and merges Sec. 1 of Act 148 of 1907, being CL 1915, 6331;—CL 1929, 17112; and Sec. 2 of Act 148 of 1907, being CL 1915, 6332;—CL 1929, 17113.

750.477a Horse and dog meat; unlawful to sell not labelled; violation of section, misdemeanor.

Sec. 477a. Horse and dog meat—Any person who shall knowingly sell any horse or dog meat unless plainly labelled shall be guilty of a misdemeanor.

HISTORY: Add. 1943, p. 155, Act 116, Eff. July 30;—CL 1948, 750.477a.

CHAPTER LXX

PUBLIC OFFICES AND OFFICERS

750.478 Wilful neglect of duty; public officer or person holding public trust or employment; penalty.

Sec. 478. Wilful neglect of duty—When any duty is or shall be enjoined by law upon any public officer, or upon any person holding any public trust or employment, every wilful neglect to perform such duty, where no special provision shall have been made for the punishment of such delinquency, shall be deemed a misdemeanor, punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.478. This section supersedes Sec. 25 of Ch. 156 of the R.S. 1846, being CL 1857, 5844;—CL 1871, 7677;—How. 9259;—CL 1897, 11329;—CL 1915, 14996;—CL 1929, 16587.

750.479 Resisting or obstructing officer in discharge of duty; penalty.

Sec. 479. Resisting, etc., officer in discharge of duty—Any person who shall knowingly and wilfully obstruct, resist or oppose any sheriff, coroner, township treasurer, constable or other officer or person duly authorized, in serving, or attempting to serve or execute any process, rule or order made or issued by lawful authority, or who shall resist any officer in the execution of any ordinance, by law, or any rule, order or resolution made, issued, or passed by the common council of any city board of trustees, or common council or village council of any incorporated village, or township board of any township or who shall assault, beat or wound any sheriff, coroner, township treasurer, constable or other officer duly authorized, while serving, or attempting to serve or execute any such process, rule or order, or for having served, or attempted to serve or execute the same, or who shall so obstruct, resist, oppose, assault, beat or wound any of the above named officers, or any other person or persons authorized by law to maintain and preserve the peace, in their lawful acts, attempts and efforts to maintain, preserve and keep the peace, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.479. This section supersedes Sec. 23 of Ch. 156 of the R.S. 1846, being CL 1857, 5842;—Am. 1863, p. 353, Act 202, Eff. June 22;—Am. 1869, p. 29, Act 24, Eff. July 5;—CL 1871, 7675;—How. 9257;—CL 1897, 11327;—CL 1915, 14994;—CL 1929, 16585.

*NOTE: The word "attempted" was misspelled in the original act.

CITED IN OTHER SECTIONS: The above section is cited in § 300.17.

750.479a Failure to obey direction of police officer to stop motor vehicles; assault upon police officer.

Sec. 479a. A driver of a motor vehicle, who is given by hand, voice, emergency light or siren a visual or audible signal by a police officer, acting in the lawful performance of his duty, directing the driver to bring his motor vehicle to a stop, and who wilfully fails to obey such direction, by increasing his speed, extinguishing his lights, or otherwise attempting to flee or elude the officer, is guilty of a misdemeanor, punishable by

a fine not to exceed \$1,000.00 or by imprisonment for not more than 1 year, or both. The officer giving the signal shall be in uniform; and a vehicle driven at night shall be adequately identified as an official police vehicle.

Any person who forcibly assaults or commits a bodily injury which requires medical care or attention upon a peace or police officer of this state while the peace or police officer is engaged in making a lawful arrest, knowing him to be a peace or police officer, is guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 or by imprisonment in the state prison for not more than 2 years, or both.

HISTORY: Add. 1966, p. 509, Act 299, Eff. Mar. 10, 1967.

750.480 Refusing to deliver records and money to successor in office.

Sec. 480. Refusing to deliver books, money, etc., to successor in office—Any officer or agent of this state or of any county, city, village, township or school district within the state, into whose hands money, books, papers, evidence of debt or other property shall come by virtue of his office or agency, who shall wilfully refuse or neglect, on demand, to deliver the same to his successor in office or to the person authorized by law to receive or have charge of the same, shall be guilty of a felony.

HISTORY: CL 1948, 750.480. This section supersedes Sec. 28 of Ch. 154 of the R.S. 1846, being CL 1857, 5772;—CL 1871, 7579;—How. 9150;—Am. 1895, p. 169, Act 68, Eff. Aug. 30;—CL 1897, 11564;—CL 1915, 15309;—CL 1929, 16907.

750.481 Neglecting or refusing to execute process; penalty.

Sec. 481. Neglecting or refusing to execute process—Whenever any constable, marshal, deputy or assistant marshal, coroner, sheriff or deputy sheriff of any township, city, village or county, shall at any time wilfully neglect or refuse to execute any lawful process of any court, or judicial officer having authority to issue the same, and which shall be duly issued, or whenever such officer shall, at any time, wilfully neglect or refuse to discharge or execute any special duty imposed on any such officer by any provision of law, such officer shall be guilty of a misdemeanor: Provided, That in all cases where such process shall be taken out in the name of a party, other than the people of this state, it shall appear on the trial for such offense that the legal fees for serving such process have been tendered or paid to such officer.

HISTORY: CL 1948, 750.481. This section supersedes Sec. 1 of Act 9 of 1861, being CL 1871, 7680;—How. 9262;—CL 1897, 11332;—CL 1915, 14999;—CL 1929, 16594.

750.482 Neglecting or refusing to pay over moneys collected; penalty.

Sec. 482. Neglecting or refusing to pay over moneys collected—Any officer who shall collect or receive any moneys on account of any fine, penalty, forfeiture or recognition, and shall neglect or refuse to pay over the same according to law, or shall appropriate or dispose of the same to his own use, or in any manner not authorized by law, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.482. This section supersedes Sec. 41 of Ch. 35 of Act 314 of 1915, being CL 1915, 13433;—CL 1929, 15180.

ACCOUNTING: See Compilers' §§ 600.4841, 600.4845 and 600.4851.

750.483 Neglecting or refusing to aid sheriff, coroner or constable; misdemeanor.

Sec. 483. Neglecting or refusing to aid sheriff, etc.—Any person who being required by any sheriff, deputy sheriff, coroner or constable, shall neglect or refuse to assist him in the execution of his office, in any criminal case or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue of persons arrested upon civil process, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.483. This section supersedes Sec. 16 of Ch. 156 of the R.S. 1846, being CL 1857, 5835;—CL 1871, 7668;—How. 9250;—CL 1897, 11320;—CL 1915, 14987;—CL 1929, 16578.

750.484 Refusal to apprehend when required by justice; misdemeanor.

Sec. 484. Refusing to apprehend on being required to do so by justice—Any justice of the peace, upon view of any breach of the peace, or any other offense proper for his cognizance, who shall require any person to apprehend and bring before him the offender, every person so required, who shall refuse to obey such justice, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.484. This section supersedes part of Sec. 17 of Ch. 156 of the R.S. 1846, being CL 1857, 5836;—CL 1871, 7669;—How. 9251;—CL 1897, 11321;—CL 1915, 14968;—CL 1929, 16579.

750.485 Accounting for county money; county and municipal officers.

Sec. 485. Accounting for county money by county and municipal officers—It shall be the duty of all county and municipal officers, who may receive or pay out any sum or sums of money belonging to the county in which said officers may reside, to keep an accurate and perfect account of all such moneys, by whom paid and for what purpose, as the board of supervisors of the several counties of this state, or by the board of auditors, wherever authorized to transact such county business, may direct. The several boards of supervisors and board of county auditors are hereby authorized and directed to prepare a system for the keeping of such accounts, and report to the county treasurer, as the several boards may deem proper and necessary in each of the several counties of this state.

Whenever the board of supervisors or board of county auditors may prescribe a system for the keeping of such accounts, as provided for by this section, said county and municipality shall comply with requirements of such system in all particulars, as directed to do by said boards of supervisors or boards of county auditors.

Any county or municipal officer who may be included under the provisions of this section, who shall neglect or refuse to comply with any of the provisions of this section, in the keeping of such accounts as may be prescribed by said county boards, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.485. This section re-enacts except changes "such" to "said", Sec. 1 of Act 237 of 1901, being CL 1915, 2517;—CL 1929, 2708; and re-enacts except changes "act" to "section", Sec. 2 of Act 237 of 1901, being CL 1915, 2518;—CL 1929, 2709; and supersedes Sec. 3 of Act 237 of 1901, being CL 1915, 2519;—CL 1929, 2710.

750.486 Appointment of unqualified under-sheriff or deputy sheriff.

Sec. 486. Any sheriff who shall knowingly appoint as undersheriff or deputy sheriff, any person who shall not have been a bona fide resident of the state for 1 year preceding the time of appointment or who appoints an undersheriff or deputy sheriff for the purpose of assisting or performing duties in the area of labor disputes who has not been a resident of the county in which the appointment is made for at least 3 months, is guilty of a misdemeanor. The 3-month residency requirement shall not apply where the person appointed undersheriff or deputy sheriff is a bona fide public law enforcement officer.

HISTORY: CL 1948, 750.486;—Am. 1967, p. 350, Act 235, Eff. Nov. 2.

This section supersedes and merges Sec. 1 of Act 44 of 1887, being How. 596a;—Am. 1893, p. 71, Act 69, Eff. Aug. 28;—CL 1897, 2596;—CL 1915, 2456;—CL 1929, 1340; and Sec. 2 of Act 44 of 1887, being How. 596b;—CL 1897, 2597;—CL 1915, 2457;—CL 1929, 1341.

750.487 Defense of accused by law partner of prosecutor.

Sec. 487. Defense of persons charged with crime by law partner of prosecuting attorney—The law partner or partners of any prosecuting attorney who shall be directly or indirectly engaged or interested in the defense of any person or persons charged with any offense, when it is the duty of such prosecuting attorney in his official capacity to prosecute such person or persons, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.487. This section supersedes and merges Sec. 16 of Ch. XVI of Act 175 of 1927, being CL 1929, 17508; and Sec. 17 of Ch. XVI of Act 175 of 1927, being CL 1929, 17507.

750.488 Retention of fees by state officers and employees on salary.

Sec. 488. Retention of fees by state officers and employees on salary—Any officer or employe of the state government, having a salary fixed by law who shall retain any

fees received for performance of his official duties, or who shall not promptly turn over to the state treasurer or credit to the proper funds such fees when collected, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars. Any one convicted under the provisions of this section shall be promptly removed from office.

HISTORY: CL 1948, 750.488.

750.489 False statement of public finances and transfer of same.

Sec. 489. False statement of public finances and transfer of same—Any officer, agent, servant or employe of the state of Michigan, or of any county, township, city, village or school district of this state, and any member, agent or employe of any board or commission of the state of Michigan or of any of the municipalities above named, who shall knowingly deliver, publish or give out for publication any false statement relating to the finances, funds, moneys or balances in any fund of said state, county, township, city, village or school district, shall be guilty of a misdemeanor.

Any officer, agent, servant or employe of the state of Michigan, or of any county, township, city, village or school district of this state, and any member, agent or employe of any board or commission of the state of Michigan or of any of the municipalities above named, who shall transfer or juggle the funds of the state or other municipal division thereof, or issue false checks, drafts, warrants, vouchers or other evidences of credit, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.489. This section supersedes and merges Sec. 1 of Act 291 of 1927, being CL 1929, 381; and Sec. 2 of Act 291 of 1927, being CL 1929, 382; and Sec. 3 of Act 291 of 1927, being CL 1929, 383.

750.490 Safe keeping of public moneys.

Sec. 490. Safe keeping of public moneys—All moneys which shall come into the hands of any officer of the state, or of any officer of any county, or of any township, school district, highway district, city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this section.

It shall be the duty of every officer charged with the receiving, keeping or disbursing of public moneys to keep the same separate and apart from his own money, and he shall not commingle the same with his own money, nor with the money of any other person, firm, or corporation.

No such officer shall, under any pretext, use, or allow to be used, any such moneys for any purpose other than in accordance with the provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm or corporation without legal authority so to do.

In all cases where public moneys are authorized to be deposited in any bank, or to be loaned to any individual, firm or corporation, for interest, the interest accruing upon such public moneys shall belong to and constitute a general fund of the state, county or other public or municipal corporation, as the case may be.

In no case shall any such officer, directly or indirectly, receive any pecuniary or valuable consideration as an inducement for the deposit of any public moneys with any particular bank, person, firm or corporation.

The provisions of this section shall apply to all deputies of such officer or officers, and to all clerks, agents and servants of such officer or officers.

Any officer who shall wilfully or corruptly draw or issue any warrant, order or certificate for the payment of money in excess of the amount authorized by law, or for a purpose not authorized by law, shall be guilty of a misdemeanor, punishable as provided in this section.

Any person who shall violate any of the provisions of this section, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars: Provided, That nothing in this section contained shall prevent a prosecution for embezzlement in cases where the facts warrant the same.

HISTORY: CL 1948, 750.490. This section supersedes Sec. 1 of Act 131 of 1875, being How. 423;—CL 1897, 1197;—CL 1915, 298;—CL 1929, 358; and Sec. 7 of Act 131 of 1875, being How. 429;—CL 1897, 1203;—CL 1915, 304;—CL 1929, 364; and Sec. 8 of Act 131 of 1875, being How. 430;—CL 1897, 1204;—CL 1915, 305;—CL 1929, 365; and re-enacts Sec. 2 of Act 131 of 1875, being How. 424;—CL 1897, 1196;—CL 1915, 299;—CL 1929, 359; and Sec. 4 of Act 131 of 1875, being How. 426;—CL 1897, 1200;—CL 1915, 301;—CL 1929, 361; and Sec. 5 of Act 131 of 1875, being How. 427;—CL 1897, 1201;—CL 1915, 302;—CL 1929, 362; and re-enacts except changes "nor" to "or", Sec. 3 of Act 131 of 1875, being How. 425;—CL 1897, 1199;—CL 1915, 300;—CL 1929, 360; and re-enacts except changes "act" to "section", Sec. 6 of Act 131 of 1875, being How. 428;—CL 1897, 1202;—CL 1915, 303;—CL 1929, 363.

750.490a Purchase by employee upon public credit for private use.

Sec. 490a. No officer or employee of any governmental agency as defined in this section shall purchase or cause to be purchased any goods, wares, or merchandise of any description whatsoever in the name of or on the credit of such governmental agency for any purpose than for use or resale in the regular course of the official business of such governmental agency; or sell or offer for sale goods, wares or merchandise purchased in the name of or on the credit of such governmental agency, at any price other than the price at which such goods are offered generally to the public by such governmental agency.

For purposes of this section, "governmental agency" shall be defined to mean any and all branches or departments of the state government; any and all branches or departments of the government of any county, city, village, school district, township, or other municipal corporation in this state; and any commission, board, or other similar body organized to assist in the conduct of the governmental or proprietary functions of state or local government.

Any person who shall violate any of the provisions of this section, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 90 days or by a fine of not more than \$100.00, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1939, p. 751, Act 310, Eff. Sept. 29;—CL 1948, 750.490a.

CHAPTER LXXI

PUBLIC RECORDS

750.491 Public records; removal, mutilation or destruction; penalty.

Sec. 491. All official books, papers or records created by or received in any office or agency of the state of Michigan or its political subdivisions, are declared to be public property, belonging to the people of the state of Michigan. All books, papers or records shall be disposed of only as provided in section 13c of Act No. 51 of the Public Acts of the First Extra Session of 1948, as added, being section 18.13c of the Compiled Laws of 1948, section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Compiled Laws of 1948 and sections 2137 and 2138 of Act No. 236 of the Public Acts of 1961, being sections 600.2137 and 600.2138 of the Compiled Laws of 1948.

Any person who shall wilfully carry away, mutilate or destroy any of such books, papers, records or any part of the same, and any person who shall retain and continue to hold the possession of any books, papers or records, or parts thereof, belonging to the aforesaid offices and shall refuse to deliver up such books, papers, records, or parts thereof to the proper officer having charge of the office to which such books, papers,

or records belong, upon demand being made by such officer or, in cases of a defunct office, the Michigan historical commission, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than \$1,000.00.

HISTORY: CL 1948, 750.491;—Am. 1852, p. 136, Act 119, Eff. Sep. 18;—Am. 1864, p. 140, Act 147, Eff. Aug. 28.

This section as originally enacted superseded Sec. 1 of Act 6 of 1851, being CL 1857, 5606;—CL 1871, 7751;—Am. 1875, p. 237, Act 208, Eff. Aug. 3;—How. 9347;—CL 1897, 11361;—CL 1915, 15079;—CL 1929, 17018.

750.492 Public records; inspection, use, copying, removal.

Sec. 492. Any officer having the custody of any county, city or township records in this state who shall when requested fail or neglect to furnish proper and reasonable facilities for the inspection and examination of the records and files in his office and for making memoranda of transcripts therefrom during the usual business hours, which shall not be less than 4 hours per day, to any person having occasion to make examination of them for any lawful purpose shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than \$500.00. The custodian of said records and files may make such reasonable rules with reference to the inspection and examination of them as shall be necessary for the protection of said records and files, and to prevent interference with the regular discharge of the duties of such officer. The officer shall prohibit the use of pen and ink in making copies or notes of records and files in his office. No books, records and files shall be removed from the office of the custodian thereof, except by the order of the judge of any court of competent jurisdiction, or in response to a subpoena duces tecum issued therefrom, or for audit purposes conducted pursuant to Act No. 71 of the Public Acts of 1919, as amended, being sections 21.41 to 21.53 of the Compiled Laws of 1948, Act No. 52 of the Public Acts of 1929, being sections 14.141 to 14.145 of the Compiled Laws of 1948 or Act No. 2 of the Public Acts of 1968, being sections 141.421 to 141.433 of the Compiled Laws of 1948 with the permission of the official having custody of the records if the official is given a receipt listing the records being removed.

HISTORY: CL 1948, 750.492;—Am. 1970, p. 362, Act 109, Imd. Eff. Jul. 23.

This section supersedes and merges Sec. 1 of Act 92 of 1899, being CL 1915, 3449;—CL 1929, 2713; and Sec. 2 of Act 92 of 1899, being CL 1915, 3450;—CL 1929, 2714.

CITED IN OTHER SECTIONS: The above section is cited in § 340.502.

CHAPTER LXXII

PUBLIC SAFETY

750.493 Protection of exploration; pits and holes.

Sec. 493. Protection of exploration pits and holes—Any person who shall sink, dig or cause to be sunk or dug, any shaft, pit, hole or trench on any uninclosed or unoccupied land within this state to a depth of 4 feet or more, for the purpose of exploring for minerals or making other discoveries, and shall fail and neglect to fill the same or erect or cause to be erected and maintain or cause to be maintained around the same a good substantial fence or enclosure not less than 4 feet high, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.493. This section supersedes with additions, Sec. 1 of Act 188 of 1885, being How. 9120a;—CL 1897, 11527;—CL 1915, 15266;—CL 1929, 16805; and supersedes part of Sec. 2 of Act 188 of 1885, being How. 9120b;—CL 1897, 11528;—CL 1915, 15267;—CL 1929, 16806.

750.493a Placing or throwing glass or other debris on beach or public highway.

Sec. 493a. Any person who shall place or throw glass or other dangerous pointed or edged substances in or on any beach or waters adjacent thereto, highway, or walk, or on public property within 50 feet of a public highway, shall be guilty of a misdemeanor.

HISTORY: Add. 1949, p. 41, Act 50, Eff. Sep. 23.

750.493b Well or cistern; abandoning or failing to keep safely covered or fenced; depth and width.

Sec. 493b. Any person who shall knowingly abandon or fail to keep safely covered or fenced any well or cistern of a depth of 4 feet or more and with a top width of 12 inches or more on property owned or occupied by such person shall be guilty of a misdemeanor.

HISTORY: Add. 1949, p. 293, Act 237, Eff. Sep. 23.

750.493c Excavation or basement; failure to cover or fence.

Sec. 493c. Any person who shall hereafter dig or cause to be dug an excavation or a partially constructed basement for any building or structure, and who shall fail to cover or safely fence the same within a period of 90 days after such excavation has been commenced shall be deemed guilty of a misdemeanor.

HISTORY: Add. 1952, p. 113, Act 102, Eff. Sep. 18.

750.493d Icebox or refrigerator; abandoned without removing snaplock or locking device, penalty.

Sec. 493d. Any person who knowingly leaves, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof, is guilty of a misdemeanor.

HISTORY: Add. 1954, p. 323, Act 135, Imd. Eff. Apr. 23;—Am. 1966, p. 94, Act 68, Imd. Eff. Jun. 9.

750.494 Bells on sleighs and cutters in upper peninsula.

Sec. 494. Bells on sleighs and cutters in upper peninsula—Any person who shall drive or cause to be driven, faster than a walk, on any public highway or private road used by the public in this state, or on any street of an incorporated city or village thereof any sleigh or cutter or other vehicle used as a substitute for either, drawn by horses or mules, or by horse or mule, during the season of sleighing without having bells on at least 1 of the animals so used or without having bells attached to such sleigh, cutter or other vehicle so drawn, in such a manner as to warn foot travelers of its approach, he or they shall be guilty of a misdemeanor: Provided, That the provisions of this section shall apply to the upper peninsula alone.

HISTORY: CL 1948, 750.494. This section supersedes Sec. 1 of Act 19 of 1885, being How. 2102s;—CL 1897, 5552;—CL 1915, 7221;—CL 1929, 4240.

750.495 Shafting; erection to protect public.

Sec. 495. Shafting to be erected to protect public—All shafting put up for the running of machinery on exhibition in this state, where the public are invited to assemble, shall be so put up as to prevent any person or persons coming in contact with the same.

Any person or persons using shafting as named in this section, who shall refuse or neglect to comply with the same before setting said shafting in motion for exhibition, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.495. This section re-enacts except "That", Sec. 1 of Act 156 of 1885, being How. 2102-q;—CL 1897, 5550;—CL 1915, 7219;—CL 1929, 8890; and supersedes Sec. 2 of Act 156 of 1885, being How. 2102-r;—CL 1897, 5551;—CL 1915, 7220;—CL 1929, 8891.

750.496 Hotel or place of public abode; setting fire; posting notice.

Sec. 496. Any person who shall carelessly, recklessly or negligently set fire to any hotel, rooming house, lodging house or any place of public abode, or to any bedding, furniture, curtains, drapes, or other furnishings therein so as to endanger life or property in any way, shall be guilty of a misdemeanor.

In each sleeping room of all hotels, rooming houses, lodging houses and other places

of public abode, a plainly written notice shall be posted in a conspicuous place as notice of the provisions of this act.

HISTORY: Add. 1947, p. 25, Act 17, Eff. Oct. 11;—CL 1948, 750.496. This section as originally enacted superseded and merged Sec. 1 of Act 13 of 1919, being CL 1929, 4774; and Sec. 2 of Act 13 of 1919, being CL 1929, 4775.

The original Sec. 496 was repealed by Act 3, 1942, 2nd Ex. Sess., p. 40, Imd. Eff. Feb. 24. This section provided for fenders or covering over rear wheel of tractors.

750.497 Detouring traffic as public safety measure; notices, posting.

Sec. 497. Detouring traffic as public safety measure—Whenever in the opinion of the state highway commissioner a condition arises or is about to arise upon any of the highways of the state occasioned by the condition of said highway or by any approaching public gathering likely to bring unusual congestion of traffic thereon, and the public safety of persons using or about to use said highway is put in jeopardy, the state highway commissioner is hereby authorized by an appropriate order, to detour the traffic from or upon, provide the direction for any or all traffic, close to any or all traffic, or limit the traffic on said highway to certain classes of vehicles, under such conditions as he may in such order provide on any of the highways of the state of Michigan for such length of time as he may deem necessary.

Whenever the state highway commissioner shall make any order in any way regulating or closing traffic on any highways of this state under the authority of this section, he shall cause to be posted upon said highway in conspicuous places at each terminal of the restricted or closed highway, conspicuous notices of such regulations or closing order.

Any person violating any of the provisions of said order, or using said highway in any manner prohibited in said order after and during the time that notices of said order shall be properly posted as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 10 dollars or by imprisonment in the county jail for not more than 10 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1937, p. 351, Act 221, Eff. Oct. 29;—CL 1948, 750.497. This section as originally enacted superseded Sec. 1 of Act 302 of 1929, being CL 1929, 4629; and Sec. 3 of Act 302 of 1929, being CL 1929, 4631; and re-enacted except changed "act" to "section", Sec. 2 of Act 302 of 1929, being CL 1929, 4630.

750.498 Erection of traffic signals by township boards on trunk lines.

Sec. 498. Erection of traffic control signals by township boards on state trunk line highways—Upon request of any township board, county road commission, or the officials of any incorporated city or village, or upon their own initiative, the state highway commissioner and the commissioner of public safety, acting jointly may investigate or cause to be investigated the traffic conditions on any state trunk line highway within this state, and, if upon such investigation they shall find it in the interest of public safety and convenience, they may direct the said state highway commissioner, township board, county road commission, city or village officials, to erect and maintain, take down, regulate or control such parking, speed and traffic control signs, signals or devices as the said state highway commissioner and commissioner of public safety shall designate, and in default thereof, said state highway commissioner and commissioner of public safety shall be authorized to cause such designated signs, signals and devices to be erected and maintained, taken down, regulated or controlled, in the manner previously directed, and pay for same out of the highway fund designated. A public record of any and all such traffic signs, signals or devices so authorized shall be kept in the office of the state highway commissioner. Any person who shall, on any state trunk line highway in any township, city or village, fail to observe any parking, speed or traffic signs, signals or devices authorized as aforesaid, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than 100 dollars or by im-

prisonment in the county jail for not more than 10 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1937, p. 352, Act 221, Eff. Oct. 29;—CL 1948, 750.498. This section as originally enacted superseded Sec. 1 of Act 85 of 1929, being CL 1929, 4466.

750.498a, 750.499, 750.500 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.

Sections provided for parking, speed, and traffic signs, required vehicles on highways to display lights from 1 hour after sunset to 1 hour before sunrise, required school buses carrying school children to stop at railroad crossings.

750.501 Gasoline filling stations and public automobile garages.

Sec. 501. Gasoline filling stations and public automobile garages—Any person who shall build or construct, in any city having a population of more than 50,000 inhabitants and less than 100,000 inhabitants on any site where 80 per cent of the buildings within a radius of 400 feet of the proposed site are used exclusively for residential purposes, any building for use as a public gasoline filling station for the sale of gasoline and oil, or either of them, to supply motor vehicles, or any public automobile garage, without filing with the clerk of said city the written consent of 60 per cent of the property owners according to total frontage on any public street within a radius of 400 feet of the proposed site of said building, shall be guilty of a misdemeanor: Provided, however, In the event any city has a building ordinance or regulates and restricts the location of trades and industries and the location of buildings under Act No. 207 of the Public Acts of 1921 and acts and parts of acts amendatory thereof, being sections 2633 to 2641 inclusive of the Compiled Laws of 1929, this section shall not apply to such city.

HISTORY: CL 1948, 750.501. This section supersedes and merges Sec. 1 of Act 358 of 1925, being CL 1929, 2652; and Sec. 3 of Act 358 of 1925, being CL 1929, 2654.

NOTE: Act 207, 1921, above referred to, is Compilers' §§ 125.581-125.589.

750.502 Handling of gasoline, benzine and naphtha; violation of section, misdemeanor.

Sec. 502. Handling of gasoline, benzine and naphtha—Every person dealing at wholesale or retail in gasoline, benzine or naphtha shall deliver the same from tank wagons, tanks, casks, barrels, pumps or other receptacles to the purchaser only in barrels, casks, jugs, packages, pumps or cans painted vermilion bright red, and having the word "gasoline", "benzine" or "naphtha" plainly lettered in English thereon, and all tank wagons and wholesale receptacles shall likewise be labeled with the word "gasoline", "benzine" or "naphtha" as the use of such tank wagon or receptacle would indicate. These provisions shall not be deemed to apply to any stationary pump erected for the sale or distribution of gasoline at retail; nor to any tank permanently affixed to a motor vehicle, tractor or aeroplane, as a part thereof, and containing gasoline used for the purpose of propelling such motor vehicle, tractor or aeroplane. No such dealer shall deliver kerosene in a barrel, cask, jug, package or can painted and lettered as hereinbefore provided. Every person purchasing gasoline, benzine or naphtha for use or sale at retail shall procure and keep the same only in barrels, casks, jugs, packages or cans painted and lettered as hereinbefore provided. No person keeping for use or using kerosene shall put or keep the same in any tank wagon, barrel, cask, jug, package or can painted and lettered as hereinbefore provided: Provided, however, That in case of gasoline, benzine and naphtha being sold in bottles of not more than 1 quart for cleaning and similar purposes it shall be deemed sufficient if the contents of such bottles are so designated by a label securely pasted or attached thereto with the words "gasoline", "benzine" or "naphtha" printed in bright red ink in letters not less than 1/4 inch in size.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.502.

750.502a Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section prohibited reckless operation of motorboats or operation while under influence of intoxicating liquor or narcotic drugs.

750.502b Unlawful sale of kerosene; flash point; penalty.

Sec. 502b. Any person who shall knowingly sell or attempt to sell to any person in this state, for use in atmospheric pressure wick-feed illuminating apparatus or atmospheric pressure wick-feed heating stoves or in gravity-feed cook stoves, any kerosene, whether manufactured in this state or not, which shall have a flash point of less than 121 degrees Fahrenheit as determined by the Tagliabue closed cup tester, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding \$300.00, or to imprisonment in the county jail for not to exceed 6 months, or to both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1952, p. 47, Act 47, Eff. Sep. 18.

750.502c Blind persons led by dog guide; denial of use of public accommodation, misdemeanor; credentials.

Sec. 502c. Any person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, amusement or recreation, including but not limited to any inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public educational institution or elevator, who shall refuse to permit a blind person to enter or use any such accommodations when such accommodations are available, for the reason that such person is being led by a dog guide shall be guilty of a misdemeanor if such dog guide shall be wearing a harness and further if such person shall first have presented for inspection credentials issued by an accredited school for training guide dogs which has been approved by the veterans administration.

HISTORY: Add. 1953, p. 242, Act 185, Eff. Oct. 2.

CHAPTER LXXIII

PUNISHMENTS

750.503 Punishment of felonies when not fixed by statute.

Sec. 503. Punishment of felonies when not fixed by statute—A person convicted of a crime declared in this or any other act of the state of Michigan, to be a felony, for which no other punishment is specially prescribed by any statute in force at the time of the conviction and sentence, shall be punished by imprisonment in the state prison for not more than 4 years or by a fine of not more than 2,000 dollars, or by both such fine and imprisonment.

HISTORY: CL 1948, 750.503.

750.504 Punishment of misdemeanors when not fixed by statute.

Sec. 504. Punishment of misdemeanors when not fixed by statute—A person convicted of a crime declared in this or any other act of the state of Michigan to be a misdemeanor, for which no other punishment is specially prescribed by any statute in force at the time of the conviction and sentence, shall be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than 100 dollars, or by both such fine and imprisonment.

HISTORY: CL 1948, 750.504. This section supersedes Sec. 27 of Ch. 156 of the R.S. 1846, being CL 1857, 5846;—CL 1871, 7679;—How. 9261;—CL 1897, 11331;—CL 1915, 14998;—CL 1929, 16589.

750.505 Punishment for indictable common law offenses.

Sec. 505. Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state,

shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than \$10,000.00, or both in the discretion of the court.

HISTORY: CL 1948, 750.505;—Am. 1954, p. 79, Act 66, Eff. Aug. 13.

This section supersedes Sec. 15 of Ch. IX of Act 175 of 1927, being CL 1929, 17343.

750.506 Optional jail sentence for first offenders convicted of felonies.

Sec. 506. Optional jail sentence for first offenders convicted of felonies—Whenever any person shall be convicted of a first offense herein declared to be a felony, punishable by imprisonment for a term of not more than 5 years, the court may instead of imposing the sentence provided, sentence such convicted person to the county jail for a period not to exceed 6 months.

HISTORY: CL 1948, 750.506.

CHAPTER LXXIV

RADIO BROADCASTING

750.507 State radio broadcasting station; priority of messages.

Sec. 507. Every telegraph and telephone company operating in this state shall give priority to emergency messages or operator-handled telephone calls directed to any public safety agency and the person responsible for failure so to do shall be guilty of a misdemeanor. For the purposes of this section, public safety agency means any fire department, ambulance company, law enforcement agency, civil defense communication facility and the department of military affairs.

HISTORY: CL 1948, 750.507;—Am. 1968, p. 293, Act 195, Eff. Nov. 15.

This section supersedes Sec. 4 of Act 152 of 1929, being CL 1929, 577.

750.507b Telegraph and telephone companies; interference, obstruction.

Sec. 507b. Any unauthorized person who shall wilfully prevent, interfere, obstruct, or impede a public safety radio communication shall be guilty of a misdemeanor.

HISTORY: Add. 1968, p. 293, Act 195, Eff. Nov. 15.

750.508 Vehicles equipped with short wave length radio receiving sets.

Sec. 508. Any person who shall equip a vehicle with a radio receiving set that will receive signals sent on frequencies assigned by the federal communications commission of the United States of America for police purposes, or use the same in this state unless such vehicle is used or owned by a peace officer or a bona fide amateur radio operator holding a conditional, general, advanced or extra class amateur license issued by the federal communications commission, without first securing a permit so to do from the commissioner of the Michigan state police upon such application as he may prescribe, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00 or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1939, p. 686, Act 295, Eff. Sep. 29;—CL 1948, 750.508;—Am. 1957, p. 301, Act 242, Eff. Sep. 27.

This section as originally enacted supersedes Sec. 5 of Act 152 of 1929, being CL 1929, 578.

750.508a Television on motor vehicle; view by driver prohibited, penalty.

Sec. 508a. No person shall equip or operate a motor driven vehicle to be used upon the highways of the state with a television viewer, screen or other means of visually receiving a television broadcast which can be viewed by or reflected to the driver. Any person violating the provisions of this act shall be guilty of a misdemeanor.

HISTORY: Add. 1951, p. 166, Act 134, Eff. Sep. 28;—Am. 1957, p. 72, Act 65, Eff. Sep. 27.

750.509 False reports to police radio broadcasting station.

Sec. 509. False reports to police radio broadcasting station—Any person who shall wilfully make to any radio broadcasting station operated by any law enforcement agency, any false, misleading or unfounded report, for the purpose of interfering with

the operation thereof, or with the intention of misleading any peace officer or officers of this state, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00.

HISTORY: Am. 1941, p. 22, Act 24, Eff. Jan. 10, 1942;—CL 1948, 750.509. This section as originally enacted supersedes Sec. 6 of Act 152 of 1929, being CL 1929, 579.

750.510 Broadcasting regulations; violation.

Sec. 510. Violation of regulations controlling broadcasting—Any person or corporation who shall knowingly cause or do any act in violation of any rule or order of the Michigan public utilities commission made pursuant to Act No. 131 of the Public Acts of 1927, being sections 11726 to 11731 inclusive of the Compiled Laws of 1929, and amendments thereto, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.510. This section supersedes Sec. 6 of Act 131 of 1927, being CL 1929, 11731.

NOTE: Act 131, 1927, being CL 1929, 11726-11731, above referred to, is Compilers' §§ 484.301-484.305.

REGULATIONS: See Compilers' § 484.301 et seq.

CHAPTER LXXV

RAILROADS

750.511 Attempt to wreck or endanger safety of passengers.

Sec. 511. Attempt to wreck railroad trains or endanger safety of passengers—Any person who shall place upon any railroad any timber, stone, iron or other obstruction, or who shall change any switch or track, or who shall loosen or displace any rail of the track of such railroad, or who shall change the brakes upon any car or cars standing on any railroad track in this state or who shall break down or displace, destroy or injure any bridge, culvert or embankment of any railroad, or do any other act with intent to endanger the safety of any person traveling or being upon such railroad, or to throw from such railroad any locomotive, tender, or car moving along the track of such railroad, on which shall be any person or property liable to be injured thereby, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

HISTORY: CL 1948, 750.511. This section supersedes Sec. 1 of Act 164 of 1869, Am. 1871, p. 257, Act 168, Eff. July 18;—CL 1871, 7619;—How. 9200;—CL 1897, 11623;—CL 1915, 15388;—CL 1929, 17024; and Sec. 1 of Act 171 of 1897, being CL 1897, 11634;—CL 1915, 15399;—CL 1929, 17034.

750.512 Uncoupling locomotive or cars.

Sec. 512. Uncoupling locomotive or cars—Any person, not being employed on any railroad, who shall wilfully and maliciously uncouple or detach the locomotive or tender, or any of the cars of any railroad train, or shall in any way aid, abet, or procure the doing of the same, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.512. This section supersedes Sec. 3 of Act 164 of 1869, being CL 1871, 7621;—How. 9202;—CL 1897, 11625;—CL 1915, 15390;—CL 1929, 17026.

750.513 Fraudulent railroad securities; making or issuing.

Sec. 513. Making or issuing fraudulent railroad stocks, bonds, etc.—Any director or other officer of any railroad company, who shall make or issue any unauthorized or a fraudulent certificate of stock, bond or obligation of such company, or who shall aid, abet, procure, or consent to any such making or issuing, knowing the same to be unauthorized and fraudulent, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.513. This section supersedes Sec. 6 of Act 164 of 1869, being CL 1871, 7624;—How. 9205;—CL 1897, 11628;—CL 1915, 15393;—CL 1929, 17029.

750.514 Seizing locomotive with mail or express car attached.

Sec. 514. Seizing locomotive with mail or express car attached—Any person who shall unlawfully seize upon any locomotive, with any express or mail car attached thereto, and run away with the same upon any railroad, or shall aid, abet or procure

the doing of the same, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

HISTORY: CL 1948, 750.514. This section supersedes Sec. 4 of Act 164 of 1869, being CL 1871, 7622;—How. 9203;—CL 1897, 11626;—CL 1915, 15391;—CL 1929, 17027.

750.515 Proof of existence of railroad company.

Sec. 515. Proof of existence of railroad company—At the trial of any case arising under the preceding sections of this chapter, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

HISTORY: CL 1948, 750.515. This section supersedes part of Sec. 10 of Act 164 of 1869, Add. 1881, p. 139, Act 146, Eff. Sept. 10;—How. 9209;—CL 1897, 11632;—CL 1915, 15397;—CL 1929, 17033.

750.516 Forcible detention of railroad train.

Sec. 516. Forcible detention of railroad train for purpose of robbery, etc.—Any person who shall wilfully and maliciously, with intimidation or threat of life with firearms, dynamite, or other dangerous devices stop a railroad train, or cause the officers or employees of said railroad company to stop or leave the train, or detach the train 1 part from another, or compel the engineer or fireman to run the train contrary to their general order, or any part thereof in this state, for the purpose of wrecking or robbing said train, or the passengers or employees thereon, or the express or mail cars of such train, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

HISTORY: CL 1948, 750.516. This section supersedes Sec. 2 of Act 171 of 1897, being CL 1897, 11635;—CL 1915, 15400;—CL 1929, 17035.

750.517 Entering train for robbing by means of intimidation.

Sec. 517. Entering railroad train or cars for purpose of robbing by means of intimidation—Any person or persons who shall enter upon any railroad train, passenger car, mail car or express car, with intent to rob said railroad train, passenger car, mail car, express car or the passengers or employees on said cars, by means of intimidation or by threat of life to the passengers or employees upon said cars or in charge of said cars in this state, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

HISTORY: CL 1948, 750.517. This section supersedes Sec. 3 of Act 171 of 1897, being CL 1897, 11636;—CL 1915, 15401;—CL 1929, 17036.

750.518 Boarding railroad train while in motion.

Sec. 518. Boarding railroad train while in motion—Any person who shall jump or step on board of any railroad train, locomotive or car when in motion except employees and passengers at railway stations shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.518. This section supersedes Sec. 1 of Act 31 of 1883, being How. 9122c;—CL 1897, 11533;—CL 1915, 15276;—CL 1929, 17041.

750.519 Disciplining or discharging on report of railroad detective.

Sec. 519. Disciplining or discharging railroad employe upon report of railroad detective—It shall be unlawful for any common carrier by railroad, its agents, superintendents, managers, or employees owning or operating any line or lines of railroad in this state and engaged in commerce by railroad, employing any special agent, detective or person commonly known as a spotter for the purpose of investigation and obtaining and reporting to the employer, its agents, superintendents or managers information concerning its employes to discipline or discharge any of its employes where such act of discipline or discharge is based upon the report of such special agent, detective or spotter, which involves a question of integrity, honesty or breach of any rule of the employer unless such employer, its agents, superintendents or managers shall first give notice to such employe so reported and grant a hearing to him when he so requests and upon demand by said employe, the employer at such hearing shall state the spe-

cific charges against said employe, and the accused employe shall have the right to demand and be confronted with the person making such report to his employer, and to have the right at such hearing to cross examine the agent, detective or spotter making such report, and shall have the right to employ counsel to represent him at such hearing.

Any common carrier by railroad or any of its agents, superintendents, general managers, officers or employes violating any of the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months, or by a fine of not more than 250 dollars. In any case of the violation of this section by any of the officers, agents or employes of any such common carrier by railroad, the imprisonment provided herein if imposed shall be imposed upon such officers or agents committing such offense.

HISTORY: CL 1948, 750.519. This section re-enacts Sec. 1 of Act 92 of 1917, being CL 1929, 8635; and Sec. 2 of Act 92 of 1917, being CL 1929, 8636.

CHAPTER LXXVI

RAPE

750.520 Carnal knowledge.

Sec. 520. Any person who shall ravish and carnally know any female of the age of 16 years, or more, by force and against her will, or who shall unlawfully and carnally know and abuse any female under the full age of 16 years, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life. Such carnal knowledge shall be deemed complete upon proof of any sexual penetration however slight.

HISTORY: CL 1948, 750.520;—Am. 1952, p. 82, Act 73, Eff. Sep. 18.

This section as originally enacted superseded Sec. 20 of Ch. 153 of the R.S. 1846, being CL 1857, 5730;—CL 1871, 7529;—How. 9094;—Am. 1887, p. 129, Act 112, Eff. Sep. 28;—Am. 1895, p. 170, Act 70, Eff. Aug. 30;—CL 1897, 11489;—CL 1915, 15211;—CL 1929, 16727.

CHAPTER LXXVII

RIOTS AND UNLAWFUL ASSEMBLIES

750.521-750.522 Repealed. 1968, p. 513, Act 302, Eff. Jul. 1.

Sections related to riots and unlawful assemblies; duty of officials to disperse; arrest on failure to disperse.

750.523 Riots and unlawful assemblies; refusal to aid officer.

Sec. 523. Refusal to aid officer to disperse or arrest rioters—If any person present, being commanded by any of the magistrates or officers aforesaid, to aid and assist in seizing and securing such rioters, or persons so unlawfully assembled, or in suppressing such riot or unlawful assembly, shall refuse or neglect to obey such command, or when required by any such magistrate or officer to depart from the place of such riotous or unlawful assembly, shall refuse or neglect so to do, he shall be deemed to be 1 of the rioters or persons unlawfully assembled, and shall be liable to be prosecuted and punished accordingly.

HISTORY: CL 1948, 750.523. This section re-enacts Sec. 3 of Ch. 157 of the R.S. 1846, being CL 1857, 5849;—CL 1871, 7683;—How. 9206;—CL 1897, 11336;—CL 1915, 15003;—CL 1929, 16600.

750.524 Riots and unlawful assemblies; neglect of officers to suppress.

Sec. 524. Neglect of officers to suppress unlawful assemblies—Any mayor, alderman, supervisor, president, trustee or member of a common council, justice of the peace, sheriff or deputy sheriff, having notice of any such riotous or tumultuous and unlawful assembly as is mentioned in this chapter, in the township, city or village in which he lives, who shall neglect or refuse immediately to proceed to the place of such

assembly, or as near thereto as he can with safety, or shall omit or neglect to exercise the authority with which he is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 6 months or a fine of not more than 250 dollars.

HISTORY: CL 1948, 750.524. This section supersedes Sec. 4 of Ch. 157 of the R.S. 1846, being CL 1857, 5850;—CL 1871, 7684;—How. 9267;—CL 1897, 11337;—CL 1915, 15004;—CL 1929, 16601.

750.525 Riots and unlawful assemblies; use of force to quell.

Sec. 525. Use of force to quell unlawful assemblies—If any persons, who shall be so riotously or unlawfully assembled, and who shall have been commanded to disperse, as before provided, shall refuse or neglect to disperse, without unnecessary delay, any 2 of the magistrates or officers before mentioned may require the aid of a sufficient number of persons, in arms or otherwise, as may be necessary, and shall proceed in such manner as in their judgment shall be expedient, forthwith to disperse and suppress such unlawful, riotous or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

HISTORY: CL 1948, 750.525. This section re-enacts Sec. 5 of Ch. 157 of the R.S. 1846, being CL 1857, 5851;—CL 1871, 7685;—How. 9268;—CL 1897, 11338;—CL 1915, 15005;—CL 1929, 16602.

750.526 Riots and unlawful assemblies; armed force in dispersing to execute order of certain officials.

Sec. 526. Control of armed force—Whenever an armed force shall be called out in the manner provided by law for the purpose of suppressing any tumult or riot, or to disperse any body of men acting together by force, and with intent to commit any felony, or to offer violence to persons or property, or with intent, by force or violence, to resist or oppose the execution of the laws of this state, such armed force, when they shall arrive at the place of such unlawful, riotous or tumultuous assembly, shall obey such orders for suppressing the riot or tumult, and for dispersing and arresting all persons who are committing any of the said offenses, as they may have received from the governor, or from any judge of a court of record, or the sheriff of the county, any chief of police or his duly authorized representative, or any member of the Michigan state police, and also such further orders as they shall there receive from any 2 of the magistrates or officers mentioned in the first section of this chapter.

HISTORY: Am. 1941, p. 131, Act 106, Eff. Jan. 10, 1942;—CL 1948, 750.526. This section as originally enacted re-enacted Sec. 6 of Ch. 157 of the R.S. 1846, being CL 1857, 5852;—CL 1871, 7686;—How. 9269;—CL 1897, 11339;—CL 1915, 15006;—CL 1929, 16603.

750.527 Riots and unlawful assemblies; death ensuing from efforts to disperse.

Sec. 527. Death ensuing from efforts to disperse unlawful assemblies or riots—If, by reason of any of the efforts made by any 2 or more of the said magistrates or officers, or by their direction, to disperse such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse though the number remaining may be less than 12, any such person, or any other person there present as spectators or otherwise, shall be killed or wounded, the said magistrates and officers and all persons assisting by their order, or under their direction, shall be held guiltless and fully justified in law; and if any of the said magistrates or officers, or any person acting by their order, or under their direction, shall be killed or wounded, all the persons so unlawfully, riotously or tumultuously assembled, and all other persons who, when commanded or required, shall have refused to aid or assist the said magistrates or officers, shall be held answerable therefor.

HISTORY: CL 1948, 750.527. This section re-enacts Sec. 7 of Ch. 157 of the R.S. 1846, being CL 1857, 5853;—CL 1871, 7687;—How. 9270;—CL 1897, 11340;—CL 1915, 15007;—CL 1929, 16604.

750.528 Riots and unlawful assemblies; destroying dwelling house or other property.

Sec. 528. Riotously destroying dwelling house or other property—Any of the persons so unlawfully assembled, who shall demolish, pull down, destroy or injure, or who shall begin to demolish, pull down, destroy or injure any dwelling house or any other building, or any ship or vessel, shall be guilty of a felony, and shall be answerable to any person injured, to the full amount of the damage, in an action of trespass.

HISTORY: CL 1948, 750.528. This section supersedes Sec. 8 of Ch. 157 of the R.S. 1946, being CL 1857, 5854;—CL 1871, 7688;—How. 9271;—CL 1897, 11341;—CL 1915, 15008;—CL 1929, 16805.

CHAPTER LXXVIII

ROBBERY

750.529 Armed robbery; aggravated assault.

Sec. 529. Any person who shall assault another, and shall feloniously rob, steal and take from his person, or in his presence, any money or other property, which may be the subject of larceny, such robber being armed with a dangerous weapon, or any article used or fashioned in a manner to lead the person so assaulted to reasonably believe it to be a dangerous weapon, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years. If an aggravated assault or serious injury is inflicted by any person while committing an armed robbery as defined in this section, the sentence shall be not less than 2 years' imprisonment in the state prison.

HISTORY: CL 1948, 750.529;—Am. 1959, p. 69, Act 71, Eff. Mar. 19, 1960.

This section supersedes Sec. 15 of Ch. 153 of the R.S. 1846, being CL 1857, 5725;—CL 1871, 7524;—How. 9089;—CL 1897, 11484;—CL 1915, 15206;—Am. 1927, p. 895, Act 374, Eff. Sep. 5;—CL 1929, 16722.

750.530 Unarmed robbery.

Sec. 530. Robbery unarmed—Any person who shall, by force and violence, or by assault or putting in fear, feloniously rob, steal and take from the person of another, or in his presence, any money or other property which may be the subject of larceny, such robber not being armed with a dangerous weapon, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

HISTORY: CL 1948, 750.530. This section supersedes Sec. 17 of Ch. 153 of the R.S. 1846, being CL 1857, 5727;—CL 1871, 7526;—How. 9091;—CL 1897, 11486;—CL 1915, 15206;—CL 1929, 16724.

750.531 Bank, safe and vault robbery.

Sec. 531. Bank, safe and vault robbery—Any person who, with intent to commit the crime of larceny, or any felony, shall confine, maim, injure or wound, or attempt, or threaten to confine, kill, maim, injure or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe or other depository of money, bond or other valuables, or shall by intimidation, fear or threats compel, or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up or otherwise injure or destroy any safe, vault or other depository of money, bonds or other valuables in any building or place, shall, whether he succeeds or fails in the perpetration of such larceny or felony, be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

HISTORY: CL 1948, 750.531. This section supersedes Sec. 1 of Act 111 of 1877, being How. 9121;—CL 1897, 506;—CL 1915, 15229;—CL 1929, 16748.

CHAPTER LXXIX

SEDUCTION

750.532 Seduction; punishment.

Sec. 532. Punishment—Any man who shall seduce and debauch any unmarried woman shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars; but no prosecution shall

be commenced under this section after 1 year from the time of committing the offense.

HISTORY: CL 1948, 750.532. This section supersedes Sec. 7 of Ch. 158 of the R.S. 1846, being CL 1857, 5862;—CL 1871, 7697;—How. 9283;—CL 1897, 11664;—CL 1915, 15468;—CL 1929, 16823.

DESERTION: Following marriage to escape prosecution for seduction, see Compilers' § 750.164.

CHAPTER LXXX

SLAUGHTER HOUSES

750.533 Slaughter houses; within 20 rods of highway.

Sec. 533. Slaughter houses within 20 rods of highway—Any person who shall keep or maintain any slaughter-house, slaughter-yard or slaughter-pen, or any other place for slaughtering or killing any animals, or rendering dead animals as a business, within 20 rods of any public highway within this state, or in any other place except as provided in section 6521 of the Compiled Laws of 1929 and amendments thereto, shall be guilty of a misdemeanor: Provided, That the provisions of this section shall not apply within the limits of incorporated villages and cities.

HISTORY: CL 1948, 750.533. This section supersedes and merges Sec. 50 of Ch. 35 of the R.S. 1846, Add. 1879, p. 210, Act 232, Eff. Aug. 30;—How. 1682;—CL 1897, 11433;—CL 1915, 15151;—CL 1929, 6525; and Sec. 51 of Ch. 35 of the R.S. 1846, Add. 1879, p. 210, Act 232, Eff. Aug. 30;—How. 1683;—CL 1897, 11434;—CL 1915, 15152;—CL 1929, 6526.

750.534 Slaughter houses; water supply, sewerage and drainage.

Sec. 534. Slaughter houses to have adequate water supply, sewerage and drainage—Any person or his agent who shall keep or maintain in any city or within 1 mile of the limits of any city or park, or within 30 rods of any highway or street car line, any slaughter-house, slaughter-yard or slaughter-pen or any other place for slaughtering or killing any animals, or for rendering dead animals, unless such place shall be supplied with an adequate supply of water for daily and constant flushing and purifying of the place, and with adequate sewerage and drainage for the speedy removal of all blood and other fluid refuse from such slaughtering, killing or rendering, shall be guilty of a misdemeanor.

Nuisance—Any person or his agent in charge of any slaughter-house, slaughter-yard or slaughter-pen in or within 1 mile of any city or park, or within 30 rods of any highway or street car line, who shall dispose of any offal, heads, horns, hides or other portions of any dead animals in such manner as to be a nuisance, or contrary to the rules of the local board of health, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.534. This section supersedes and merges Sec. 1 of Act 97 of 1901, being CL 1915, 5161;—CL 1929, 6538; and Sec. 3 of Act 97 of 1901, being CL 1915, 5163;—CL 1929, 6540; and supersedes Sec. 2 of Act 97 of 1901, being CL 1915, 5162;—CL 1929, 6539.

CHAPTER LXXXI

STOLEN, EMBEZZLED OR CONVERTED PROPERTY

750.535 Receiving or concealing stolen property.

Sec. 535. Any person who shall buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted, if the property purchased, received or concealed exceed the value of \$100.00, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than \$2,500.00. If the property purchased, received or concealed shall be of the value of \$100.00 or less, such person shall be guilty of a misdemeanor. On a third or subsequent conviction under this section such person shall be guilty of a felony, punishable as herein provided, although the value of the property purchased, received or concealed did not exceed \$100.00.

Rebuttable presumption on dealer's failure to make reasonable inquiry.

Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of such dealer or collector who fails to make

reasonable inquiry that the person selling or delivering any stolen, embezzled or converted property to him has a legal right to do so, shall be presumed to have bought or received such property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.

HISTORY: Am. 1941, p. 11, Act 11, Eff. Jan. 10, 1942;—CL 1948, 750.535;—Am. 1952, p. 41, Act 40, Eff. Sep. 18;—Am. 1957, p. 76, Act 69, Eff. Sep. 27.

Chapter heading Am. 1952, p. 41, Act 40, Eff. Sep. 18.

This section as originally enacted superseded with additions Sec. 20 of Ch. 154 of the R.S. 1846, being CL 1857, 5764;—CL 1871, 7571;—How. 9142;—Am. 1897, p. 278, Act 220, Eff. Aug. 30;—CL 1897, 11556;—CL 1915, 15301;—CL 1929, 16902.

750.536 Conviction for larceny not essential.

Sec. 536. In any prosecution of the offense of buying, receiving or aiding in the concealment of stolen, embezzled or converted money or other property it shall not be necessary to aver, nor on the trial thereof to prove that the person who stole, embezzled or converted such property has been convicted.

HISTORY: CL 1948, 750.536;—Am. 1952, p. 42, Act 40, Eff. Sep. 18.

This section re-enacts Sec. 23 of Ch. 154 of the R.S. 1846, being CL 1857, 5767;—CL 1871, 7574;—How. 9145;—CL 1897, 11559;—CL 1915, 15304;—CL 1929, 16904.

750.537 Copper and silver ore; bartering in.

Sec. 537. Bartering in stolen copper and silver ore, etc.—No person working in any copper or silver mine of this state, or any person in behalf of such person, shall sell, barter, transfer or ship any copper or silver ore, bullion, pig or copper or silver in the raw or unmanufactured state, and no person shall be a party to any barter, transfer or sale aforesaid, or aid or assist therein, unless a memorandum thereof be filed with the county clerk of the county where such barter, transfer or sale shall take place, giving the names of the parties making such barter, transfer, sale or shipment, the dates, consideration and the origin of the copper or silver so bartered, transferred, sold or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale or shipment, shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable, deputy sheriff or 1 of the justices of the peace of said county, stating in substance that he has investigated the source of origin of the copper or silver so to be bartered, transferred, sold or shipped and that in his opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the same. This section shall not apply to any person authorized to act in behalf of a person, firm or corporation engaged in the business of mining copper or silver as owner thereof. Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.537. This section supersedes and merges Sec. 1 of Act 281 of 1925, being CL 1929, 9637; and Sec. 3 of Act 281 of 1925, being CL 1929, 9639.

750.538 Copper and silver ore; sales or shipments in county where copper and silver are mined.

Sec. 538. Sales or shipments of copper and silver ore in county where copper and silver are mined—Any sales, transfers or shipments of copper or silver ore, bullion, pig or copper or silver in the raw or unmanufactured state in any county of the state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration and origin of the copper or silver so sold, transferred or shipped or offered for sale, transfer or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, deputy sheriff or 1 of the justices of the peace of

said county, stating in substance that he has investigated the source or origin of the copper or silver offered for sale, transfer or shipment, and that in his opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer and ship the same.

Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.538. This section re-enacts Sec. 2 of Act 281 of 1925, being CL 1929, 9638; and supersedes Sec. 3 of Act 281 of 1925, being CL 1929, 9639.

CHAPTER LXXXII

TELEGRAPH AND TELEPHONE

750.539 Divulging contents of messages.

Sec. 539. Divulging contents of messages—Any person connected with a telegraph, telephone or messenger company, incorporated or unincorporated, operating a line of telegraph or telephone, or engaged in the business of receiving and delivering messages in this state, in any capacity, who wilfully divulges the contents or the nature of the contents of a communication entrusted to him for transmission or delivery, or who wilfully refuses or neglects to transmit or deliver the same, or who wilfully delays the transmission or delivery of the same, or who wilfully forges the name of the receiver to any receipt for any such message or communication or article of value entrusted to him by such company, with a view to injure, deceive or defraud the sender or intended receiver thereof, or any such telephone, telegraph or messenger company or to benefit himself or any other person, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.539. This section supersedes Sec. 1 of Act 68 of 1853, being CL 1857, 5912;—CL 1871, 7768;—How. 9357;—CL 1897, 11386;—Am. 1901, p. 264, Act 187, Eff. Sept. 5;—CL 1915, 15104;—CL 1929, 17047.

750.539a Definitions.

Sec. 539a. As used in sections 539a to 539i:

(1) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or substantial group of the public has access.

(2) "Eavesdrop" or "eavesdropping" means to overhear, record, amplify or transmit any part of the private discourse of others without the permission of all persons engaged in the discourse. Neither this definition or any other provision of this act shall modify or affect any law or regulation concerning interception, divulgence or recording of messages transmitted by communications common carriers.

(3) "Surveillance" means to secretly observe the activities of another person for the purpose of spying upon and invading the privacy of the person observed.

(4) "Person" means any individual, partnership, corporation or association.

HISTORY: Add. 1966, p. 568, Act 319, Eff. Mar. 10, 1967.

750.539b Trespassing for purpose of eavesdropping or surveillance.

Sec. 539b. A person who trespasses on property owned or under the control of any other person, to subject that person to eavesdropping or surveillance is guilty of a misdemeanor.

HISTORY: Add. 1966, p. 568, Act 319, Eff. Mar. 10, 1967.

750.539c Eavesdropping upon private conversation.

Sec. 539c. Any person who is present or who is not present during a private conversation and who wilfully uses any device to eavesdrop upon the conversation without the consent of all parties thereto, or who knowingly aids, employs or procures another person to do the same in violation of this section, is guilty of a felony punishable by im-

prisonment in a state prison for not more than 2 years or by a fine of not more than \$2,000.00, or both.

HISTORY: Add. 1966, p. 568, Act 319, Eff. Mar. 10, 1967.

750.539d Installation of device for observing, photographing or eavesdropping in private place.

Sec. 539d. Any person who installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, or eavesdropping upon the sounds or events in such place, or uses any such unauthorized installation, is guilty of a felony punishable by imprisonment in a state prison for not more than 2 years or by a fine of not more than \$2,000.00, or both.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.539e Use or divulgence of information unlawfully obtained.

Sec. 539e. Any person who uses or divulges any information which he knows or reasonably should know was obtained in violation of sections 539b, 539c or 539d is guilty of a felony, punishable by imprisonment in a state prison not more than 2 years, or by a fine of not more than \$2,000.00.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.539f Unlawful manufacture, possession or transfer of eavesdropping devices.

Sec. 539f. Any person who manufactures, possesses or transfers to another any device, contrivance, machine or apparatus designed or commonly used for eavesdropping with the intent to unlawfully use or employ or allow the same to be so used or employed for eavesdropping, and knowing the same is intended to be so used, is guilty of a felony, punishable by imprisonment in a state prison not more than 2 years, or by a fine of not more than \$2,000.00, or both.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.539g Exceptions.

Sec. 539g. This act shall not be construed to prohibit:

(a) Eavesdropping or surveillance not otherwise prohibited by law by a peace officer or his agent of this state or federal government while in the performance of his duties.

(b) Hearing any communication transmitted by common carrier facilities by an employee of any communications common carrier when acting in the course of his employment.

(c) The recording by any public utility of telephone communications to it requesting service or registering a complaint by a customer, when a record of the same is required for legitimate business purposes and the agents, servants and employees of such business firm are aware of such practice or surveillance by any employee safeguarding property owned by, or in custody of, his employer on his employer's property.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.539h Civil remedies.

Sec. 539h. Any parties to any conversation upon which eavesdropping is practiced contrary to this act shall be entitled to the following civil remedies:

(a) An injunction by a court of record prohibiting further eavesdropping.

(b) All actual damages against the person who eavesdrops.

(c) Punitive damages as determined by the court or by a jury.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.539i Proof of installation of device as prima facie evidence of violation.

Sec. 539i. In any criminal or civil action, proof of the installation in any private place of any device which may be used for the purposes of violating the provisions of this act shall be prima facie evidence of a violation of section 539d.

HISTORY: Add. 1966, p. 569, Act 319, Eff. Mar. 10, 1967.

750.540 Cutting, breaking, tapping, connecting line, wire or cable.

Sec. 540. Cutting, tapping, using, etc., telephone or telegraph wires, etc.—Any person who shall wilfully and maliciously cut, break, tap or make any connection with, or read, or copy, by the use of telegraph or telephone instruments, or otherwise, in any unauthorized manner, any message, either social or business, sporting, commercial or other news reports, from any telegraph or telephone line, wire or cable so unlawfully cut or tapped in this state; or make unauthorized use of the same, or who shall wilfully and maliciously prevent, obstruct or delay by any means or contrivance whatsoever the sending, conveyance or delivery, in this state, of any authorized communication, sporting, commercial or other news reports, by or through any telegraph or telephone line, cable or wire under the control of any telegraph or telephone company doing business in this state, or who shall wilfully and maliciously aid, agree with, employ, or conspire with any other person or persons to do any of the aforementioned unlawful acts, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than 1,000 dollars.

HISTORY: CL 1948, 750.540. This section supersedes Sec. 1 of Act 113 of 1893, being CL 1897, 11637;—CL 1915, 15403;—CL 1929, 17046.

750.540a Party line, emergency, defined; refusal to yield or surrender use of line; pretext; penalty.

Sec. 540a. "Party line" as used in this section means a subscribers' line telephone circuit, consisting of 2 or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. "Emergency" as used in this section means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

Any person who shall wilfully refuse to yield or surrender the use of a party line to another person for the purpose of permitting such other person to report a fire or summon police, medical or other aid in case of emergency, shall be deemed guilty of a misdemeanor.

Any person who shall ask for or request the use of a party line on pretext that an emergency exists, knowing that no emergency in fact exists, shall be deemed guilty of a misdemeanor.

HISTORY: Add. 1952, p. 61, Act 56, Eff. Sep. 18.

750.540b Notice contained in telephone directory, printing; exception.

Sec. 540b. On and after the ninetieth day following the effective date of this amendment, every telephone directory thereafter distributed to the members of the general public in this state or in any portion thereof which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offense provided for in section 540a, such notice to be printed in type which is not smaller than any other type on the same page and to be preceded by the word "warning" printed in type at least as large as the largest type on the same page: Provided, That the provisions of this section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory first distributed to the general public prior to the date specified above. Any person, firm or corporation providing telephone service which distributes or causes to be distributed in this state 1 or more copies of a tele-

phone directory which is subject to the provisions of this section and which does not contain the notice herein provided for shall be guilty of a misdemeanor.

HISTORY: Add. 1952, p. 81, Act 56, Eff. Sep. 18.

750.540c Fraudulently avoiding charge for telecommunications service; use or sale of equipment; penalty.

Sec. 540c. Any individual, corporation or other person who (1) makes, possesses or uses or knowingly participates in the use of another of any instrument, apparatus, equipment or device designed, adapted or which can be used (a) to fraudulently avoid the lawful charge for any telecommunications service in violation of this section or (b) to conceal the existence or place of origin or destination of any telecommunications service or to interconnect to telephone lines so as to permit a person calling to one such line from or through a third telephone line to communicate with a person calling to the other such line from or through a fourth telephone line if such interconnection is not authorized by the supplier of the telephone service, or (2) sells, gives or otherwise transfers to another, or offers or advertises to sell, give or otherwise transfer any instrument, apparatus, equipment or device described in clause (1), or instructions or plans for making or assembling the same, is guilty of a misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment in the county jail not exceeding 1 year, or both, if the person or corporation engages in such conduct under circumstances evidencing an intent to use or employ such instrument, apparatus, equipment or device, or to allow the same to be used or employed for a purpose described in clause (1) (a) or (1) (b) or knowing or having reason to believe that the same is intended to be so used, or that such plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment or device.

HISTORY: Add. 1966, p. 99, Act 75, Eff. Mar. 10, 1967.

750.540d Seizure of equipment; destruction.

Sec. 540d. Any instrument, apparatus, equipment, device, plans or instruction described in the preceding section may be seized under warrant or incident to a lawful arrest. Upon conviction of a person for violation of the preceding section the instrument, apparatus, equipment, device, plans or instruction may be destroyed as contraband by the sheriff of the county in which such person was convicted or turned over to the person providing the telecommunications service involved in the territory in which the same was seized.

HISTORY: Add. 1966, p. 99, Act 75, Eff. Mar. 10, 1967.

750.540e Malicious use of service provided by communications common carrier.

Sec. 540e. (1) Any person is guilty of a misdemeanor who maliciously uses any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(a) Threatening physical harm or damage to any person or property in the course of a telephone conversation.

(b) Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident.

(c) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.

(d) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation.

(2) Any person violating this section may be imprisoned for not more than 6 months, or fined not more than \$500.00, or by both. An offense shall be committed under this section if the message either originates or terminates or both originates and terminates in this state and may be prosecuted at the place of origination or termination.

HISTORY: Add. 1969, p. 743, Act 328, Eff. Mar. 20, 1970.

CHAPTER LXXXIII

THE STAR SPANGLED BANNER

750.541 Duty to control manner of playing.

Sec. 541. Duty to control manner of playing—No person, firm or corporation, owning or being in control as manager or otherwise, of any theatre, motion picture hall, restaurant, cafe or other places in this state where the public gathers, shall permit or allow anyone who plays, sings or performs therein to play, sing or otherwise render “The Star Spangled Banner” in violation of the provisions of this chapter.

HISTORY: CL 1948, 750.541. This section supersedes Sec. 2 of Act 213 of 1917, being CL 1929, 8901.

750.542 How played.

Sec. 542. How played—The national hymn or anthem, “The Star Spangled Banner”, shall not be played, sung or otherwise rendered in this state in any public place nor at any public entertainment, nor in any theatre, motion picture hall, restaurant or cafe, except as an entire and separate composition or number and without embellishments of national or other melodies; nor shall “The Star Spangled Banner” or any part thereof or selection from the same, be played as a part or selection of a medley of any kind; nor shall “The Star Spangled Banner” be played at or in any of the places mentioned herein for dancing or as an exit march.

HISTORY: CL 1948, 750.542. This section re-enacts Sec. 1 of Act 213 of 1917, being CL 1929, 8900.

750.543 Violation; punishment.

Sec. 543. Punishment—Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.543. This section supersedes Sec. 3 of Act 213 of 1917, being CL 1929, 8902.

CHAPTER LXXXIV

TREASON AND SUBVERSION

750.544 Treason; punishment.

Sec. 544. Any person who shall commit the crime of treason against this state shall be punished by imprisonment in a state prison for life.

No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

HISTORY: CL 1948, 750.544;—Am. 1963, p. 168, Act 119, Eff. Sep. 6.

This section as originally enacted re-enacted Sec. 1 of Ch. 152 of the R.S. 1846, being CL 1857, 5706;—CL 1871, 7507;—How. 9072;—CL 1897, 11302;—CL 1915, 14969;—CL 1929, 16556;—and supersedes Sec. 3 of Ch. 152 of the R.S. 1846, being CL 1857, 5710;—CL 1871, 7509;—How. 9074;—CL 1897, 11304;—CL 1915, 14971;—CL 1929, 16558.

750.545 Misprision of treason.

Sec. 545. Misprision of treason—Any person who shall have knowledge of the commission of the crime of treason against this state, and shall conceal the same, and shall not, as soon as may be, disclose and make known such treason to the governor thereof, or to some judge of a court of record within this state, shall be guilty of a felony, and shall be punished by imprisonment in the state prison not more than 5 years, or by a fine of not more than 2,500 dollars.

HISTORY: CL 1948, 750.545. This section supersedes Sec. 2 of Ch. 152 of the R.S. 1846, being CL 1857, 5709;—CL 1871, 7506;—How. 9073;—CL 1897, 11303;—CL 1915, 14970;—CL 1929, 16557.

750.545a Subversion against state; penalty.

Sec. 545a. Every person who shall commit the crime of subversion against this state shall be punished by imprisonment in the state prison for life, or any term of years, in the discretion of the court.

HISTORY: Add. 1951, p. 168, Act 138, Eff. Sep. 28.

750.545b Subversion against state; misprision felony.

Sec. 545b. Any person who shall have knowledge of the commission of the crime of subversion against this state and shall conceal the same, and shall not, as soon as may be, disclose and make known such subversion to the judge of a court of record within this state, shall be guilty of a felony.

HISTORY: Add. 1951, p. 168, Act 138, Eff. Sep. 28.

750.545c Subversion against state; defined.

Sec. 545c. Any person who shall knowingly be a member, organizer or officer of any association, corporation or organized group of persons whose purpose as known to him is to commit subversion shall be guilty of the crime of subversion.

HISTORY: Add. 1951, p. 168, Act 138, Eff. Sep. 28.

750.545d Subversion against state; aid by corporations, forfeiture of charter.

Sec. 545d. Any corporation doing business under the laws of the state of Michigan which, by corporate action, lends any aid by gifts of money or by any other payments of money, or furnishes the services of personnel or lends its name or credit to any person, association, firm or corporation engaged in acts of subversion, knowing them to be so engaged, shall forfeit its charter or certificate of authority and shall be fined not more than the total amount of the assets of the corporation.

HISTORY: Add. 1951, p. 168, Act 138, Eff. Sep. 28.

CHAPTER LXXXV

TRESPASS

750.546 Wilful trespass; by cutting or destroying property.

Sec. 546. Wilful trespass by cutting or destroying wood, gravel, grain, etc.—Any person who shall wilfully commit any trespass, by cutting down or destroying any timber or wood, standing or growing on the land of another, or by carrying away any kind of timber or wood, cut down or laying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf or mould from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay, or any kind of grain standing, growing or being on such land, or by carrying away from any wharf or landing place, railroad depot or warehouse, any goods whatever in which he has no interest or property, without the license of the owner, of the value of 5 dollars or more, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.546. This section supersedes Sec. 51 of Ch. 154 of the R.S. 1846, being CL 1857, 5795;—CL 1871, 7602;—How. 9173;—CL 1897, 11587;—CL 1915, 15332;—CL 1929, 16928.

750.547 Wilful trespass; entering improved land of another.

Sec. 547. Wilful trespass by entering improved land of another with intent to injure or destroy—Any person who shall wilfully commit any trespass by entering upon the garden, orchard or other improved land of another, without permission of the owner thereof, and with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetables there growing or being, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.547. This section supersedes Sec. 52 of Ch. 154 of the R.S. 1846, being CL 1857, 5796;—CL 1871, 7603;—How. 9174;—CL 1897, 11588;—CL 1915, 15333;—CL 1929, 16929.

750.548 Trespass upon cranberry marshes.

Sec. 548. Trespass upon cranberry marshes—Any person who shall enter the premises of any other person, and take and carry away cranberries or cranberry vines there growing, or who shall trample or otherwise injure or destroy the cranberry vines growing thereon, without the permission of the owner or occupant of said premises, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.548. This section supersedes Sec. 1 of Act 38 of 1869, being CL 1871, 2114;—How. 2223;—CL 1897, 11643;—CL 1915, 15409;—CL 1929, 17012.

750.549 Trespass upon huckleberry and blackberry marshes.

Sec. 549. Trespass upon huckleberry and blackberry marshes—Any person who shall enter the enclosed premises of another person and take and carry away from any huckleberry marsh or lands growing blackberries, huckleberries or blackberries there growing, or who shall trample, break down or otherwise destroy the huckleberry or blackberry bushes growing thereon, without the permission of the owner or occupant of such premises: Provided, That such owner or occupant shall have previously posted a conspicuous notice in at least 3 different places upon the premises forbidding any trespass thereon, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.549. This section supersedes Sec. 1 of Act 261 of 1909, being CL 1915, 15412;—CL 1929, 17015.

750.550 Trespass on vineyards, orchards or gardens.

Sec. 550. Trespass upon vineyards, orchards or gardens—Any person who shall enter a vineyard, orchard or garden, without the consent of the owner, and pick, take, carry away, destroy or injure any of the fruits, vegetables or crops therein, or in anywise injure or destroy any bush, tree, vine or plant, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.550. This section supersedes Sec. 1 of Act 79 of 1895, being CL 1897, 11645;—Am. 1899, p. 97, Act 61, Imd. Eff. May 2;—CL 1915, 15413;—CL 1929, 17010.

750.551 Trespass; injuring and destroying medicinal plants.

Sec. 551. Trespass upon field, etc., and injuring or destroying ginseng, golden seal plants, etc.—Any person who shall without the permission of the owner, enter the field, yard, building, garden or other enclosure of another and wilfully break down, dig, destroy, take or carry away any ginseng or ginseng seed, golden seal plants, golden seal roots, golden seal seeds or any other medicinal plants, seeds or roots, there stored, growing, drying or being, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.551. This section supersedes Sec. 1 of Act 74 of 1905, being CL 1915, 15411;—Am. 1917, p. 886, Act 360, Eff. Aug. 10;—CL 1929, 17014.

750.552 Trespass upon lands or premises of another; penalty.

Sec. 552. Any person who shall wilfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 30 days or by a fine of not more than \$50.00, or both, in the discretion of the court.

HISTORY: Add. 1951, p. 133, Act 102, Imd. Eff. May 31.

Original section 552 of Act 328 of 1931, p. 624, provided for trespass on state lands, etc., and was repealed by Act 126 of 1939.

750.552a Filth, garbage or refuse; unlawful to dump, deposit or place on property of another.

Sec. 552a. Any person who shall dump, deposit or place any filth, garbage or refuse on the grounds or premises of another, without the specific permission of the owner thereof, shall be guilty of a misdemeanor.

HISTORY: Add. 1954, p. 34, Act 27, Imd. Eff. Mar. 31.

CHAPTER LXXXVI

UNFAIR DISCRIMINATION, RESTRAINT OF TRADE AND TRUSTS

750.553 Purchase of poultry, eggs, milk, cream and butter fat.

Sec. 553. Unfair discrimination in the purchase of poultry, eggs, milk, cream and butter fat—Any person engaged in the business of buying poultry, eggs, milk, cream or butter fat for the purpose of manufacture, who shall with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this state by purchasing such commodity at a higher price or rate in 1 locality than is paid for the same commodity by said person in any other locality, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.553. This section supersedes Sec. 1 of Act 103 of 1913, being CL 1915, 15040;—CL 1929, 16681.

750.554 Purchase of potatoes, grain or beans.

Sec. 554. Unfair discrimination in the purchase of potatoes, grain or beans—Any person engaged in the business of buying potatoes, grain or beans, for the purpose of re-sale, who shall with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this state, by purchasing such potatoes, grain or beans at a higher rate or price in 1 locality than is paid for potatoes, grain or beans of like grade and quality by said person in any other locality, after making due allowance for the difference, if any, in the actual cost of transportation, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.554. This section supersedes Sec. 1 of Act 208 of 1923, being CL 1929, 16682.

750.555 Sale of petroleum products.

Sec. 555. Unfair discrimination in sale of petroleum products—Any person doing business in the state, and engaged in the production, manufacture or distribution of any petroleum products, who shall intentionally, for the purpose of destroying the business of a competitor in any locality, discriminate between different sections, communities or cities of this state, by selling such commodity at a lower rate in 1 section, community or city, than is charged for said commodity by said party in another section, community or city, after making due allowance for the difference, if any, in the grade or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.555. This section supersedes Sec. 2 of Act 135 of 1913, being CL 1915, 15042;—CL 1929, 16684.

NOTE: See also Compilers' § 445.791 et seq.

750.556 Discrimination between sexes in payment of wages.

Sec. 556. Any employer of labor in this state, employing both males and females, who shall discriminate in any way in the payment of wages as between sexes who are similarly employed, shall be guilty of a misdemeanor. No female shall be assigned any task disproportionate to her strength, nor shall she be employed in any place detrimental to her morals, her health or her potential capacity for motherhood. Any difference in wage rates based upon a factor other than sex shall not violate this section.

HISTORY: CL 1948, 750.556;—Am. 1962, p. 33, Act 37, Eff. Mar. 28, 1963.

This section as originally enacted superseded and merged Sec. 1 of Act 239 of 1919, being CL 1929, 8497; and Sec. 2 of Act 239 of 1919, being CL 1929, 8498.

750.557 Contracts deemed illegal and in restraint of trade.

Sec. 557. Contracts deemed illegal and in restraint of trade—Any person making or entering into any contract, understanding or agreement made illegal by the terms of this section, or who shall do any act in pursuance of carrying the same into effect in whole or in part, shall be guilty of a misdemeanor.

All contracts, understandings and agreements, made or entered into by and between parties capable of making a valid contract, the purpose or intent of which is to prohibit, restrict, limit, control or regulate the sale of any article of machinery, tools, implements, vehicles, or appliances designed to be used in any branch of productive industry; or to enhance or control or regulate the price thereof; or in any manner to restrict, limit, regulate or destroy free and unlimited competition in the sale thereof, shall be deemed illegal and void as in restraint of trade: Provided, That nothing in this section shall be construed to impair or invalidate agreements or contracts known to the common law and in equity as those relating to good will of trade.

Contracts, understandings and agreements of the following nature, whether written or oral, are hereby declared to be illegal and void under the provisions of this section:

First, Contracts compelling and requiring that any particular make or brand of any article of machinery, tools, implements, vehicles or appliances designed to be used in any branch of productive industry, shall be dealt in or sold, by either party to such contract, to the exclusion of all other makes or brands of such article or articles;

Second, Contracts providing for the exclusive sale of certain makes or brands of manufactured articles of machinery, tools, implements, vehicles or appliances designed to be used in any branch of productive industry, and stipulating certain sums to be paid as liquidated damages to either party for every article so sold of other than the specified make or brand.

HISTORY: CL 1948, 750.557. This section supersedes Sec. 3 of Act 229 of 1905, being CL 1915, 15029;—CL 1929, 16663.

NOTE: See also Compilers' § 445.731 et seq.

750.558 Trusts and conspiracies in restraint of trade.

Sec. 558. Trusts and conspiracies in restraint of trade—A trust is a combination of capital, skill or arts by 2 or more persons, firms, partnerships, corporations or associations of persons, or of any 2 or more of them, for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce;
2. To limit or reduce the production, or increase or reduce the price of, merchandise or any commodity;
3. To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity;
4. To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this state;
5. It shall hereafter be unlawful for 2 or more persons, firms, partnerships, corporations or associations of persons, or of any 2 or more of them to make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure or fixed value, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity, or transportation between them or themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers, in the sale or transportation of any

such article or commodity, or by which they shall agree to pool, combine, or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected. Every such trust as is defined herein is declared to be unlawful, against public policy and void: Provided, however, That nothing contained in the provisions of this section shall be construed to forbid producers of farm or dairy products from co-operating or organizing corporations or associations not primarily for profit, for the purpose of insuring and providing a reasonably certain and stable market for, and distribution of, such products upon terms fair and reasonable to the public and to themselves, and bargaining with distributors of such products singly or collectively in relation thereto, nor shall such co-operative undertaking, corporations, associations or members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade.

Any violation of the provisions of this section shall be and is hereby declared a conspiracy against trade, and any person who may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall as principal, manager, director, agent, servant or employer, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates or furnish any information to assist in carrying out such purposes or orders thereunder or in pursuance thereof, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars. Each day's violation of this provision shall constitute a separate offense.

In any indictment for any offense named in this and the following section, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

In prosecutions under this and the following section, it shall be sufficient to prove that a trust or combination, as defined herein, exists, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement, or any written instrument on which it may have been based; or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

HISTORY: CL 1948, 750.558. This section supersedes Sec. 4 of Act 255, 1899, being CL 1915, 15016;—CL 1929, 16650;—and Sec. 5 of Act 255 of 1899, being CL 1915, 15017;—CL 1929, 16651.

NOTE: See also Compilers' § 445.701 et seq.

750.559 Trustee; unlawful to control production through.

Sec. 559. Unlawful to hold trust certificates or enter into agreement to control production through trustee—Any person, partnership, association or corporation, or any agent thereof, who shall issue or own trust certificates, or any person, partnership, association or corporation, agent, officer or employe, or the directors or stockholders of any corporation, who shall enter into any combination, contract or agreement with any person or persons, corporations or corporation, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or prevent, restrict or diminish the manufacture or output of any such article, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: CL 1948, 750.559. This section supersedes Sec. 10 of Act 255 of 1899, being CL 1915, 15022;—CL 1929, 16656.

NOTE: See also Compilers' § 445.701 et seq.

750.560 Incriminating testimony and immunity of witnesses.

Sec. 560. Incriminating testimony and immunity of witness except for perjury—No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this chapter, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation, proceeding or trial: Provided, That immunity shall extend only to a natural person, who in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath: Provided further, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 750.560. This section supersedes Sec. 11a of Act 255 of 1899, Add. 1911, p. 5, Act 2, Eff. Aug. 1;—CL 1915, 15024;—CL 1929, 16658.

NOTE: See note under preceding section.

CHAPTER LXXXVII

WEIGHTS AND MEASURES

750.561 False weights and measures.

Sec. 561. False weights and measures—Any person who shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be guilty of a misdemeanor. Upon a second or subsequent conviction he shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not less than 100 dollars or more than 500 dollars.

HISTORY: CL 1948, 750.561. This section supersedes Sec. 7 of Act 168 of 1913, being CL 1915, 6240;—Am. 1923, p. 44, Act 24, Eff. Aug. 30;—CL 1929, 5539.

750.562 Fruit or vegetable containers, copyrighted or registered.

Sec. 562. Fruit or vegetable containers bearing copyrighted or registered label, etc.—Any person using any fruit or vegetable container, or part thereof, upon which is borne any copyrighted or registered label, brand, stamp or trade-mark, or using a copyrighted or registered bag, tag or card without first obtaining permission to do so from the person, corporation, association, society or persons having legal control of the copyrighted or registered label, brand, stamp, trade-mark, tag, bag, or card, shall be guilty of a misdemeanor: Provided, That nothing in this section shall prohibit the use of the container or part thereof herein mentioned in the sale of a commodity other than that described on the label, brand, stamp, tag or card attached thereto or appearing thereon.

HISTORY: CL 1948, 750.562. This section supersedes and merges Sec. 1 of Act 79 of 1925, being CL 1929, 8964; and Sec. 2 of Act 79 of 1925, being CL 1929, 8965.

750.563 Livestock or poultry; duty in weighing.

Sec. 563. Duty of persons weighing cattle, etc.—Any person who shall weigh for any person purchasing, or selling, or offering for sale, any live stock, neat cattle, sheep, swine, poultry, or other live animals, or any beef, pork, mutton, fowls, or other animals when dressed, or any hay, grain or produce, and shall fail, neglect or refuse to make a true and correct weight or weights thereof or give to the purchaser and seller, or person offering the same for sale, when requested, the true, full, correct and gross amount of any and all such weights, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.563. This section supersedes and merges Sec. 1 of Act 189 of 1881, being How. 1576;—CL 1897, 4903;—CL 1915, 6251;—CL 1929, 5565; and Sec. 2 of Act 189 of 1881, being How. 1576a;—CL 1897, 4904;—CL 1915, 6252;—CL 1929, 5566.

750.564 Fruit or vegetable containers to hold quantity represented.

Sec. 564. Fruit or vegetable containers to hold quantity represented—Any person who shall offer for sale or sell in any township, city or village within this state, any fruits or vegetables contained in the drawers, cases, boxes or baskets, represented to hold 1 bushel or any fractional part thereof, which said drawers, cases, boxes or baskets shall not be of the dimensions to hold or shall not hold the quantity offered for sale or sold whether by the bushel or 32 quarts or any fractional part thereof, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.564. This section supersedes and merges Sec. 1 of Act 101 of 1877, being How. 1574;—CL 1897, 4907;—CL 1915, 6255;—CL 1929, 5590; and Sec. 2 of Act 101 of 1877, being How. 1575;—CL 1897, 4908;—CL 1915, 6256;—CL 1929, 5591.

750.565 Fruit baskets to be marked as to number of pounds.

Sec. 565. Fruit baskets to be marked as to number of pounds—Any manufacturer or shipper of or dealer in peach baskets or other fruit packages designed for the shipment of peaches, grapes and plums, who shall sell or offer to sell such peach baskets or other fruit packages without marking or causing to be marked in a plain manner on the outside, otherwise than the bottom of such baskets or packages, the capacity of each basket or package in pounds at the rate of 1 pound for each 43.008 cubic inches of space contained in such basket or package, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 750.565. This section supersedes and merges Sec. 1 of Act 224 of 1895, being CL 1897, 4909;—CL 1915, 6257;—CL 1929, 5587; and Sec. 2 of Act 224 of 1895, being CL 1897, 4910;—CL 1915, 6258;—CL 1929, 5588.

750.566 Binder twine; marking.

Sec. 566. Marking of binder twine—Any person who shall sell, expose or offer for sale within this state, binder twine, except the same bear upon each ball a stamp, tag or label truly stating the name of the manufacturer, importer or jobber of such twine, the kind or kinds of material it contains, and the number of feet to the pound in such ball, shall be guilty of a misdemeanor: Provided, That a deficiency not exceeding 5 per cent in the length or tensile strength stated on the stamp, tag or label shall not be a violation hereof.

The selling or exposing for sale of any ball of twine which does not conform to the requirements of this section shall constitute a separate and distinct offense.

HISTORY: CL 1948, 750.566. This section supersedes and merges Sec. 1 of Act 55 of 1909, being CL 1915, 6267;—CL 1929, 5616; and Sec. 2 of Act 55 of 1909, being CL 1915, 6268;—CL 1929, 5617; and Sec. 3 of Act 55 of 1909, being CL 1915, 6269;—CL 1929, 5618.

CHAPTER LXXXVIII

REPEALS AND SAVING SECTION

Sec. 567. (This was a repeal section.)

HISTORY: Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

ACTS REPEALED:

Chapter Number	Year of Revised Statutes	Section Numbers	Compiled Law Sections (1929)	Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1929)
40	1846	1-4	16621-16624	192	1879		16612-16613
43	1846	6, 9-10	9082, 9111-9112	202	1879		16791
43	1846	15-18	9117-9120	228	1879		16994-16995
45	1846	1	16942	232	1879	9-10	6525-6526
45	1846	5	16946	248	1879		9055-9056
50	1846	1-9	12051-12059	3	1881		17019-17021
60	1846	61	5945	8	1881		16591-16593
84	1846	33	12752	183	1881		8922-8923
152	1846		16556-16558	189	1881		5565-5566
153	1846	1-35	16706-16742	254	1881	1-3	16606-16608
154	1846	16-20, 22-25		260	1881	1-2, 5-6	12798-12799, 12802-12803
			16897-16932	21	1883		17506-17507
		28, 31-53, 55		31	1883		17041
155	1846		17048-17065	71	1883	3	16746
156	1846	1-27	16563-16589	122	1883		5292
157	1846	1-9	16598-16606	138	1883		16783-16785
158	1846	1-8	16817-16824	162	1883		16814
158	1846	10	16826	172	1883		16847
158	1846	12-14, 16-22		19	1885		4240
159	1846	1-5	16828-16837	27	1885		5499-5500
160	1846	1-5	16891-16895	97	1885		16968
171	1846	28-30	16813-16817	126	1885		17103
Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1929)	130	1885		16809-16811
6	1851		17694-17698	138	1885		16875-16876
25	1853		17018	156	1885		8890-8891
68	1853		155	177	1885		13325-13326
52	1853		17047	188	1885		16805-16806
128	1855		17002	209	1885		16880-16882
174	1855		9804-9805	11	1887		5494-5495
9	1861		17003	20	1887		16631-16633
139	1861		16594	44	1887	1	1340-1341
164	1861	18	583	153	1887		16854
22	1863		17754	164	1887		16645-16646
123	1863		8966-8969	199	1887		16618-16620
126	1863		16703-16704	2	1889		17017
126	1863		16634-16643	4	1889		16941
185	1863		5202-5204	52	1889		9830
163	1867		8612	91	1889		16792-16794
70	1867		5306	206	1889		16983-16984
5	1869		16998-16999	225	1889		16674-16680
38	1869		17012-17013	264	1889		9090-9092
46	1869		16893-16896	15	1891		6615-6616
68	1869		16776-16779	63	1891		16625-16627
106	1869		16883-16884	113	1893		17046
162	1869		17009	156	1893		12820
164	1869		17024-17033	165	1893		17001
166	1869		16996-16997	170	1893		5501-5503
138	1873		16885-16887	192	1893		8513-8516
107	1873		483-484	45	1895		6613-6614
97	1875		16782	79	1895		17010-17011
131	1875		358-365	122	1895		8942-8943
141	1875	1-2	8938-8939	145	1895		17000
12	1877		8892-8893	209	1895		8517-8519
70	1877	2-4	17067-17069	224	1895		5587-5589
101	1877		5590-5591	89	1897		17004-17005
102	1877		16964	95	1897		16652-16653
111	1877		16748	101	1897		8944-8949
133	1879	21	17839	171	1897		17034-17037
187	1879		16595	219	1897		16868-16869
192	1899		5240-5241	264	1897		8950-8956
205	1899		6677-6678	92	1899		2713-2715
245	1899		16988-16989	219	1917		16971
249	1899		16845-16846	276	1917		12781-12782
255	1899	4-5, 10		296	1917	14, 19	11986, 11991
				328	1917		16628-16630
				333	1917		17039-17040

Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1929)	Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1929)
		11a	16650-16651, 16656, 16658 17090-17096 6538-6540 12816-12819 2708-2710 16890-16892	13 25 104 136 167 176 239	1919 1919 1919 1919 1919 1919 1919		4774-4775 6635-6636 16561-16562 12874 6753-6755 5082 8497-8498
45	1901		7954	255	1919		16559-16560
97	1901	18	16851	271	1919		12064-12067
110	1901		17014	322	1919		8520-8521
237	1901		17094-17100	377	1919		16771-16775
103	1903		16863	399	1919		16869-16870
143	1903		17022-17023	78	1921		16590
196	1903		16965-16967	98	1921		16743-16745
74	1905	3	16969	126	1921		4776-4777
210	1905		16951	216	1921		5289
229	1905		8901-8902	221	1921		5323
268	1905		8798-8800	238	1921		17101
269	1905		8894-8899	239	1921		16644
44	1907		12788-12792	151	1923	48	6925
64	1907		17112-17113	208	1923		16692
81	1907		6752	222	1923		17087-17093
133	1907		12090	224	1923	9-19	4819-4820
138	1907	13	17038	276	1923		16609-16610
144	1907		16815-16816	283	1923		12674
146	1907		12793	24	1925		16653-16655
157	1907		9133-9137	78	1925		5361-5365
240	1907		16992	79	1925		8964-8965
246	1907		16970	176	1925		9121-9132
249	1907		598	231	1925		16871-16874
264	1907		601-602	233	1925		16975-16976
336	1907		5616-5618	290	1925		13607-13608
25	1909	2	16993	281	1925		9637-9640
33	1909		16795-16800	284	1925		12048-12050
37	1909		728-731	319	1925		16990-16991
38	1909		911-912	320	1925		5479-5490
55	1909		6679	315	1925		16948-16950
85	1909	1	12830-12833	358	1925	3	2654
182	1909		17015-17016	9	1926 (Ex. Ses.)		4822-4823
194	1909		12060	36	1927		16857-16859
201	1909		333-335	38	1927		16933-16940
210	1909		16786-16787	40	1927		16860-16861
226	1909		16877-16879	48	1927		16980-16982
261	1909		16862-16868	101	1927		16980-16983
273	1909		16952	106	1927		6863-6866
8	1911		5496-5498	111	1927		16705-16707
56	1911		141	112	1927		5472-5474
62	1911	8	11572-11573	119	1927		17104-17109
63	1911		16848-16850	131	1927	6	11731
65	1911		17042-17045	136	1927		4779-4782
207	1911		16634-16637	175 Ch. 9	1927	14-15	17342-17343
209	1911		6686-6687	175 Ch. 16	1927	16-17	17506-17507
253	1911		16681	179	1927		16977-16979
263	1911		6618-6621	229	1927		3305
270	1911		16684	284	1927		16596-16597
38	1913	2	5464-5468	291	1927		381-383
93	1913		5539	319 Pt. 2			
103	1913		5355-5357	Ch. 30	1927		7629-7632
123	1913		5242-5244	319 Pt. 2			
135	1913		5559-5564	Ch. 36	1927	13	7696
151	1913	7	16747	372	1927	3-5, 10-11, 15-16	16751-16753, 16759-16760, 16764-16765 16788-16790 16780-16781 4778
166	1913		16768-16770				
176	1913		8924-8928				
179	1913		17077-17079				
207	1913		9045-9046	14	1929		
232	1913		9210-9211	25	1929		
250	1913		17110-17111	58	1929		
339	1913		12850-12851	66	1929	36, 50, 51, 66	11933, 11947- 11948, 11963
354	1913		14754				
34	1915	47	15150, 15180				
201	1915	11, 41	16607-16608	67	1929	41	12037
269	1915		4221-4222	85	1929		4466
286	1915		17732	99	1929		16956
314 Ch. 25	1915		5461-5463	152	1929	4-6	577-579
314 Ch. 35	1915		8635-8636	179	1929		16959
16	1917	13	17102	181	1929		16957-16958
38	1917		16856	186	1929		16985-16987
78	1917		16972-16974	291	1929		6756
90	1917		8900-8902	302	1929		4629-4631
92	1917						
135	1917						
170	1917						
182	1917						
213	1917						

750.568 Saving section.

Sec. 568. Saving section—All proceedings pending and all rights and liabilities existing, acquired or incurred, at the time this act takes effect, are hereby saved, and such proceedings may be consummated under and according to the law in force at the time such proceedings are or were commenced. It is the legislative intent that this act shall not be construed to alter, affect or abate any pending prosecution, or prevent prosecution hereafter instituted under such repealed sections, chapters or acts for offenses committed prior to the effective date of this act; and all prosecutions pending at the effective date of this act, and all prosecutions instituted after the effective date of this act for offenses committed prior to the effective date of this act may be continued or instituted under and in accordance with the provisions of the law in force at the time of the commission of such offense.

HISTORY: CL 1948, 750.568.

Sec. 569. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 287, Imd. Eff. May 25.

CHAPTER 752. PENAL CODE—SUPPLEMENTAL CHAPTER

ADULTERATION OF FOOD AND MEDICINE

Act 254 of 1881

752.4-752.6 Repealed.

LAW ENFORCEMENT

Act 158 of 1966

752.11 Upholding or enforcing the law; duty of public officials.

752.12 Penalty.

CRUELTY TO ANIMALS

Act 70 of 1877

752.21 Cruelty to animals; penalty; cropping dogs ears.

752.25 Violation of act; arrest without warrant, seizure and impounding of animal.

752.26 Violation of act; complaint on suspicion, search warrant; seizure and disposal of certain instruments.

752.27 Violation of act; discovery and prosecution by appointee of certain society; designation of appointee as deputy sheriff, liability for his acts.

752.28 Violation of act; duty of public officer; neglect a misdemeanor.

752.29 Violation of act; duty of prosecutor.

752.30 Definitions; imputation of knowledge and act of employee to corporation.

CANES OF BLIND PEOPLE

Act 10 of 1937

752.51 Blind persons; canes, color.

752.52 Blind persons carrying a painted cane or walking stick or guided by dog, duty of driver of vehicles.

752.53 Blind persons; penalty.

WAY THROUGH CEMETERY

R.S. 1846, Ch. 158

752.73 Unauthorized construction of way through cemetery.

BABY CHICKS, RABBITS, DUCKLINGS, FOWL, GAME

Act 163 of 1945

752.91 Sale of artificially colored baby chicks, rabbits or ducklings; unlawful.

752.92 Violation a misdemeanor.

SAFETY DEVICES ON CORN HUSKERS

Act 124 of 1907

752.101 Corn husker with unprotected feeder; unlawful sale.

752.102 Penalty.

REBUILT ELECTRIC STORAGE BATTERIES

Act 217 of 1933

752.131 Rebuilt electric storage batteries.

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752.863 Section repealed.

752.a863 Reckless, wanton use or negligent discharge of firearm; penalty.

752.864 Firearms; injury to person or property, suspension of hunting privileges.

RECKLESS OR NEGLIGENT USE OF FIREARMS
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752.905 Repeal.

752.906 Municipal ordinances.

752.4-752.6 Repealed. 1968, p. 75, Act 39, Eff. Jan. 1, 1969.

Sections related to adulteration of food and medicine; use of certain adulterants, prohibited unless labeled; penalty; duty of prosecutors.

Act 158, 1966, p. 179; Eff. Mar. 10, 1967.

AN ACT to require public officials to enforce the legal rights of citizens and to provide a penalty for failure to do so.

The People of the State of Michigan enact:

752.11 Upholding or enforcing the law; duty of public officials.

Sec. 1. Any public official, appointed or elected, who is responsible for enforcing or upholding any law of this state and who wilfully and knowingly fails to uphold or enforce the law with the result that any person's legal rights are denied is guilty of a misdemeanor.

HISTORY: New 1966, p. 179, Act 158, Eff. Mar. 10, 1967.

752.12 Penalty.

Sec. 2. Any person convicted of violating this act shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

HISTORY: New 1966, p. 179, Act 158, Eff. Mar. 10, 1967.

Act 70, 1877, p. 55; Eff. Aug. 21.

AN ACT for the more effectual prevention of cruelty to animals.

The People of the State of Michigan enact:

752.21 Cruelty to animals; penalty; cropping dogs ears.

Sec. 1. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed, any animal, and whoever having the charge or custody of any

animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or wilfully fails to provide the same with proper food, drink, shelter, or protection from the weather, shall, for every such offense, be punished by imprisonment in jail not exceeding 3 months or by fine not exceeding 100 dollars, or by both such fine and imprisonment. The cropping of dogs ears shall be considered to be a mutilation or cruelty to an animal within the meaning of this act, unless such cropping is performed by a registered veterinary surgeon, while the dog is under an anaesthetic.

HISTORY: How. 9391;—CL 1897, 11739;—CL 1915, 15535;—CL 1929, 17066;—Am. 1931, p. 157, Act 99, Eff. Sept. 18;—CL 1948, 752.21.

FORMER ACTS: Act 144 of 1871 and Act 25 of 1873.

Sec. 2.

HISTORY: How. 9392;—Am. 1893, p. 51, Act 48, Imd. Eff. April 27;—CL 1897, 11740;—Am. 1899, p. 366, Act 234, Eff. Sept. 23;—CL 1915, 15536;—CL 1929, 17067;—Rep. 1931, p. 741, Act 328, Eff. Sept. 18.

This section provided penalties for keeping or using animals for fighting, etc. For present law, see Compilers' § 750.49.

Sec. 3.

HISTORY: How. 9393;—CL 1897, 11741;—Am. 1913, p. 605, Act 321, Eff. Aug. 14;—CL 1915, 15537;—CL 1929, 17068;—Rep. 1931, p. 741, Act 328, Eff. Sept. 18.

This section provided penalties for cruelty to animals. For present law see Compilers' § 750.50. Also see Sec. 1 of this act.

Sec. 4.

HISTORY: How. 9394;—CL 1897, 11742;—CL 1915, 15538;—Am. 1919, Ex. Ses., p. 25, Act 14, Eff. Sept. 25;—CL 1929, 17069;—Rep. 1931, p. 741, Act 328, Eff. Sept. 18.

This section provided penalties with respect to confining animals in railroad cars. For present law, see Compilers' § 750.51.

752.25 Violation of act; arrest without warrant, seizure and impounding of animal.

Sec. 5. Persons found violating any of the provisions of this act may be arrested and held without warrant, in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use in violation of any of the provisions of this act, and the person making such seizure shall cause such animals or fowls to be at once delivered to a pound-master of the town, village, or city in which the same may be, and it shall be the duty of such pound-master to receive such animals or fowls, and to hold the same and proceed in regard to them in all respects as provided by law in other cases of animals impounded.

HISTORY: How. 9395;—CL 1897, 11743;—CL 1915, 15539;—CL 1929, 17070;—CL 1948, 752.25.

752.26 Violation of act; complaint on suspicion, search warrant; seizure and disposal of certain instruments.

Sec. 6. When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of this act are being, or are about to be violated in any particular building, or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of this act as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested the owner of said article or instrument shall show, to the satisfaction of said magistrate,

that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

HISTORY: How. 9398;—CL 1897, 11744;—CL 1915, 15540;—CL 1929, 17071;—CL 1948, 752.26.

752.27 Violation of act; discovery and prosecution by appointee of certain society; designation of appointee as deputy sheriff, liability for his acts.

Sec. 7. Any society incorporated in this state for the purpose of preventing cruelty to animals may designate 1 or more persons in each county of the state to discover and prosecute all cases of the violation of this act; and the sheriff of such county may appoint each person so designated a deputy sheriff. The person shall be of good moral character, and when appointed shall possess all the powers of a sheriff of the county in the enforcement of the provisions of this act. The sheriff, however, shall not be responsible for any of the acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

HISTORY: How. 9397;—CL 1897, 11745;—CL 1915, 15541;—CL 1929, 17072;—CL 1948, 752.27;—Am. 1968, p. 116, Act 72, Eff. Nov. 15.

752.28 Violation of act; duty of public officer; neglect a misdemeanor.

Sec. 8. It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen, and public officers, to arrest and prosecute all persons of whose violation of the provisions of this act, they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor.

HISTORY: How. 9398;—CL 1897, 11746;—CL 1915, 15542;—CL 1929, 17073;—CL 1948, 750.28.

MISDEMEANOR: For punishment, see Compilers' § 750.504.

752.29 Violation of act; duty of prosecutor.

Sec. 9. It shall be the duty of all prosecuting attorneys to represent and prosecute in behalf of the people within their respective counties all cases of offenses arising under the provisions of this act.

History: How. 9399;—CL 1897, 11747;—CL 1915, 15543;—CL 1929, 17074;—CL 1948, 752.29.

752.30 Definitions; imputation of knowledge and act of employee to corporation.

Sec. 10. In this act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "person," and "whoever" shall be held to include corporations as well as individuals, and the knowledge and acts of agents of, and persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

HISTORY: How. 9400;—CL 1897, 11748;—CL 1915, 15544;—CL 1929, 17075;—CL 1948, 752.30.

Sec. 11. (This was a repeal section.)

HISTORY: How. 9401;—CL 1897, 11749n;—CL 1915, 15545;—CL 1929, 17076;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 144, 1871; Act 25, 1873.

Act 10, 1937, p. 13; Imd. Eff. Apr. 16.

AN ACT to prohibit the use of certain canes, except by blind persons, providing protection against accidents to such persons; and providing penalties for violation hereof.

The People of the State of Michigan enact:

752.51 Blind persons; canes, color.

Sec. 1. No person, except those wholly or partially blind, shall carry or use on any street, highway, or in any other public place a cane or walking stick which is white in color, or white tipped with red.

HISTORY: CL 1948, 752.51.

752.52 Blind persons carrying a painted cane or walking stick or guided by dog, duty of driver of vehicles.

Sec. 2. Any driver of a vehicle who approaches within 10 feet of a person wholly or partially blind, carrying a cane or walking stick which is white or white tipped with red, or being led by a guide dog wearing a harness and walking on either side of or slightly in front of said blind person, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind.

HISTORY: CL 1948, 752.52;—Am. 1952, p. 406, Act 249, Eff. Sep. 18.

752.53 Blind persons; penalty.

Sec. 3. Any person, other than a person wholly or partially blind, who shall carry a cane or walking stick such as is described in this act, contrary to the provisions of this act, or who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding 3 months, or by fine not exceeding 100 dollars, or by both such fine and imprisonment.

HISTORY: CL 1948, 752.53.

R.S. 1846, Ch. 158.

WAY THROUGH CEMETERY.

752.73 Unauthorized construction of way through cemetery.

Sec. 23. If any person shall open or make any highway, or shall construct any railroad, turnpike or canal, or any other thing in the nature of a public easement, over, through, in or upon such part of any enclosure, being the property of a township, city, religious society, or of any other body corporate, or of private proprietors, as may be used or appropriated for the burial of the dead, unless an authority for that purpose shall be specially granted by law, or unless, the consent of such township, city, religious society, body corporate or proprietors respectively, shall be first obtained, he shall be punished by fine not exceeding 2,000 dollars, or imprisonment in the county jail not more than 1 year.

HISTORY: CL 1857, 5878;—CL 1871, 7713;—How. 9299;—CL 1897, 11712;—CL 1915, 15486;—CL 1929, 16838;—CL 1948, 752.73.

NOTE: The balance of this chapter, with respect to penal offenses, with the exception of section 11 which is Compilers' § 752.461, and sections 25-30 which are Compilers' § 752.525-752.530, has been repealed and superseded by sections in the penal code, see Compilers' § 750.1 et seq.

Act 163, 1945, p. 226; Imd. Eff. May 16.

AN ACT prohibiting the sale or offer for sale of dyed or artificially colored baby chicks, rabbits, ducklings, or other fowl or game; and providing a penalty for violation thereof.

The People of the State of Michigan enact:

752.91 Sale of artificially colored baby chicks, rabbits or ducklings; unlawful.

Sec. 1. It shall be unlawful for any person, firm or corporation to sell, or offer for sale, any baby chicks, rabbits, ducklings, or other fowl or game which have been dyed or otherwise artificially colored.

HISTORY: CL 1948, 752.91.

752.92 Violation a misdemeanor.

Sec. 2. Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 752.92.

Act 124, 1907, p. 154; Eff. Sep. 28.

AN ACT requiring corn huskers to be protected by an automatic feeder or other safety device, and making the sale or use thereof, unless so protected, a misdemeanor.

The People of the State of Michigan enact:

752.101 Corn husker with unprotected feeder; unlawful sale.

Sec. 1. Hereafter it shall be unlawful for any person, partnership, association or corporation, or for any officer or agent thereof, to sell or offer for sale, or to use within the state of Michigan, the machine commonly known as a corn husker, unless the same is safeguarded by an automatic feeder or other safety device, that shall compel the person, or persons, feeding said machine, to stand at a reasonably safe distance from the snapping rollers, and designed effectually to protect the person or persons operating the same from bodily injury while engaged in such operation.

HISTORY: CL 1915, 15268;—CL 1929, 16807;—CL 1948, 752.101.

752.102 Penalty.

Sec. 2. Any person, partnership, association or corporation, or officer or agent thereof, who shall be found guilty of a violation of the provisions of section 1 of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding 100 dollars, or imprisonment not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1915, 15269;—CL 1929, 16808;—CL 1948, 752.102.

Act 217, 1933, p. 345; Eff. Oct. 17.

AN ACT to prevent fraud and deception in the sale and offering for sale of rebuilt electric storage batteries, and to provide a penalty for the violation thereof.

The People of the State of Michigan enact:

752.131 Rebuilt electric storage batteries.

Sec. 1. It shall be unlawful for any person, firm or corporation to assemble or rebuild, in whole or in part, an electric storage battery for any use or purposes out of

second-hand or used material such as containers, separators, plates, groups or other battery parts, and to sell the same or offer to sell the same within the state of Michigan without the word "rebuilt" branded into the side of the container in letters at least 1 inch high and 5/8 of an inch wide.

HISTORY: CL 1948, 752.131.

752.132 Penalty for violation of act.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 752.132.

Act 140, 1935, p. 219; Eff. Sep. 21.

AN ACT to prohibit endurance contests known as walkathons and similar endurance contests; to prescribe a penalty for the violation thereof, and to repeal Act No. 65 of the Public Acts of 1933.

The People of the State of Michigan enact:

752.161 Unlawful to promote, conduct or participate in endurance contests.

Sec. 1. It shall be unlawful for any person, firm, or corporation to promote, conduct, or participate in any endurance contest known as a walkathon or similar endurance contest.

HISTORY: CL 1948, 752.161.

752.162 Penalty.

Sec. 2. Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than 100 dollars or imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment, in the discretion of the court. Each violation shall constitute a separate and distinct offense.

HISTORY: CL 1948, 752.162.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 65, 1933.

Act 214, 1931, p. 375; Eff. Sep. 18.

AN ACT to enact a law to define the offense of felonious driving, when committed by the operation of a vehicle and to prescribe penalties therefor.

The People of the State of Michigan enact:

752.191 Felonious driving; penalty.

Sec. 1. Every person who drives any vehicle upon a highway carelessly and heedlessly in wilful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injuring so as to cripple any person, but not causing death, shall be guilty of the offense of felonious driving and upon conviction thereof shall be sentenced to pay a fine not exceeding 1,000 dollars or

to imprisonment in the state prison not exceeding 2 years or by both fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 752.191.

752.192 Suspension of license.

Sec. 2. Upon recommendation of the court imposing sentence, the secretary of state shall suspend the operators or chauffeurs license, if any, of any person convicted hereunder, for such period as recommended by the court, which recommendation, when made by the court, shall be included in the sentence.

HISTORY: CL 1948, 752.192.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

Act 134, 1943, p. 171; Eff. Jul. 30.

AN ACT to require the removal of any fishing house, fish shanty or other structure or shelter placed on the ice of any of the waters under the jurisdiction of this state; to provide for marking such structures with the name and address of the owner; to provide for the cost of removing said structures; and to provide penalties for the violation of this act. Am. 1947, p. 91, Act 84, Eff. Oct. 11.

The People of the State of Michigan enact:

752.211 Fish houses; marking with name and address of owner.

Sec. 1. It shall be unlawful for any person or persons to set, place, erect, or cause to be set, placed or erected or to use any fishing house, fishing shanty or other structure or shelters at any time upon the ice in any waters over which the state has jurisdiction unless there shall first be affixed to all sides upon the basic structure the name and address of the owner in legible letters not less than 2 inches in height. The name and address of the owner shall be affixed to the outside of any such fishing house, fishing shanty or other structure or shelter in such a manner as to be readily seen and shall be of materials that are not soluble in water.

HISTORY: Am. 1947, p. 91, Act 84, Eff. Oct. 11;—CL 1948, 752.211;—Am. 1967, p. 59, Act 41, Eff. Nov. 2.

752.212 Fish houses; removal.

Sec. 2. Any person who shall set, place or erect, or cause to be set, placed or erected any fishing house, fishing shanty or other structure or shelter upon the ice of any water other than lake St. Clair within the jurisdiction of this state shall remove such fishing house, fishing shanty, structure or shelter before ice conditions appear unsafe for its removal. Any person who offers for rent not less than 10 fishing houses, fishing shanties, or other structures and who shall set, place or erect, or cause to be set, placed or erected any fishing house, fishing shanty, or other structure or shelter upon the ice of lake St. Clair within the jurisdiction of the state shall remove such fishing house, fishing shanty, or other structure or shelter before ice conditions appear unsafe for its removal. Any other person who shall set, place or erect, or cause to be set, placed or erected any fishing house, fishing shanty, or other structure or shelter upon the ice of lake St. Clair within the jurisdiction of this state shall remove such fishing house, fishing shanty, or other structure or shelter on or before sundown on the first Sunday after February 20 and on a daily basis thereafter. Failure to remove any such fishing house, fishing shanty, shelter or other structure within the time specified shall constitute a vi-

olation of this act, and the director of conservation may then cause the removal and storage or destruction of such fishing house, fishing shanty, structure or other shelter, the costs attendant upon so doing to be assessed to the party whose name is affixed thereto in addition to the penalty provided for in this act.

HISTORY: CL 1948, 752.212;—Am. 1949, p. 64, Act 68, Eff. Sep. 23;—Am. 1967, p. 60, Act 41, Eff. Nov. 2;—Am. 1968, p. 151, Act 119, Imd. Eff. Jun. 11.

752.213 Violation of act; penalty.

Sec. 3. Any person who sets, places, erects or uses, or causes to be set, any fishing house, fishing shanty or other structure or shelter on the ice of any body of water over which this state exercises jurisdiction who fails to remove any such fishing house, fishing shanty or other structure or shelter as herein provided, or who fails to affix his name and address as herein provided, or who affixes a fictitious name and/or address to the fishing house, fishing shanty or other structure or shelter, or who in any other way violates the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$50.00 and costs of prosecution or imprisonment in the county jail not to exceed 30 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1947, p. 91, Act 84, Eff. Oct. 11;—CL 1948, 752.213.

Act 231, 1931, p. 405; Imd. Eff. May 29.

AN ACT to prohibit fraud and deceit in the sale of liquid fuels, lubricating oils or similar products; to prohibit the sale of such products under false or fictitious names; to prohibit substitution, mixing or adulteration of such products so as to deceive the purchaser thereof as to their nature, quality and identity; to prohibit the use of containers, tanks, pumps or other distributing equipment for the storage or sale of such products, other than those indicated by the name, device, sign or distinguishing marks upon such containers, tanks, pumps or distributing equipment; and to provide a penalty for violation of this act.

The People of the State of Michigan enact:

752.251 Liquid fuels, lubricating oils; deceit in sale unlawful.

Sec. 1. It shall be unlawful for any person, firm, co-partnership, association or corporation to store, sell, expose for sale or offer for sale any liquid fuels, lubricating oils or similar products, in any manner whatsoever, so as to deceive or tend to deceive the purchaser as to the nature, quality and/or identity of the product so sold or offered for sale.

HISTORY: CL 1948, 752.251.

752.252 Liquid fuels, lubricating oils; distributing equipment to bear distinguishing mark.

Sec. 2. It shall be unlawful for any person, firm, copartnership, association or corporation to store, keep, expose for sale, offer for sale, or sell from any tank or container or from any pump or other distributing device any other liquid fuels, lubricating oils or similar products than those indicated by the name, trade name, trade name symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed.

HISTORY: CL 1948, 752.252.

752.253 Liquid fuels, lubricating oils; disguise of distributing equipment unlawful.

Sec. 3. It shall be unlawful for any person, firm, co-partnership, association or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of liquid fuels, lubricating oils or similar products are generally marketed.

HISTORY: CL 1948, 752.253.

752.254 Liquid fuels, lubricating oils; substitution, mixture or adulteration unlawful.

Sec. 4. It shall be unlawful for any person, firm, co-partnership, association or corporation to expose for sale, offer for sale or sell under any trade-mark or trade name in general use any liquid fuels, lubricating oils or similar products except those manufactured or distributed by the manufacturer or distributor marketing liquid fuels, lubricating oils or similar products, under such trade-mark or trade name, or to substitute, mix or adulterate the liquid fuels, lubricating oils or similar products sold, offered for sale or distributed under such trade-mark or trade name.

HISTORY: CL 1948, 752.254.

752.255 Liquid fuels, lubricating oils; unlawful deposit in distributing equipment.

Sec. 5. It shall be unlawful for any person, firm, co-partnership, association or corporation to aid or assist any other person, firm, co-partnership, association or corporation in the violation of the provisions of this act by depositing or delivering into any tank, receptacle or other container any other liquid fuels, lubricating oils or similar products than those intended to be stored therein and distributed therefrom as indicated by the name of the manufacturer or distributor or the trade-mark or trade name of the product displayed on the container itself or on the pump or other distributing device used in connection therewith.

HISTORY: CL 1948, 752.255.

752.256 Liquid fuels, lubricating oils; labeling of distributing equipment.

Sec. 6. There shall be firmly attached to or painted on containers, tanks, pumps or other distributing equipment at or near the point from which liquid fuels, lubricating oils or similar products are drawn or poured out for sale or delivery, a sign or label consisting of the word or words in letters not less than 1 inch in height comprising the brand or trade name of such liquid fuels, lubricating oils or similar products; and if any of such liquid fuels, lubricating oils or similar products shall have no brand or trade name the sign or label shall consist of the words, in letters not less than 3 inches high, "Gasoline, No Brand", or "Lubricating Oil, No Brand", or words of similar effect in the case of other products.

HISTORY: CL 1948, 752.256.

752.257 Penalty.

Sec. 7. Any person, firm, co-partnership, association or corporation, or any officer, agent or employee thereof, who shall violate any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for not more than 1 year or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 752.257.

Act 119, 1967, p. 149; Eff. Nov. 2.

AN ACT regulating the use of chemical agents containing toxic chemicals or organic solvents or both, having the property of releasing toxic vapors; and providing for penalties. Am. 1969, p. 387, Act 206, Eff. Mar. 20, 1970.

The People of the State of Michigan enact:

752.271 Chemical agent, definition.

Sec. 1. As used in this act, "chemical agent" means any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives.

HISTORY: New 1967, p. 149, Act 119, Eff. Nov. 2;—Am. 1969, p. 387, Act 206, Eff. Mar. 20, 1970.

752.272 Inhalation or consumption of chemical agent prohibited; anesthesia inhalation excepted.

Sec. 2. No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his respiratory or circulatory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

HISTORY: New 1967, p. 149, Act 119, Eff. Nov. 2;—Am. 1969, p. 387, Act 206, Eff. Mar. 20, 1970.

752.273 Penalty.

Sec. 3. Any person violating the provisions of this act shall be guilty of a misdemeanor.

HISTORY: New 1967, p. 149, Act 119, Eff. Nov. 2.

752.274 Aiding and abetting; penalty.

Sec. 4. Any person who assists, aids, abets or encourages any person to violate the provisions of this act shall be guilty of a misdemeanor.

HISTORY: New 1967, p. 149, Act 119, Eff. Nov. 2.

752.301, 752.302 Repealed. 1950, Ex. Ses., p. 122, Act 38, Imd. Eff. Sep. 8.

Sections prohibited advocating or aiding in overthrow of federal or any state government by force or violence.

Act 38, 1950 (Ex. Ses.), p. 121; Imd. Eff. Sep. 8.

AN ACT to make criminal certain activities relating to the overthrowing or destroying of government by force, violence, sabotage, or terrorism; to prescribe the penalties therefor; to define duties of the attorney general and the state police; to prevent unlawful disclosures of information and to prescribe penalties therefor; and to repeal certain acts and parts of acts inconsistent with or contravening any provisions of this act.

The People of the State of Michigan enact:

752.311 Overthrowing or destroying government, preventing.

Sec. 1. It is hereby declared that the governments of the United States and of this and other states of the United States are threatened by attempts to overthrow existing government by force and violence. In the light of the present world situation, it is deemed necessary to enact legislation preventing activity leading to such forceful overthrow. It is declared to be the purpose of this statute to maintain, preserve, and

strengthen our established form of government and to prevent changes therein except by the procedures provided by our constitutions.

HISTORY: New 1950, Ex. Ses., p. 121, Act 38, Imd. Eff. Sep. 8.

752.312 Certain acts deemed felony.

Sec. 2. Whoever knowingly or wilfully advocates, aids, abets, advises, encourages or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or of this or any other state of the United States or any political subdivision thereof, by force, violence, sabotage, or terrorism or attempts or conspires to do so; or

Whoever, with intent to cause the overthrow or destruction of the government of the United States or of this or of any other state of the United States or any political subdivision thereof, commits any act of force, violence, sabotage, or terrorism, or attempts or conspires to do so; or

Whoever, with intent to cause the overthrow or destruction of the government of the United States, or this or any other state of the United States or any political subdivision thereof, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, encouraging, or teaching the duty, necessity, desirability or propriety of overthrowing or destroying any such government by force, violence, sabotage, or terrorism or attempts or conspires to do so; or

Whoever organizes, or helps or attempts to organize, or becomes or is a member of or affiliates with, any society, group, or assembly of persons which has as 1 of its purposes advocating, abetting, advising, encouraging, or teaching the duty, necessity, desirability or propriety of overthrowing or destroying the government of the United States or of this or any other state of the United States or any political subdivision thereof, by force, violence, sabotage, or terrorism, knowing such purpose;

Shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

HISTORY: New 1950, Ex. Ses., p. 121, Act 38, Eff. Sep. 8.

752.313 Duties of attorney general and state police.

Sec. 3. (a) The attorney general shall maintain complete records of all information received by him and may deliver to the prosecuting attorney of any county all information and evidence of matters which have come to his attention relating in any manner to the activities prohibited by section 2 of this act. The attorney general may cooperate with the prosecuting attorneys of the several counties or may intervene in any proceedings or may initiate proceedings in enforcing the provisions of this act. The expense incurred by any county of this state in the prosecution of any person charged with violation of this act shall, upon approval by the attorney general, be reimbursed to such county from the general fund of the state.

(b) The attorney general may cooperate with the attorney general of the United States, the department of justice of the United States, the federal bureau of investigation, and all other police agencies which collect and exchange information and evidence relating to activities prohibited by this act.

(c) The state police shall collect information and evidence relating in any manner to activities prohibited by this act and may cooperate and exchange information relating thereto with any police agency and shall, at the request of the attorney general, report to him any such information and evidence so collected, necessary to any prosecution for the violation of the provisions of this act.

(d) Any person who discloses any information or evidence collected under authority of this act, except as authorized hereby or except as specifically authorized by the attorney general, shall be guilty of a felony.

HISTORY: New 1950, Ex. Ses., p. 122, Act 38, Eff. Sep. 8.

752.314 Sections repealed; pending proceedings.

Sec. 4. (a) Sections 1 and 2 of Act No. 168 of the Public Acts of 1935, being sections 752.301 and 752.302, respectively, of the Compiled Laws of 1948, are hereby repealed.

(b) All proceedings pending and all rights and liabilities existing, acquired or incurred, at the time this act takes effect, are hereby saved, and such proceedings may be consummated under and according to the law in force at the time such proceedings are or were commenced. It is the legislative intent that this act shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under such repealed sections, chapters or acts for offenses committed prior to the effective date of this act; and all prosecutions pending at the effective date of this act, and all prosecutions instituted after the effective date of this act, for offenses committed prior to the effective date of this act, may be continued or instituted under and in accordance with the provisions of the law in force at the time of the commission of such offense.

HISTORY: New 1950, Ex. Ses., p. 122, Act 38, Eff. Sep. 8.

752.315 Severing clause.

Sec. 5. If any provision, section, clause, or phrase of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision, section, clause, or phrase to other persons or circumstances, shall not be affected thereby.

HISTORY: New 1950, Ex. Ses., p. 123, Act 38, Eff. Sep. 8.

Act 117, 1952, p. 132; Imd. Eff. Apr. 17.

AN ACT requiring communists and knowing members of communist front organizations to register with the Michigan state police; providing that neither the names of nominees of the communist party nor the names of communists shall appear upon the ballots in primary or general elections; providing that probable communists and knowing members of communist front organizations shall not hold non-elective positions or jobs; outlawing sabotage; and providing criminal penalties.

The People of the State of Michigan enact:

752.321 Subversive groups and elements in public and private employment and schools, finding; infiltration.

Sec. 1. The legislature hereby finds and declares that there are present in the state of Michigan subversive groups and elements, particularly of the communist party and certain of its affiliated organizations, which have infiltrated into both private and public employment and into the public schools of the state. This has occurred and continues despite the existence of present statutes. The consequence of any such infiltration into the public schools is that subversive propaganda can be disseminated among children of tender years by those who teach them and to whom the children look for guidance, authority and leadership. Infiltration of these elements into the public service results in employment and retention of groups which teach and advocate that the government of the United States or of any state or of any political subdivision thereof shall be overthrown by force or violence or by any unlawful means. The legislature

finds that members of such groups frequently use their office or position to advocate and teach subversive doctrines. The legislature finds that members of such groups are frequently bound by oath, agreement, pledge or understanding to follow, advocate and teach a prescribed party line or group, dogma or doctrine without regard to truth or free inquiry. The legislature finds that such dissemination of propaganda may be and frequently is sufficiently subtle to escape detection in the classroom. It is difficult, therefore, to measure the menace of such infiltration in the schools by conduct in the classroom. The legislature further finds and declares that in order to protect the children and our state institutions from such subversive influence it is essential that the laws prohibiting persons who are members of subversive groups, such as the communist party and its affiliated organizations, from obtaining or retaining employment in the public schools or state financed positions, be vigorously enforced. The legislature deplores the failure heretofore to prevent such infiltration which threatens dangerously to become a commonplace in our schools and institutions.

HISTORY: New 1952, p. 132, Act 117, Imd. Eff. Apr. 17.

752.322 Communist defined.

Sec. 2. A "communist" is a person who:

(a) Is a member of the communist party, knowing it to be such as herein defined, notwithstanding the fact that he may not pay dues to, or hold a card in, said party; or

(b) Contributes funds or any character of property to the communist party, knowing it to be such as herein defined; or

(c) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the government of the United States of America, the government of the state of Michigan, or the government of any political subdivision of either of them, by force or violence; or

(d) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the government of the United States, the government of the state of Michigan, or the government of any political subdivision of either of them, by unlawful or unconstitutional means, and the substitution therefor of a communist government.

HISTORY: New 1952, p. 132, Act 117, Imd. Eff. Apr. 17;—Am. 1953, p. 32, Act 37, Imd. Eff. Apr. 29.

752.323 Communist party defined.

Sec. 3. The "communist party" is any organization which in any manner advocates, participates in or acts to further, the world communist movement which has as its objectives, among others, the overthrow of the government of the United States or the government of the state of Michigan by force and violence or other unlawful means.

HISTORY: New 1952, p. 132, Act 117, Imd. Eff. Apr. 17;—Am. 1953, p. 33, Act 37, Imd. Eff. Apr. 29.

752.324 Communist front organization, annual publication of list; party to proceedings.

Sec. 4. A "communist front organization" is any organization, the members of which are not all communists, but which is substantially directed, dominated or controlled by communists or by the communist party, or which in any manner advocates, or acts to further, the world communist movement. The attorney general of the state of Michigan shall after hearing as "in any contested case" as provided by Act No. 197 of the Public Acts of 1952, being section 24.101 et seq. of the Compiled Laws of 1948, prepare a list of communist front organizations, as herein defined, which list shall be published at least annually. Any such organization, but not the individual members or officers thereof, shall be deemed to be a party to such proceedings and shall have those rights as such including those of an aggrieved party, which are prescribed by that act.

HISTORY: New 1952, p. 133, Act 117, Imd. Eff. Apr. 17;—Am. 1953, p. 33, Act 37, Imd. Eff. Apr. 29.

752.325 Registration with state police, contents; questionnaire, contents; penalty for failure to register; inspection of records; names transmitted to attorney general.

Sec. 5. (a) Each person in this state who is a communist or is knowingly a member of a communist front organization, shall forthwith register with the Michigan state police; and, so long as he remains in this state, shall register annually with said Michigan state police.

(b) Such registration shall be under oath upon a questionnaire prepared by the attorney general and shall set forth the name, including any assumed name used or in use, business, occupation, purpose of presence in the state of Michigan, sources of income, place of birth, places of former residence, and features of identification, including fingerprints, of the registrant; organizations of which registrant is a member; names of persons known by registrant to be communists or members of any communist front organization; and any other information deemed by the attorney general to be relevant to the purposes of this act as herein declared. Such questionnaire shall be so prepared as to afford each registrant opportunity to refuse to answer any specific question on the ground that such answer would tend to incriminate him.

(c) Each and every officer of the communist party and each and every officer of communist front organizations, knowing said organizations to be communist front organizations, shall register or cause to be registered said party or organizations with the Michigan state police, if said party or organizations have any members who reside, permanently or for a period of time more than 30 days, in the state of Michigan. Such registration shall be under oath upon a questionnaire prepared by the attorney general and shall include the name of the organization, the location of its principal office and of its offices and meeting places in the state of Michigan; the names, real and assumed, of its officers; the names, real and assumed, of its members in the state of Michigan and of any person who has attended its meetings in the state of Michigan; a financial statement reflecting receipts and disbursements and by whom and to whom paid; and any other information deemed by the attorney general to be relevant to the purposes of this act as herein declared. Such registration shall be made within 30 days after the effective date of this act, and thereafter at such intervals as are directed by the Michigan state police. Such questionnaire shall be so prepared as to afford each registrant opportunity to refuse to answer any specific question on the ground that such answer would tend to incriminate him.

(d) Failure to register as herein required, or the making of any registration which contains any material false statement or omission, shall constitute a felony and shall be punishable by a fine of not more than \$10,000.00, or by imprisonment of not more than 10 years, or by both such fine and imprisonment.

(e) Under order of any court of record, the registration records shall be open for inspection by any person in whose favor such order is granted; and the records shall at all times, without the need for a court order, be open for inspection by any law enforcement officer of this state, of the United States or of any state or territory of the United States. At the discretion of the Michigan state police, such records may also be open for inspection by the general public or by any member thereof.

(f) The commissioner of the Michigan state police shall transmit to the attorney general of the state of Michigan the name of any person who holds a non-elective position, job or office for the state of Michigan, or any political subdivision thereof, and who from all of the evidence available to the commissioner of Michigan state police appears to be a communist or a member of a communist front organization. The attorney general of the state of Michigan may transmit the name of such person to his employer or superior, and may submit such evidence that such person is a communist or a mem-

ber of a communist front organization as the attorney general of the state of Michigan and the commissioner of state police shall deem advisable.

HISTORY: New 1952, p. 133, Act 117, Imd. Eff. Apr. 17;—Am. 1953, p. 33, Act 37, Imd. Eff. Apr. 29.

752.326 Sabotage; penalty; definition.

Sec. 6. It shall be a felony, punishable by a term in the state prison for not more than 20 years, for any person, with the intent to injure the United States, the state of Michigan, or any facilities or property used for national defense, to sabotage or destroy, or to attempt to sabotage or destroy, any property, facility or service that is being used or is to be used in connection with national defense. Should any loss of life occur by reason of such sabotage or destruction, or by reason of any attempted sabotage or destruction of such character, the person committing or attempting to commit same shall be guilty of murder with malice aforethought and shall be punished by confinement in the state prison for life or for any term of years. The word "sabotage" as used herein means the willful and malicious infliction of physical damage or injury to property. The penalty herein provided shall be cumulative of all other penalties which might be imposed by virtue of the fact that the acts constituting an offense under this statute also constitute separate offenses under other laws of this state.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.327 Appearance on ballot prohibited.

Sec. 7. The name of any communist or of any nominee of the communist party shall not be printed upon any ballot used in any primary or general election in this state or in any political subdivision thereof.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.328 Holding non-elective position prohibited; persons in classified service, hearing; refusal to testify.

Sec. 8. No person may hold any non-elective position, job or office for the state of Michigan, or any political subdivision thereof, where the remuneration of said position, job or office is paid in whole or in part by public moneys or funds of the state of Michigan, or of any political subdivision thereof, where reasonable grounds exist, on all of the evidence, from which, after hearing, the employer or superior of such person can say with reasonable certainty that such person is a communist or a knowing member of a communist front organization. In cases involving a person within the classified service of the state of Michigan such hearing shall be held by the civil service commission: Provided, That the refusal of any person who holds a non-elective position, job or office for the state of Michigan, or any political sub-division thereof, who upon being called before a duly authorized tribunal or in an investigation under authority of law, to testify concerning his being a communist or a member of a communist front organization on the ground that his answers might tend to incriminate him, shall be, in the hearing provided for in this section, prima facie evidence that such person is a communist or a knowing member of a communist front organization.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.329 Enforcement.

Sec. 9. The attorney general of the state of Michigan, all prosecuting attorneys, the Michigan state police, and all law enforcement officers of this state shall each be charged with the duty of enforcing the provisions of this act.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.330 Scope of act.

Sec. 10. This act is cumulative of all existing laws and does not repeal any such laws.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.331 Michigan communist control law; short title.

Sec. 11. This act may be cited as the "Michigan communist control law".

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

752.332 Emergency declared.

Sec. 12. The need for registration and location of the conspiratorial members of the communist movement and the need for protection against the acts and conspiracies of such persons create an emergency and an imperative public necessity.

HISTORY: New 1952, p. 134, Act 117, Imd. Eff. Apr. 17.

Act 221, 1899, p. 342; Eff. Sep. 23.

AN ACT to compel parties engaged in securing ice to erect suitable danger signals and barricades, designating what officials it shall be the duty of to see that the provisions of this act are complied with, and to repeal Act No. 100 of the Public Acts of 1877, entitled "An act to compel parties engaged in securing ice to erect danger signals," being sections 9119 and 9120 of Howell's annotated statutes of the state of Michigan and sections 11525 and 11526 of the Compiled Laws of 1897.

The People of the State of Michigan enact:

752.351 Erection of signal and barricade where ice is cut; duty.

Sec. 1. That it shall be the duty of any person or persons who are, or who hereafter may be, engaged in the procuring of ice from any of the streams, ponds or lakes of this state to erect, or cause to be erected, place, or cause to be placed, at or near all places where they shall be cutting ice, suitable danger signals and barricades. Such barricades shall consist of cross bars upon which a pole, rope, chain or rail shall be laid at a height not less than 3 feet above the ice and shall be placed not less than 10 feet from the edge of the opening.

HISTORY: CL 1915, 15262;—CL 1929, 16801;—CL 1948, 752.351.

FORMER ACT: Act 100 of 1877, being CL 1897, 11525 and 11526.

752.352 Enforcement; duty of harbor master, supervisor, or assessor.

Sec. 2. It shall be the duty of the harbor master at all places where there is such an official having control of a stream or lake within this state, and where there is no such an official having control as aforesaid, it shall be the duty of the supervisor or other assessing officer in whose assessment district such stream or lake is situated to see that the provisions of section 1 of this act are complied with.

HISTORY: CL 1915, 15263;—CL 1929, 16802;—CL 1948, 752.352.

752.353 Penalty.

Sec. 3. Any person or persons who shall neglect or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than 3 months, or by fine not exceeding 100 dollars, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1915, 15264;—CL 1929, 16803;—CL 1948, 752.353.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 15265;—CL 1929, 16804;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 100, 1877;—CL 1897, 11525-11526.

752.401-752.404 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections required all watercraft propelled by internal combustion engines, operated on inland waters and waters connected with great lakes, or within 1/4 mile of shoreline, to be equipped with devices to deaden sound, regulated speed and use of motorboats on such waters.

752.441, 752.442 Repealed. 1960, p. 7, Act 7, Eff. Aug. 17.

Sections prohibited importation of psittacine birds into state.

R.S. 1846, Ch. 158.

HOUSE OF ILL-FAME OR GAMING HOUSE

752.461 House of ill-fame or gaming house; conviction of lessee; effect on lease.

Sec. 11. Whenever the lessee of any dwellinghouse shall be convicted, or shall be guilty of the offense mentioned in the preceding section, or of keeping a common gaming house for the purpose of gaming for money or other property, the lease or contract for letting such house, shall at the option of the lessor, become void, and such lessor shall thereupon have the like remedy to recover the possession, as against a tenant holding over after the expiration of his term.

HISTORY: CL 1857, 5966;—Am. 1865, p. 486, Act 226, Eff. June 22;—CL 1871, 7701;—How. 9287;—CL 1897, 11698;—CL 1915, 15472;—CL 1929, 16827;—CL 1948, 752.461.

NOTE: The balance of this chapter, with respect to penal offenses, with the exception of section 23 which is Compilers' § 752.73, and sections 25-30 which are Compilers' §§ 752.525-752.530, has been repealed and superseded by sections in the penal code, see Compilers' § 750.1 et seq.

752.501-752.503 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.

Sections regulated movement of heavy, slow moving and low clearance vehicles along public highways over railroad crossings.

R.S. 1846, Ch. 158.

DISTURBANCE OF RELIGIOUS MEETINGS

752.525 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; prohibited acts.

Sec. 25. No person shall wilfully disturb, interrupt, or disquiet any assembly of people met for religious worship, by profane discourse, by rude and indecent behavior, or by making a noise either within the place of worship, or so near it as to disturb the order and solemnity of the meeting; nor shall any person within 2 miles of the place where any religious society shall be actually assembled for religious worship, expose to sale or gift, any ardent or distilled liquors, wine, beer, cider, fruit, or any other article of food or merchandize, or keep open any huxter shop in any other place, inn, stand or grocery, than such as shall be, or have been duly licensed, or in which such person shall have usually carried on such business; nor shall any person within the distance aforesaid, exhibit any shows, or plays, unless the same shall have been duly licensed by the proper authority; nor shall any person within the distance aforesaid, promote, aid, or be engaged in any racing of any animals, or in any gaming of any description; nor shall any person obstruct the free passage of any highway to any place of public worship, within the distance aforesaid.

HISTORY: CL 1857, 5890;—CL 1871, 7714;—How. 9300;—CL 1897, 11713;—CL 1915, 15488;—CL 1929, 16839;—CL 1948, 752.525

NOTE: The balance of this chapter, with respect to penal offenses with the exception of section 11 which is Compilers' § 752.461, and section 23 which is Compilers' § 752.73, has been repealed and superseded by sections in the penal code, see Compilers' § 750.1 et seq.

DISTURBANCE OF WORSHIP: See also Compilers' § 750.169.

752.526 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; penalty, disposal of fine.

Sec. 26. Whoever shall violate either of the provisions of the foregoing section, may be convicted summarily before any justice of the peace of the county, or any mayor, recorder, alderman, or other magistrate of any city or township where the offence shall be committed, and on such conviction shall forfeit a sum not exceeding 25 dollars—for the benefit of the township libraries, in the township in which such conviction is had.

HISTORY: CL 1857, 5881;—CL 1871, 7715;—How. 9301;—CL 1897, 11714;—CL 1915, 15489;—CL 1929, 16840;—CL 1948, 752.526.

752.527 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; duty to apprehend offender.

Sec. 27. It shall be the duty of all sheriffs, and their deputies, coroners, marshals, constables, and other peace officers, all presiding elders, and ministers of the gospel,

deacons, stewards and official members of any church or religious society, who may be present at the meeting of any assembly for religious worship, which shall be interrupted or disturbed in the manner herein prohibited, on sight to apprehend the offender, and take him before some justice of the peace, or other magistrate authorized to convict as aforesaid to be proceeded against according to law.

HISTORY: CL 1857, 5882;—Am. 1871, p. 76, Act 61, Eff. July 18;—CL 1871, 7716;—How. 9302;—CL 1897, 11715;—CL 1915, 15490;—CL 1929, 16841;—CL 1948, 752.527.

752.528 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; ordering offender into custody of certain persons.

Sec. 28. All judges, mayors, aldermen, recorders, and justices of the peace, within their respective jurisdictions, upon their own view of any person offending against the provisions of either of the last 3 preceding sections of this chapter, may order the offender into the custody of any officer in the preceding section named, or any official member of the church or society so assembled or disturbed, for safe keeping until he shall be held to bail, or a trial for such offense be had.

HISTORY: CL 1857, 5883;—CL 1871, 7717;—How. 9303;—CL 1897, 11716;—CL 1915, 15491;—CL 1929, 16842;—CL 1948, 752.528.

752.529 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; commitment to jail if penalty not paid.

Sec. 29. If any person convicted of any of the offenses herein prohibited, shall not immediately pay the penalty incurred, with the costs of the conviction, or give security to the satisfaction of the officer before whom the conviction shall be had, for the payment of the said penalty and costs within 20 days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term, not exceeding 30 days, as shall be specified in the warrant.

HISTORY: CL 1857, 5884;—CL 1871, 7718;—How. 9304;—CL 1897, 11717;—CL 1915, 15492;—CL 1929, 16843;—CL 1948, 752.529.

752.530 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; jury trial, costs of suit.

Sec. 30. It shall be lawful for any person complained of, for the violation of any of the provisions of either of the last 2 preceding sections of this chapter, before the court shall proceed to investigate the merits of the cause, to demand of such court, that he may be tried by a jury; upon such demand, it shall be the duty of such court to issue a venire to any constable of the county, or marshal of the city where the case is to be tried, commanding such officer to summon the same number of jurors, and in the same manner as is provided for in the summoning of jurors before courts of justices of the peace. The said court shall proceed to *empanel a jury for the trial of said cause, in the same manner, and shall be subject to all the rules and regulations prescribed in the act providing for trial by jury in courts of justices of the peace; and the costs of suit, shall be paid by the party offending, in case of conviction, and shall be the same as is allowed by law in civil cases.

HISTORY: CL 1857, 5885;—CL 1871, 7719;—How. 9305;—CL 1897, 11718;—CL 1915, 15493;—CL 1929, 16844;—CL 1948, 752.730.

*NOTE: This word is misspelled in the original act. It should be spelled "empanel".

Act 302, 1968, p. 512; Imd. Eff. Jul. 1.

AN ACT to define and prescribe the penalties for the crime of rioting and related crimes; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

752.541 Riot.

Sec. 1. It is unlawful and constitutes the crime of riot for 5 or more persons, acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.

HISTORY: New 1968, p. 512, Act 302, Imd. Eff. Jul. 1.

752.542 Inciting to riot.

Sec. 2. It is unlawful and constitutes incitement to riot for a person or persons, intending to cause or to aid or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, or the unlawful burning or destroying of property, or the unlawful interference with a police officer, peace officer, fireman or a member of the Michigan national guard or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty.

HISTORY: New 1968, p. 513, Act 302, Imd. Eff. Jul. 1.

752.543 Unlawful assembly.

Sec. 3. It is unlawful and constitutes an unlawful assembly for a person to assemble or act in concert with 4 or more persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain thereat with intent to advance such purpose.

HISTORY: New 1968, p. 513, Act 302, Imd. Eff. Jul. 1.

752.544 Penalty.

Sec. 4. (1) A violation of sections 1 or 2 is a felony, punishable by not more than 10 years in prison or a fine of not more than \$10,000.00, or both.

(2) A violation of section 3 is a felony, punishable by not more than 5 years in prison or a fine of not more than \$5,000.00, or both.

HISTORY: New 1968, p. 513, Act 302, Imd. Eff. Jul. 1.

752.545 Repeal.

Sec. 5. Sections 521 and 522 of Act No. 328 of the Public Acts of 1931, being sections 750.521 and 750.522 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1968, p. 513, Act 302, Imd. Eff. Jul. 1.

752.546 Effective date.

Sec. 6. This act shall take effect July 1, 1968.

HISTORY: New 1968, p. 513, Act 302, Imd. Eff. Jul. 1.

Act 26, 1970, p. 73; Imd. Eff. Aug. 1.

AN ACT to provide penalties for certain conduct at public institutions of higher education.

The People of the State of Michigan enact:

752.581 Colleges and universities; wilfully remaining on premises, misdemeanor, penalty.

Sec. 1. A person is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or by incarceration in the county jail for not more than 30 days, or both:

(a) When the chief administrative officer of a publicly owned and operated institution of higher education, or his designee, notifies the person that he is such officer or designee and that the person is in violation of the properly promulgated rules of the institution; and

- (b) When the person is in fact in violation of such rules; and
- (c) When, thereafter, such officer or designee directs the person to vacate the premises, building or other structure of the institution; and
- (d) When the person thereafter wilfully remains in or on such premises, building or other structure; and
- (e) When, in so remaining therein or thereon, the person constitutes (1) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (2) an unreasonable prevention or disruption of the customary and lawful functions of the institution, by occupying space necessary therefor or by use of force or by threat of force.

HISTORY: New 1970, p. 73, Act 26, Imd. Eff. Aug. 1.

752.582 Colleges and universities; damaging or disrupting, misdemeanor.

Sec. 2. A person is guilty of a misdemeanor, punishable by a fine of not less than \$200.00 and not more than \$1,000.00, or by incarceration in the county jail for not more than 90 days, or both, who enters on the premises, building or other structure of a publicly owned and operated institution of higher education, with the intention to, and therein or thereon does in fact, constitute (a) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (b) an unreasonable prevention or disruption of the customary and lawful function of the institution, by occupying space necessary therefor or by use of force or by threat of force.

HISTORY: New 1970, p. 73, Act 26, Imd. Eff. Aug. 1.

752.583 Effective date.

Sec. 3. This act shall take effect August 1, 1970.

HISTORY: New 1970, p. 74, Act 26, Imd. Eff. Aug. 1.

Act 269, 1937, p. 486; Imd. Eff. Jul. 22.

AN ACT to prevent the unauthorized buying or selling, or offering to buy or sell, of non-transferable tickets issued by railroad or steamship companies or certificated bus lines, and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

752.651 Unused portion of any non-transferable railroad, steamship or bus tickets, unlawful acts.

Sec. 1. It shall be unlawful for any person, association of persons, firm, co-partnership or corporation to buy or sell, or to offer to buy or sell, the unused portion of any non-transferable tickets issued by any railroad or steamship company or certificated bus line, restricted to use only by the original holder thereof or by a person or persons to whom or for whom the same was originally issued by the railroad or steamship company or certificated bus line issuing the same, or to act as vendor or broker of partially used non-transferable tickets issued by railroad or steamship companies or certificated bus lines, or to solicit, personally or by sign or advertisement, or in any other manner, or to aid in the sale or purchase of partially used non-transferable tickets issued by railroad or steamship companies or certificated bus lines within this state.

HISTORY: CL 1948, 752.651.

752.652 Penalty.

Sec. 2. Any person, association of persons, firm, co-partnership or corporation violating any of the provisions of this act shall, upon conviction, for each offense, be punished by a fine not exceeding 100 dollars or imprisonment not exceeding 90 days, or by

both such fine and imprisonment at the discretion of the court; and each prohibited transaction shall be deemed a separate offense, and shall be punishable accordingly.

HISTORY: CL 1948, 752.652.

Act 165, 1867, p. 219; Eff. Jun. 27.

AN ACT for the protection of land and to punish the cutting and carrying away of timber therefrom.

The People of the State of Michigan enact:

752.701 Timber; value above certain amount; destruction, removal, receipt, penalty.

Sec. 1. That, every person having no color of title, either tax, equitable, or otherwise, who shall willfully and without permission of the owner thereof, enter upon the lands of another and shall cut down, destroy, or remove therefrom any tree, trees, timber, wood, logs, or lumber, growing, standing, lying, or being thereon, of the value of 25 dollars or more, or shall willfully induce, direct, aid, or abet any other person in so doing, and every person who shall knowingly receive into his possession, or permit to be stored in or upon any premises, mill yard, or boom, in his possession, or shall purchase, or shall manufacture or cause to be manufactured into lumber, shingles, lath, or other products, any trees, timber, wood, or logs so cut down or removed, knowing the same to have been cut or removed without permission of the owner with intent to induce, profit, aid, or abet any other person in such cutting down or removal or to profit himself thereby, shall be deemed guilty of a felony, and shall be punished by imprisonment in state prison, not more than 1 year, or by fine of not more than 500 dollars or imprisonment in the county jail not more than 12 months.

HISTORY: CL 1871, 7612;—How. 9184;—Am. 1885, p. 93, Act 90, Eff. Sept. 19;—CL 1897, 11648;—CL 1915, 15417;—CL 1929, 17006;—CL 1948, 752.701.

TRESPASS: See Compilers' § 750.546.

CIVIL ACTION: See Compilers' § 600.2919.

752.702 Timber; value below certain amount; penalty.

Sec. 2. If the tree, trees, timber, wood, logs or lumber so cut down, destroyed or removed, shall exceed the value of 1 dollar, and shall not be of the value of 25 dollars, the person thus offending shall be punished by fine not exceeding 100 dollars, or imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1871, 7613;—How. 9185;—CL 1897, 11649;—CL 1915, 15418;—CL 1929, 17007;—CL 1948, 752.702.

752.703 Sufficiency of complaint, information, evidence, verdict.

Sec. 3. In any prosecution under this act the person accused may be charged with commencing to commit the acts, or any of them thus charged, on some particular day to be therein stated, and of continuing to commit the same at divers times and on divers days, between that day and some other day to be therein stated. In case the person prosecuted under this act shall be found guilty, the value of the property so cut down, destroyed or removed shall be stated in the finding or verdict. In any complaint, indictment or information under this law it shall not be necessary to aver, nor in the trial shall it be necessary to prove, on the part of the prosecution, that the defendant had no color of title, tax, equitable or otherwise to the premisses [premises] on which such trespass is alleged to have been committed.

HISTORY: CL 1871, 7614;—How. 9186;—CL 1897, 11650;—CL 1915, 15419;—CL 1929, 17008;—CL 1948, 752.703.

Act 113, 1939, p. 205; Eff. Sep. 29.

AN ACT relative to domestic or foreign grown tomatoes; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

752.751 Tomatoes; not vine ripened, labeling for sale.

Sec. 1. Hereafter it shall be unlawful to sell, or offer to sell, any domestic or foreign grown tomatoes which are not vine ripened, unless the wrappings and containers shall be labeled "not vine ripened" or "artificially ripened by ethylene," or any other process.

HISTORY: CL 1948, 752.751.

752.752 Violations, penalty.

Sec. 2. Any person who shall violate the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: CL 1948, 752.752.

Act 329, 1968, p. 598; Eff. Nov. 15.

AN ACT to make it unlawful to steal, embezzle, or without authority to copy or cause to be copied any article representing a trade secret; to provide penalties; and to provide what shall not be a defense to prosecutions.

The People of the State of Michigan enact:

752.771 Trade secrets, definitions.

Sec. 1. As used in this act:

(1) "Article" means any object, material, device or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype model, photograph, microorganism, blueprint or map.

(2) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(3) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value; and a trade secret is considered to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

(4) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

HISTORY: New 1968, p. 598, Act 329, Eff. Nov. 15.

752.772 Theft, embezzlement, unlawful copying; penalty.

Sec. 2. Any person who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his own use or to the use of another, steals or embezzles an article representing a trade secret or without authority makes or causes to be made a copy of an article representing a trade secret, is guilty of a misdemeanor and shall be fined not more than \$1,000.00 or imprisoned for not more than 1 year, or both.

HISTORY: New 1968, p. 598, Act 329, Eff. Nov. 15.

752.773 Intent to return deemed no defense.

Sec. 3. In a prosecution for a violation of the provisions of this act it is no defense that the person so charged returned or intended to return the article so stolen, embezzled or copied.

HISTORY: New 1968, p. 598, Act 329, Eff. Nov. 15.

Act 148, 1933, p. 218; Eff. Oct. 17.

AN ACT to provide penalties for using, manufacturing, selling or giving away tokens, slugs, or spurious coins for the fraudulent operation of vending machines, coin-boxes, depository boxes or other receptacles, designed to receive lawful coins of the United States of America, in payment for the sale, use or enjoyment of property or service.

The People of the State of Michigan enact:

752.801 Slugs for vending machines; use, misdemeanor.

Sec. 1. Any person who by means of any token, slug, false or counterfeited coin, or by any other means, method, trick or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any vending machine, coin-box, depository box or other receptacle established and maintained for the service of the public, and designed to receive or be operated by lawful coin of the United States of America in furtherance of or in connection with the sale, use or enjoyment of property or service, knowingly shall operate or cause to be operated, or shall attempt to operate or attempt to cause to be operated, any such vending machine or other receptacle, or whoever shall take, obtain, accept or receive from or by means of any such vending machine or other receptacle, any article of value or service or the use or enjoyment of any facility or service, without depositing in, delivering to and payment into such vending machine or other receptacle the amount of lawful coin of the United States of America properly chargeable and legally collectible by the owner, lessee or licensee of such vending machine, coin-box or other receptacle, as and for the price of such merchandise or for the rendition of any such service, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than 200 dollars or imprisoned in the county jail or the Detroit house of correction for not more than 6 months or both.

HISTORY: CL 1948, 752.801.

752.802 Slugs for vending machines; manufacture, felony.

Sec. 2. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any vending machine, coin-box, depository box or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance of or connection with the sale, use or enjoyment of property or service or the use or enjoyment of any facilities, or whoever, knowingly or having cause to believe that the same is intended for fraudulent or unlawful use on the part of the purchaser, donee or user thereof, shall manufacture for sale, sell or give away any token, slug, false or counterfeited coin or any device or substance whatsoever intended or calculated to be placed, deposited or used in any such vending machine, coin-box, depository box or other receptacle, shall be deemed guilty of a felony, and upon conviction thereof shall be fined not more than 500 dollars or imprisoned in the state prison for not more than 5 years or both.

HISTORY: CL 1948, 752.802.

752.803 Construction of act.

Sec. 3. This act shall not be construed to repeal by implication or otherwise any existing law in relation to any of the subject matter hereof.

HISTORY: CL 1948, 752.803.

Act 126, 1970, p. 389; Imd. Eff. Jan. 1, 1971.

AN ACT relating to coin operated devices, including but not limited to parking meters, coin telephones and vending machines; and providing for a penalty.

The People of the State of Michigan enact:

752.811 Coin operated devices; breaking and entering or possession of keys, penalty.

Sec. 1. A person shall be guilty of a felony punishable upon conviction by confinement in the state prison for a period not to exceed 3 years or by a fine of not more than \$1,000.00 or both if he does either of the following:

(a) Enters or forces an entrance, alters or inserts any part of an instrument into any parking meter, vending machine dispensing goods or services, money changer or any other device designed to receive currency or coins with the intent to steal.

(b) Knowingly possesses a key or device, or a drawing, print or mold thereof, adapted and designed to open or break into any such machine with intent to steal money or other contents from it.

HISTORY: New 1970, p. 389, Act 126, Imd. Eff. Jan. 1, 1971.

752.812 Effective date of act.

Sec. 2. This act shall take effect January 1, 1971.

HISTORY: New 1970, p. 390, Act 126, Imd. Eff. Jan. 1, 1971.

Act 105, 1951, p. 136; Eff. Sep. 28.

AN ACT regulating the erection of posters, signs and placards on any state, public or privately owned lands; and to prescribe penalties for violations of this act.

The People of the State of Michigan enact:

752.821 Erection of posters on state, public or private lands without permission unlawful.

Sec. 1. No person shall erect any poster, sign, placard or other form of notice on any state, public or privately owned lands to prohibit hunting, fishing or trespassing thereon without the written permission of the owner or lessee thereof.

HISTORY: New 1951, p. 136, Act 105, Eff. Sep. 28.

752.822 Prosecutions, time.

Sec. 2. All prosecutions under this act shall be in the name of the people of the state of Michigan, and shall be brought before a justice of the peace, police magistrate, or other court of competent jurisdiction in the county in which the offense was committed, and within 1 year from the time the offense charged was committed.

HISTORY: New 1951, p. 136, Act 105, Eff. Sep. 28.

752.823 Enforcement and prosecutions.

Sec. 3. It shall be the duty of all prosecuting attorneys of this state in their respective counties to see that the provisions hereof are enforced and to prosecute all persons charged with violating the provisions hereof; but prosecutions before a justice of

the peace on the complaint of any such owner, lessee or agent may be made without complaint, permit or consent of the prosecuting attorney.

HISTORY: New 1951, p. 136, Act 105, Eff. Sep. 28.

752.824 Violations, penalty.

Sec. 4. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10.00, nor more than \$50.00, and may be committed to the county jail until such fine and costs of the proceedings are paid, not exceeding 30 days; and for a second, or any subsequent conviction, he shall be punished by a fine of not exceeding \$100.00, and in addition thereto shall be imprisoned in the county jail for a period of not more than 30 days.

HISTORY: New 1951, p. 136, Act 105, Eff. Sep. 28.

752.825 Resisting arrest.

Sec. 5. It shall be unlawful for any person to resist or obstruct any officer or person empowered to make arrests under the provisions of this act.

HISTORY: New 1951, p. 136, Act 105, Eff. Sep. 28.

Act 10, 1952, p. 10; Eff. Sep. 18.

AN ACT to define the duties of any person who discharges a firearm and thereby injures any person; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

752.841 Firearms; definition.

Sec. 1. For the purposes of this act the word "firearm" shall mean any weapon or device from which is propelled any missile, projectile, bullet, shot, pellet or other mass by means of explosives, compressed air or gas, or by means of springs, levers or other mechanical device.

HISTORY: New 1952, p. 10, Act 10, Eff. Sep. 18.

752.842 Firearms; discharging; injuries.

Sec. 2. Any person who discharges a firearm and thereby injures or fatally wounds another person, or has reason to believe he has injured or fatally wounded another person, shall immediately stop at the scene and shall give his name and address to the injured person, or any member of his party, and shall render to the person so injured immediate assistance and reasonable assistance in securing medical and hospital care and transportation for such injured person.

HISTORY: New 1952, p. 10, Act 10, Eff. Sep. 18.

752.843 Firearms; report of injury or death.

Sec. 3. Every person who shall have caused or been involved in an accident in which a human being was killed or injured by means of a firearm, shall, in addition to complying with the provisions of section 2 of this act, immediately thereafter report such injury or death to the nearest office of the state police, or to the sheriff of the county wherein the death or injury occurred, unless such person be physically incapable of making the required report, in which event it shall be the duty of such person or persons to designate an agent to file the report. It shall be the duty of the sheriff, upon receipt of the report herein required, to transmit the same forthwith to the nearest office of the state police.

HISTORY: New 1952, p. 11, Act 10, Eff. Sep. 18.

752.844 Reports; availability for use.

Sec. 4. Reports required to be filed under the provisions of this act shall not be available for use in any way in any court action, civil or criminal, and shall not be open to general public inspection, but shall be for the purpose of furnishing statistical information as to the number and cause of such accidents. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

HISTORY: New 1952, p. 11, Act 10, Eff. Sep. 18.

752.845 Firearms; injury to person, penalty, suspension of hunting privileges.

Sec. 5. Any person violating any of the provisions of this act shall, upon conviction thereof, be fined not more than \$100.00 and costs of prosecution, or imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. In addition to any fine or imprisonment, the court may suspend the hunting privileges of such person for a period of not to exceed 3 years from the date of conviction.

HISTORY: New 1952, p. 11, Act 10, Eff. Sep. 18;—Am. 1958, p. 13, Act 12, Eff. Sep. 13.

Act 45, 1952, p. 45; Eff. Sep. 18.

AN ACT to prohibit the careless, reckless or negligent use of firearms and to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

752.861 Careless, reckless or negligent use of firearms; penalty.

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his immediate control, to be discharged so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

HISTORY: New 1952, p. 45, Act 45, Eff. Sep. 18.

752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

HISTORY: New 1952, p. 46, Act 45, Eff. Sep. 18.

752.863 Section repealed.

Sec. 3. Section 235a of Act No. 328 of the Public Acts of 1931, being section 750.235a of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1952, p. 46, Act 45, Eff. Sep. 18.

8637 RECKLESS OR NEGLIGENT USE OF BOWS AND ARROWS § 752.883

752.863 Reckless, wanton use or negligent discharge of firearm; penalty.

Sec. 3. Any person who shall recklessly or heedlessly or wilfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

HISTORY: Add. 1955, p. 14, Act 14, Eff. Oct. 14.

752.864 Firearms; injury to person or property, suspension of hunting privileges.

Sec. 4. In addition to the penalties provided in other sections of this act, the court may suspend the hunting privileges of any person convicted of violating any provision of this act for a period of not to exceed 3 years from the date of conviction.

HISTORY: Add. 1958, p. 15, Act 15, Eff. Sep. 13.

Act 81, 1954, p. 100; Eff. Aug. 13.

AN ACT to prohibit the careless, reckless or negligent use of bows and arrows; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

752.881 Careless, reckless or negligent use of bow and arrow; penalty.

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his immediate control, to be used so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

HISTORY: New 1954, p. 100, Act 81, Eff. Aug. 13.

752.882 Property destruction, penalty.

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his control to be used so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

HISTORY: New 1954, p. 100, Act 81, Eff. Aug. 13.

752.883 Bow and arrow; injury to person, suspension of hunting privileges.

Sec. 3. In addition to the penalties provided in sections 1 and 2, the court may suspend the hunting privileges of any person convicted of violating this act for a period of not to exceed 3 years from the date of conviction.

HISTORY: Add. 1958, p. 14, Act 14, Eff. Sep. 13.

Act 186, 1959, p. 261; Eff. Mar. 19, 1960.

AN ACT to regulate the use of certain spring, gas or air operated handguns and to provide a penalty for violation of this act.

The People of the State of Michigan enact:

752.891 BB handgun; possession by minor.

Sec. 1. No person under 21 years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air, outside the curtilage of his domicile unless he is accompanied by a person over 21 years of age.

HISTORY: New 1959, p. 281, Act 186, Eff. Mar. 19, 1960.

752.892 Penalty.

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1959, p. 281, Act 186, Eff. Mar. 19, 1960.

Act 106, 1963, p. 137; Eff. Sep. 6.

AN ACT to define, control and prohibit the littering of public and private property and waters; to prescribe penalties for violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

752.901 Litter; prohibition; construction of terms; removal of debris from highway.

Sec. 1. It is unlawful for any person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of, litter on any public or private property or waters other than property designated and set aside for such purposes. The phrase "public or private property or waters" includes, but is not limited to, the right of way of any road or highway, any body of water or watercourse, or the shores or beaches thereof and including the ice above such waters; any park, playground, building, refuge or conservation or recreation area; and any residential or farm properties or timberlands. It is unlawful for a person who removes a vehicle, wrecked or damaged in an accident on a highway, road or street, to fail to remove all glass and other injurious substances dropped on the highway, road or street as a result of the accident.

HISTORY: New 1963, p. 137, Act 106, Eff. Sep. 6;—Am. 1966, p. 199, Act 177, Eff. Mar. 10, 1967.

752.901a Litter; causing to fall on or throwing into path of vehicle prohibited; penalty.

Sec. 1a. It shall be unlawful for any person to knowingly cause any litter or any object to fall or to be thrown into the path of or to hit a vehicle traveling the highway. A violation of this section shall be punishable by a fine of not to exceed \$500.00 or not to exceed 1 year in the county jail or Detroit house of correction, or by both such fine and imprisonment.

HISTORY: Add. 1965, p. 591, Act 310, Eff. Mar. 31, 1966.

752.902 Litter; definition.

Sec. 2. The term "litter" as used herein means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

HISTORY: New 1963, p. 137, Act 106, Eff. Sep. 6.

752.903 Penalty; sentence.

Sec. 3. Any person violating any provision of this act shall be guilty of a misdemeanor. The court, in lieu of any other sentence imposed, may direct a substitution of

litter-gathering labor, including, but not limited to, the litter connected with the particular violation, under the supervision of the court.

HISTORY: New 1963, p. 137, Act 106, Eff. Sep. 6.

752.904 Publication of act; receptacles for litter.

Sec. 4. All public authorities having supervision of public property of this state or any political subdivision thereof may post notice signs and otherwise to publicize the requirements of this act. All public authorities having supervision of public property in this state may establish and maintain receptacles for the deposit of litter on the property and publicize the location thereof.

HISTORY: New 1963, p. 137, Act 106, Eff. Sep. 6.

752.905 Repeal.

Sec. 5. Section 681 of Act No. 300 of the Public Acts of 1949, being section 257.681 of the Compiled Laws of 1948; section 1 of Act No. 350 of the Public Acts of 1865, as amended, being section 307.21 of the Compiled Laws of 1948; and section 9 of Chapter 10 of Act No. 283 of the Public Acts of 1909, as amended, being section 230.9 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1963, p. 137, Act 106, Eff. Sep. 6.

752.906 Municipal ordinances.

Sec. 6. This act shall not affect or in any way limit the powers of cities, villages and townships to enact and enforce ordinances for the control and elimination of litter.

HISTORY: New 1963, p. 138, Act 106, Eff. Sep. 6.

CHAPTERS 760-776. CODE OF CRIMINAL PROCEDURE

Code of Criminal Procedure
Act 175 of 1927

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Act 175, 1927, p. 281; Eff. Sep. 5.

AN ACT to revise, consolidate and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts and of the judges and other officers thereof under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses; to provide for the arrest of persons charged with or suspected of criminal offenses; to provide for bail of persons arrested for or accused of criminal offenses; to provide for the examination of such persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and to provide for the procedure therein; to provide for judgments and sentences of persons convicted of criminal offenses; to provide for procedure relating to new trials, appeals, writs of error and bills of exception in criminal causes; to provide a uniform system of probation throughout the state of Michigan, the appointment of probation officers and to prescribe the powers, duties and compensation of such officers and to provide penalties for the violation of the duties of such officers; to provide for procedure governing proceedings to prevent crime; proceedings for the discovery of crime; to provide for the jurisdiction, powers, duties, and procedure of justices of the peace in criminal cases; to provide for fees of officers, witnesses and others in criminal cases; miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.

The People of the State of Michigan enact:

TITLE AND CONSTRUCTION

760.1 Code of criminal procedure; short title.

760.2 Construction of act.

760.1 Code of criminal procedure; short title.

Sec. 1. This act shall be known and may be cited as "The Code of Criminal Procedure".

HISTORY: Am. 1929, p. 85, Act 47, Eff. Aug. 28;—CL 1929, 17116;—CL 1948, 760.1.

FORMER ACTS: See the acts listed in the repeal clause, being Compilers' § 776.19n.

COMMISSION: Act 15, 1926 (Ex. Ses.) p. 28, Imd. Eff. March 13, created a commission to "inquire into and investigate criminal court procedure" and to recommend changes in such procedure. As a result of the work of such commission the present act was passed in 1927.

RECORDER'S COURT: For application of "general law" of the state to prosecutions in such court, see Compilers' § 726.31.

CIVIL PROCEDURE: See (Judicature Act), being Compilers' § 800.101 et seq.

PENAL CODE: See Compilers' § 750.1 et seq.

760.2 Construction of act.

Sec. 2. This act is hereby declared to be remedial in character and as such shall be liberally construed to effectuate the intents and purposes thereof.

HISTORY: CL 1929, 17117; CL 1948, 760.2.

CHAPTER I.

DEFINITIONS.

761.1 Code of criminal procedure; definitions.

761.1 Code of criminal procedure; definitions.

[Sec. 1.]

In this act:

The singular number includes the plural and the plural includes the singular.

The masculine gender includes the feminine and neuter genders.

The words "person," "accused," and similar words include, unless a contrary intention appears, public and private corporations, copartnerships, unincorporated or voluntary associations.

The term "act" or "doing of an act" includes "omission to act."

The word "property" includes any matter or thing upon or in respect to which any offense may be committed.

The word "indictment" includes information, presentment, complaint, warrant and any other formal written accusation.

The word "indictment," unless a contrary intention appears, includes any count thereof.

The term "writing," "written" and any term of like import includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

The term "magistrate" wherever used in this act is defined as including all officials named in section 1 of chapter 4 of this act, excepting justices of the supreme court and circuit judges; and judges of courts of record having jurisdiction of criminal causes: Provided, That nothing herein shall be construed as limiting the power of justices of the supreme court and circuit judges and judges of courts of record having jurisdiction of criminal causes under this act or depriving them of the power to exercise in their discretion the authority of magistrates.

The term "felony" when used in this act, shall be construed to mean an offense for which the offender, on conviction may be punished by death, or by imprisonment in state prison.

HISTORY: CL 1929, 17118;—CL 1948, 761.1. This section supersedes and merges in part, Secs. 18, 20, and 21 of R.S. 1846, Ch. 161, being CL 1857, 5954, 5956, 5957;—CL 1871, 7820, 7822, 7823;—How. 9430, 9432, 9433;—CL 1897, 11791, 11793, 11794;—CL 1915, 15618, 15620, 15621.

NOTE: Sec. 1 of Ch. 4, above referred to, is Compilers' § 764.1.

COMPILERS' NOTE: This chapter as enacted had no section number, so the one in brackets above has been inserted to facilitate referencing, etc.

CONSTRUCTION OF STATUTES: See Compilers' § 8.3.

PROPERTY: In the former sections, "property" and "personal property" were defined at length but the new section gives a brief definition.

CHAPTER II. COURTS.

762.1	Jurisdiction; existing courts and persons.	762.11	Criminal offense by youth between ages of 17 and 20; assignment as youthful trainee; consent.
762.2	Jurisdiction; justice of the peace.	762.12	Termination or revocation as youthful trainee; reinstatement of criminal case; evidence; credit against sentence.
762.3	Jurisdiction; offenses near county lines.	762.13	Commitment to department of corrections; probation.
762.4	Jurisdiction; court of record; offense near boundary line.	762.14	Assignment as youthful trainee not deemed conviction; proceedings closed to public inspection, opened to court inspection.
762.5	Jurisdiction; fatal force and death in different counties.	762.15	Applicability to youths over fifteen.
762.6	Jurisdiction; fatal force inflicted on high seas or navigable rivers.	762.16	Holmes youthful trainee act; short title.
762.7	Jurisdiction; change of venue, procedure; saving clause.		
762.8	Jurisdiction; felony consisting of more than one act.		
762.9	Jurisdiction; felony on moving vessel or vehicle.		
762.10	Jurisdiction; embezzlement.		

762.1 Jurisdiction; existing courts and persons.

Sec. 1. The various courts and persons of this state now having jurisdiction and powers over criminal causes, shall have such jurisdiction and powers as are now conferred upon them by law, except as such jurisdiction and powers may be hereinafter repealed, enlarged or modified.

HISTORY: CL 1929, 17119; CL 1948, 762.1.

OFFENSES ON GREAT LAKES: For jurisdiction of the several counties bordering on the great lakes, see Compilers' § 45.6 et seq.

RECORDER'S COURT: For application of "general law" of the state to prosecutions in such court, see Compilers' § 726.31.

762.2 Jurisdiction; justice of the peace.

Sec. 2. Any justice of the peace is empowered and authorized to perform all official acts and duties and to exercise jurisdiction in criminal causes in any township or city situate in the county within which the justice of the peace was elected and qualified, with the same rights and powers as though performed and exercised within the city or township in which such justice of the peace was elected and qualified.

HISTORY: CL 1929, 17120;—CL 1948, 762.2. This section re-enacts Sec. 1 of Act 124 of 1925.

JURISDICTION AND PROCEDURE OF JUSTICE COURT: See Ch. XIV of this code, being Compilers' § 774.1 et seq.

762.3 Jurisdiction; offenses near county lines.

Sec. 3. (1) Any offense committed on the boundary line of 2 counties, or within 1 mile of the dividing line between them, may be alleged in the indictment to have been committed, and may be prosecuted and punished in either county.

(2) If it appears to the attorney general that a felony has been committed within the state and that it is impossible to determine within which county it occurred, the offense may be alleged in the indictment to have been committed and may be prosecuted and punished in such county as the attorney general designates. The state shall bear all expenses of such prosecution. The responsibility and the authority with reference to all steps in the prosecution of such case shall be the same, as between the prosecuting attorney of the county so designated and the attorney general, as though it were an established fact that the alleged criminal acts, if committed at all, were committed within that county.

(3) With regard to state offenses cognizable by the examining magistrate and to examinations conducted for offenses not cognizable by the examining magistrate, the following special provisions apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel or other conveyance in transit, and it cannot readily be determined in which county, district or political subdivision the offense was committed, venue is proper in any county, district or political subdivision through or over which the conveyance passed in the course of its journey.

(c) Except as otherwise provided in subdivision (b), if it appears to the attorney general that the alleged state offense has been committed within the state and that it is impossible to determine within which county, district or political subdivision it occurred, the violation may be alleged to have been committed and may be prosecuted and punished or the examination conducted in such county, district or political subdivision as the attorney general designates. The responsibility and the authority with reference to all steps in the prosecution of such case shall be the same, as between the prosecuting attorney of the county so designated and the attorney general, as though it were an established fact that the alleged criminal acts, if committed at all, were committed within that county, district or political subdivision.

HISTORY: CL 1929, 17121;—Am. 1935, p. 236, Act 151, Imd. Eff. Jun. 4;—CL 1948, 762.3;—Am. 1970, p. 594, Act 213, Imd. Eff. Oct. 4.

This section as originally enacted reenacted Sec. 6 of R.S. 1846, Ch. 161, being CL 1857, 5942;—CL 1871, 7804;—How. 9418;—CL 1897, 11779;—CL 1915, 15606, inserting word "line" after "boundary". See Sec. 1 of Act 399 of 1921.

762.4 Jurisdiction; court of record; offense near boundary line.

Sec. 4. Whenever any court of record having criminal jurisdiction, the boundaries of whose jurisdiction as fixed by statute are not coincident with the boundary lines of a county or counties, shall take jurisdiction or have pending before it any trial or cause arising out of the commission of an offense at, on or near to the boundary line of the jurisdiction of said court, the jurisdiction of said court shall not be questioned, after the swearing of the jury, unless the evidence shall show the offense to have been committed more than 100 rods outside of the boundary of the jurisdiction of said court as fixed by statute.

HISTORY: CL 1929, 17122;—CL 1948, 762.4. This section supersedes Act 399 of 1921.

762.5 Jurisdiction; fatal force and death in different counties.

Sec. 5. If any mortal wound shall be given or other violence or injury shall be inflicted, or any poison shall be administered in 1 county by means whereof death shall ensue in another county, the offense may be prosecuted and punished in either county.

HISTORY: CL 1929, 17123;—CL 1948, 762.5. This section re-enacts Sec. 7 of R.S. 1846, Ch. 161, being CL 1857, 5943;—CL 1871, 7809;—How. 9419;—CL 1897, 11780;—CL 1915, 15607.

762.6 Jurisdiction; fatal force inflicted on high seas or navigable rivers.

Sec. 6. If any such mortal wound shall be given, or other violence or injury shall be inflicted or poison administered on the high seas, or in any other navigable waters, or on land, either within or without the limits of this state, by means whereof death shall ensue in any county thereof, such offense may be prosecuted and punished in the county where such death shall have ensued.

HISTORY: CL 1929, 17124;—CL 1948, 762.6. This section supersedes Sec. 8 of R.S. 1846, Ch. 161, being CL 1857, 5944;—CL 1871, 7810;—How. 9420;—CL 1897, 11781;—CL 1915, 15608.

762.7 Jurisdiction; change of venue, procedure; saving clause.

Sec. 7. Each court of record having jurisdiction of criminal cases upon good cause shown by either party may change the venue in any cause pending therein, and direct the issue to be tried in the circuit court of another county, and make all necessary rules and orders for the certifying and removing such cause, and all matters relating thereto, to the court in which such issue shall be ordered to be tried, and the court to which such cause shall be so removed shall proceed to hear, try and determine the same, and execution may thereupon be had in the same manner as if the same had been prosecuted in the court having original jurisdiction of such cause, except that in

all causes when the defendant shall be convicted and be sentenced to imprisonment in the county jail or to pay a fine, or to both such imprisonment and fine, the court awarding such sentence shall have authority to direct and shall direct that the defendant be imprisoned in the county jail of the county in which such prosecution commenced; and that such fine, when paid, shall be paid over to the county treasurer of the county in which such prosecution commenced, in the same manner as is now provided by law for paying over fines to county treasurers; and in every case where a change of venue is ordered, all expenses of such trial shall be a charge upon the county in which the prosecution originated; and when there shall be a disagreement of the jury on the trial of any criminal cause in the circuit court to which such cause was ordered for trial, the circuit judge before whom the same was tried, if he shall deem that the public good requires the same, may, upon cause shown by either party, order and direct the issue to be tried in the circuit court of another county in the state; and the court to which such cause shall be removed shall proceed to hear, try and determine the same in the same manner and with like effect as was pursued by the circuit court making such order: Provided, That in any and all suits, proceedings, causes or actions now pending in any of the circuit courts of this state, whether the court has general or special jurisdiction, a change of venue may be had in the manner provided and in accordance with section 10 of Act No. 157 of the Public Acts of 1851, as amended by Act No. 309 of the Public Acts of 1905 and the provisions of said act shall be continued in full force and effect for such purpose: Provided further, That in all suits, proceedings, causes or actions in which a change of venue has been granted, the court to which such suit, proceeding, cause or action has been transferred, shall retain jurisdiction.

HISTORY: CL 1929, 17125;—CL 1948, 762.7. This section supersedes part of Sec. 10 of Act 157 of 1851, being CL 1857, 3420;—As Am. 1871, p. 15, Act 12, Imd. Eff. Feb. 15;—CL 1871, 4946;—As Am. 1879, p. 86, Act 88, Imd. Eff. May 22;—How. 6468;—CL 1897, 309;—As Am. 1905, p. 483, Act 309, Imd. Eff. June 17;—As Am. 1907, p. 212, Act 161, Imd. Eff. June 17;—As Am. 1909, p. 103, Act 67, Eff. Sept. 1;—CL 1915, 14563, which, however, was not expressly repealed by this act probably because it covered civil as well as criminal cases.

Said Sec. 10 has never been expressly repealed but since it had also been superseded in respect to civil cases by Compilers' § 610.2 it would now seem to be superseded in entirety and therefore does not appear in the present compilation. See following note.

SAVING CLAUSE: Sec. 10 of Act 157 of 1851 above referred to is CL 1915, 14563, but does not appear in the present compilation for reasons given in the preceding note. Act 309 of 1905 was not the last act amendatory to Sec. 10.

762.8 Jurisdiction; felony consisting of more than one act.

Sec. 8. Whenever a felony consists or is the culmination of 2 or more acts done in the perpetration thereof, said felony may be prosecuted in any county in which any 1 of said acts was committed.

HISTORY: Add. 1929, p. 50, Act 24, Imd. Eff. April 2;—CL 1929, 17126;—CL 1948, 762.8.

762.9 Jurisdiction; felony on moving vessel or vehicle.

Sec. 9. Whenever a felony has been committed on a railroad train, automobile, aircraft, vessel or other moving vehicle, said offense may be prosecuted in any county, city or jurisdiction in which such conveyance was during the journey in the course of which said offense was committed.

HISTORY: Add. 1929, p. 50, Act 24, Imd. Eff. April 2;—CL 1929, 17127;—CL 1948, 762.9.

OFFENSES ON GREAT LAKES: For jurisdiction of the several counties bordering on the great lakes, see Compilers' § 45.6 et seq.

762.10 Jurisdiction; embezzlement.

Sec. 10. In all prosecutions for the crime of embezzlement said offense may be prosecuted either in the jurisdiction in which the property is received by the person charged or the jurisdiction in which it was the duty of such person to deliver, re-deliver or return said property.

HISTORY: Add. 1929, p. 50, Act 24, Imd. Eff. April 2;—CL 1929, 17128;—CL 1948, 762.10.

762.11 Criminal offense by youth between ages of 17 and 20; assignment as youthful trainee; consent.

Sec. 11. When any youth is alleged to have committed a criminal offense between his seventeenth and twentieth birthdays, the court of record having jurisdiction of

such criminal offense may with the consent of either the affected youth or his legal guardian or guardian ad litem elect to consider and assign such youth to the status of youthful trainee.

HISTORY: Add. 1966, p. 511, Act 301, Eff. Jan. 1, 1967.

762.12 Termination or revocation as youthful trainee; reinstatement of criminal case; evidence; credit against sentence.

Sec. 12. The court of record, having jurisdiction over the criminal offense referred to in section 1, may at any time terminate its consideration of the youth as a youthful trainee or, once having assigned the youth to the status of a youthful trainee, may at its discretion revoke such status at any time prior to the youth's final release. Such termination of consideration, or such revocation of status as a youthful trainee, shall serve to reinstate the criminal case against such youth at the point interrupted when the consideration as a youthful trainee was commenced. No information divulged by the youth, subsequent to the commencement of consideration of the youthful trainee status, may be admissible as evidence in the criminal case. Should the status of a youthful trainee be revoked and sentence imposed under criminal procedure, the court in imposing sentence shall specifically grant credit against the sentence for time served as a youthful trainee in an institutional facility of the department of corrections.

HISTORY: Add. 1966, p. 511, Act 301, Eff. Jan. 1, 1967.

762.13 Commitment to department of corrections; probation.

Sec. 13. If a youth is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment in a state prison for a term of more than 1 year, the court shall (a) commit the youth to the department of corrections for custodial supervision and training for a period not to exceed 3 years in an institutional facility designated by the department for such purpose or (b) place the youth on probation for a period not to exceed 3 years. A youth placed on probation shall be under the supervision of a probation officer or community assistance officer appointed by the corrections commission. Upon commitment to and receipt by the department of corrections, a youthful trainee shall be subject to the direction of the department of corrections.

HISTORY: Add. 1966, p. 511, Act 301, Eff. Jan. 1, 1967.

762.14 Assignment as youthful trainee not deemed conviction; proceedings closed to public inspection, opened to court inspection.

Sec. 14. An assignment of a youth to the status of youthful trainee, as provided in this chapter, shall not be deemed to be a conviction of crime and such person shall suffer no civil disability, right or privilege following his release from such status because of such assignment as a youthful trainee. Unless such person shall be later convicted of the crime alleged to have been committed, referred to in section 1, all proceedings relative to the disposition of the criminal charge and to the assignment as youthful trainee shall be closed to public inspection, but shall be open to the courts of the state, the department of corrections, the department of social services and law enforcement personnel in the performance of their duties and such information may only be used for the performance of such duties.

HISTORY: Add. 1966, p. 511, Act 301, Eff. Jan. 1, 1967.

762.15 Applicability to youths over fifteen.

Sec. 15. The provisions of this chapter may also be applied to a youth over the age of 15 years whose jurisdiction has been waived under the provisions of section 27 of chapter 4 of this act.

HISTORY: Add. 1966, p. 512, Act 301, Eff. Jan. 1, 1967.

762.16 Holmes youthful trainee act; short title.

Sec. 16. Sections 11 to 15 shall be known as the "Holmes youthful trainee act."

HISTORY: Add. 1966, p. 512, Act 301, Eff. Jan. 1, 1967.

CHAPTER III.
RIGHTS OF PERSONS ACCUSED.

763.1	Rights of accused; hearing by counsel, defense, confronting witnesses.	763.5	Acquittal on facts and merits as bar to subsequent prosecution.
763.2	Conviction; bases.	763.6	Acquittal on variance, insufficiency or irregularity of indictment as bar to subsequent prosecution.
763.3	Waiver of trial by jury; form, time.		
763.4	Waiver of trial by jury; jurisdiction of judge, procedure.		

763.1 Rights of accused; hearing by counsel, defense, confronting witnesses.

Sec. 1. On the trial of every indictment or other criminal accusation, the party accused shall be allowed to be heard by counsel and may defend himself, and he shall have a right to produce witnesses and proofs in his favor, and meet the witnesses who are produced against him face to face.

HISTORY: CL 1929, 17129;—CL 1948, 763.1. This section re-enacts Sec. 1 of R.S. 1846, Ch. 151, being CL 1857, 5704;—CL 1871, 7503;—How. 9069;—CL 1897, 11796;—CL 1915, 15623, omitting word "he" before "may."

CONSTITUTIONALITY: See Const. I, 15 and 16.

WITNESS FOR SELF: As to comment on accused's failure to testify, see Compilers' § 600.2159.

763.2 Conviction; bases.

Sec. 2. No person charged with an offense shall be convicted thereof unless by confession of his guilt in open court or by admitting the truth of the charge against him or after trial by the court or by the verdict of a jury accepted and recorded by the court.

HISTORY: CL 1929, 17130;—CL 1948, 763.2. This section supersedes part of Sec. 2 of R.S. 1846, Ch. 151, being CL 1857, 5705;—CL 1871, 7504;—How. 9069;—CL 1897, 11797;—CL 1915, 15624. See Sec. 4 of R.S. 1846, Ch. 151, being CL 1857, 5707;—CL 1871, 7506;—How. 9071;—CL 1897, 11799;—CL 1915, 15626.

763.3 Waiver of trial by jury; form, time.

Sec. 3. In all criminal cases arising in the courts of this state whether cognizable by justices of the peace or otherwise, the defendant shall have the right to waive a determination of the facts by a jury and may, if he so elect, be tried before the court without a jury. Except in cases cognizable by a justice of the peace, such waiver and election by a defendant shall be in writing signed by the defendant and filed in such cause and made a part of the record thereof. It shall be entitled in the court and cause and in substance as follows: "I,, defendant in the above cause, hereby voluntarily waive and relinquish my right to a trial by jury and elect to be tried by a judge of the court in which said cause may be pending. I fully understand that under the laws of this state I have a constitutional right to a trial by jury."

.....
Signature of defendant.

Such waiver of trial by jury must be made in open court after the said defendant has been arraigned and has had opportunity to consult with counsel.

HISTORY: CL 1929, 17131;—CL 1948, 763.3.

763.4 Waiver of trial by jury; jurisdiction of judge, procedure.

Sec. 4. In any case where a defendant waives his right to a trial by jury and elects to be tried by the judge of such court as provided in section 3 of this chapter any judge of the court in which said cause is pending shall have jurisdiction to proceed with the trial of said cause, and shall proceed to hear, try and determine such cause in accordance with the rules and in like manner as if such cause were being tried before a jury.

HISTORY: CL 1929, 17132;—CL 1948, 763.4.

763.5 Acquittal on facts and merits as bar to subsequent prosecution.

Sec. 5. No person shall be held to answer on a second charge or indictment for any offense for which he has been acquitted upon the facts and merits of the former trial

but such acquittal may be pleaded or given in evidence by him in bar of any subsequent prosecution for the same offense.

HISTORY: CL 1929, 17133;—CL 1948, 763.5. This section supersedes part of Sec. 3 of R.S. 1848, Ch. 151, being CL 1857, 5706;—CL 1871, 7505;—How. 9070;—CL 1897, 11798;—CL 1915, 15625.

CONSTITUTION: See Const. I, 15 and 18.

DEGREES OF OFFENSE: For effect of conviction or acquittal for one degree on prosecution for another, see Compilers' § 768.33.

763.6 Acquittal on variance, insufficiency or irregularity of indictment as bar to subsequent prosecution.

Sec. 6. If any person who is indicted or informed against for any offense shall on his trial be acquitted upon the grounds of a variance between the indictment or information and the proof or upon any insufficiency or irregularity in the form or substance of the indictment, he may be arraigned again on a new indictment for the same offense, notwithstanding such former acquittal.

HISTORY: CL 1929, 17134;—CL 1948, 763.6.

CHAPTER IV.

ARREST.

764.1	Processes for apprehension; warrant; power to issue, allowance by prosecutor.	764.9g	Magistrates jurisdiction; pleas, complaint.
764.2	Warrant; pursuit and apprehension of party in other county; aid.	764.10	Offense cognizable by justice; recognizance for appearance; liberation.
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764.3	Warrant; return, jurisdiction of justice.	764.12	Offense cognizable by justice; insufficient bail; records, disposition of prisoner.
764.4	Offense not punishable by death or not cognizable by justice; prisoner's right to be brought before magistrate of county where arrested.	764.13	Disposition of person; arrest by peace officer without warrant; filing complaint.
764.5	Offense not punishable by death or not cognizable by justice; recognizance for appearance before magistrate issuing warrant; inapplicability of section.	764.14	Disposition of person; following arrest by private person; complaint.
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		764.27	Arrest; procedure in case of child under seventeen.
		764.28	Arrest; person who defaults on appeal from justice court.

764.1 Processes for apprehension; warrant; power to issue, allowance by prosecutor.

Sec. 1. For the apprehension of persons charged with offenses, excepting such offenses as are cognizable by justices of the peace, the justices of the supreme court, the several circuit judges, courts of record having jurisdiction of criminal causes and circuit court commissioners, mayors and recorders of cities and all justices of the peace, shall have power to issue processes to carry into effect the provisions of this chapter: Provided, however, That it shall not be lawful for any of the above named public officials to issue warrants in any criminal cases, except where warrants are requested by members of the department of public safety for traffic or motor vehicle violations until an order in writing allowing the same is filed with such public officials and signed by the prosecuting attorney for the county, or unless security for costs shall have been filed with said public officials.

HISTORY: Am. 1929, p. 755, Act 290, Eff. Aug. 28;—CL 1929, 17135;—Am. 1931, p. 273, Act 173, Imd. Eff. May 27;—CL 1948, 764.1. This section as originally enacted re-enacted Sec. 1 of R.S. 1846, Ch. 163, being CL 1857, 5977;—As Am. 1858, p. 13, Act 4, Eff. May 6;—CL 1871, 7643;—How. 9454;—CL 1897, 11838;—CL 1915, 15065, inserting words "courts of record having jurisdiction of criminal causes" after "circuit judges". The proviso which was added by the 1929 amendment superseded, in part, Sec. 1 of Act 108 of 1893, being How. 7135a;—CL 1897, 1061;—CL 1915, 15811.

JUSTICES OF THE PEACE: Consent of prosecuting attorney to issuance of warrant, see also Compilers' § 774.4.

GAME AND FISH LAWS: Conservation officers may make complaints and institute proceedings for violations without the sanction of the prosecuting attorney or filing security for costs, see Compilers' § 300.12.

MOTOR VEHICLE LAW: Arrests, see Compilers' § 257.1 et seq.

764.2 Warrant; pursuit and apprehension of party in other county; aid.

Sec. 2. If any person against whom a warrant shall be issued for an alleged offense committed within any county, shall, either before or after the issuing of such warrant, escape from or be out of the county, the sheriff or other officer to whom such warrant may be directed, may pursue and apprehend the party charged, in any county of this state, and for that purpose may command aid and may exercise the same authority as in his own county.

HISTORY: CL 1929, 17136;—CL 1948, 764.2. This section re-enacts Sec. 4 of R.S. 1846, Ch. 163, being CL 1857, 5980;—CL 1871, 7546;—How. 9457;—CL 1897, 11841;—CL 1915, 15668.

764.2a Peace officer; authority outside of own bailiwick.

Sec. 2-a. Any peace officer of any county, city, or village of this state may exercise authority and powers outside his own county, city or village, when he shall be enforcing the laws of the state of Michigan in conjunction with the Michigan state police, or in conjunction with any peace officer of the county, city or village in which he may be, the same as if he were in his own county, city or village.

HISTORY: Add. 1939, p. 178, Act 100, Imd. Eff. May 16;—CL 1948, 764.2a.

764.3 Warrant; return, jurisdiction of justice.

Sec. 3. A warrant for the arrest of an accused person, when issued by any justice of the peace in any township or city other than the township or city in which the justice of the peace was elected and qualified, may be returned to and the accused brought before such justice of the peace in the city or township in which the offense was committed, or at the office of such justice of the peace in the city or township in which such justice of the peace was elected and qualified: Provided, That any such justice of the peace may in such warrant direct that the accused person be brought before another qualified justice of the peace within the same county, and in the absence of the justice of the peace who issued the warrant or in case of his inability to attend, the accused person may be brought before another qualified justice of the peace within the same county, which latter justice of the peace may proceed to hear or try the cause and have full jurisdiction thereof.

HISTORY: CL 1929, 17137;—CL 1948, 764.3. This section re-enacts Sec. 2 of Act 124 of 1925, omitting word "charged" after "offense".

764.4 Offense not punishable by death or not cognizable by justice; prisoner's right to be brought before magistrate of county where arrested.

Sec. 4. In all cases where the offense charged in the warrant is not punishable with death, or imprisonment in the state prison, and not cognizable by a justice of the peace, if the arrest shall be made in any other county than that where the offense is charged to have been committed, and if the person arrested shall request that he be brought before a magistrate of the county in which the arrest was made, it shall be the duty of the officer or person arresting him to bring such prisoner before a magistrate of that county.

HISTORY: CL 1929, 17138;—CL 1948, 764.4. This section re-enacts Sec. 5 of R.S. 1846, Ch. 163, being CL 1857, 5981;—CL 1871, 7847;—How. 9458;—CL 1897, 11842;—CL 1915, 15669, changing word "carry" to "bring" before "such prisoner".

OFFENSE COGNIZABLE BY A JUSTICE: See Compilers' §§ 764.9 to 764.12.

764.5 Offense not punishable by death or not cognizable by justice; recognizance for appearance before magistrate issuing warrant; inapplicability of section.

Sec. 5. Such magistrate may take from the person arrested, a recognizance with sufficient sureties, for his appearance before the magistrate who issued such warrant within 20 days thereafter: Provided, however, That this section shall not apply in cases

where the maximum punishment for the offense charged is imprisonment for 5 years or more, or for life.

HISTORY: Am. 1929, p. 51, Act 24, Imd. Eff. April 2;—CL 1929, 17139;—CL 1948, 764.5. This section as originally enacted superseded Sec. 6 of R.S. 1846, Ch. 163, being CL 1857, 5982;—CL 1871, 7848;—How. 9459;—CL 1897, 11843;—CL 1915, 15670;—As Am. 1925, p. 446, Act 302, Eff. Aug. 27.

764.6 Offense not punishable by death or not cognizable by justice; warrant; certification, disposal.

Sec. 6. Such magistrate shall certify on the warrant the fact of his having let the defendant to bail, and shall deliver the same, together with the recognizance taken by him, to the person who made the arrest, who shall cause the same to be delivered without unnecessary delay to the magistrate or clerk of the court before which the accused was recognized to appear.

HISTORY: CL 1929, 17140;—CL 1948, 764.6. This section re-enacts Sec. 7 of R.S. 1846, Ch. 163, being CL 1857, 5983;—CL 1871, 7849;—How. 9480;—CL 1897, 11844;—CL 1915, 15671, inserting words "magistrate or" before "clerk".

764.7 Offense not punishable by death or not cognizable by justice; disposition of accused in absence of bail.

Sec. 7. If such magistrate refuses to let to bail the person so arrested and brought before him, or if no sufficient bail be offered or the offense be notailable by such magistrate, the person having him in charge shall take him before the magistrate who issued the warrant, or before some other magistrate of the same county, as in the next section prescribed.

HISTORY: CL 1929, 17141;—CL 1948, 764.7. This section supersedes part of Sec. 8 of R.S. 1846, Ch. 163, being CL 1857, 5984;—CL 1871, 7850;—How. 9461;—CL 1897, 11845;—CL 1915, 15672.

764.8 Other offense not cognizable by justice; prisoner before magistrate issuing warrant; absence or inability to attend.

Sec. 8. Persons arrested under any warrant issued for any offense not cognizable by a justice of the peace, shall where no provision is otherwise made, be brought before the magistrate who issued the warrant; or if he be absent or unable to attend, before some other magistrate of the same county; and the warrant, with a proper return thereon, signed by the person who made the arrest, shall be delivered to the magistrate.

HISTORY: CL 1929, 17142;—CL 1948, 764.8. This section re-enacts Sec. 9 of R.S. 1846 of Ch. 163, being CL 1857, 5985;—CL 1871, 7851;—How. 9462;—CL 1897, 11846;—CL 1915, 15673.

764.9 Offense cognizable by justice; prisoner's right to be brought before magistrate in county where arrested.

Sec. 9. In all cases where the offense charged in the warrant is cognizable by a justice of the peace, if the arrest shall be made in another county than where the offense is charged to have been committed and if the person arrested shall request that he be brought before a magistrate of the county in which the arrest was made, it shall be the duty of the person or officer arresting him, to carry such prisoner before a magistrate of that county.

HISTORY: CL 1929, 17143;—CL 1948, 764.9. See Sec. 4 of this chapter.

OFFENSE NOT COGNIZABLE BY A JUSTICE: See Compilers' §§ 764.4 to 764.8.

764.9a Offense cognizable by justice; summons in lieu of warrant; content; service.

Sec. 9a. (1) As an alternative to filing an order allowing a warrant as provided in section 1 if the arrest is to be for an offense, violation of a city, village or township ordinance cognizable by a justice of the peace or a municipal judge, the prosecuting attorney for the county may issue a written order for a summons addressed to a defendant, directing the defendant to appear before a magistrate or other judicial officer at a designated future time for proceedings as are hereinafter set forth.

(2) A summons shall designate the name of the issuing court, the offense charged in

the underlying complaint, the name of the defendant to whom it is addressed, and be subscribed by the issuing judicial officer.

(3) A summons may be served in the same manner as a warrant.

HISTORY: Add. 1968, p. 210, Act 147, Eff. Nov. 15.

CITED IN OTHER SECTIONS: Sections 764.9a to 764.9e are cited in § 257.1517a.

764.9b Offense cognizable by justice; arrest without warrant; appearance ticket; issuance, service; release from custody.

Sec. 9b. When any person is arrested without a warrant for any misdemeanor, violation of a city, village or township ordinance cognizable by a justice of the peace or a municipal judge, the defendant need not be taken to a magistrate as provided in section 9, but in the alternative a police officer may issue and serve an appearance ticket upon the defendant and release him from custody as prescribed in section 9c.

HISTORY: Add. 1968, p. 210, Act 147, Eff. Nov. 15.

764.9c Offense cognizable by justice; arrest without warrant; appearance ticket; who may issue.

Sec. 9c. (1) Whenever a police officer has arrested a person without a warrant for any misdemeanor, violation of a city, village or township ordinance cognizable by a justice of the peace or a municipal judge, pursuant to section 15, in lieu of taking such person to a local criminal court and promptly filing a complaint therewith, he may issue to and serve upon such person an appearance ticket as defined in section 9f.

(2) A public servant other than a police officer, who is specially authorized by law to issue and serve appearance tickets with respect to a particular class of offenses of less than felony grade, may issue and serve upon a person an appearance ticket when he has reasonable cause to believe that the person has committed such an offense.

HISTORY: Add. 1968, p. 210, Act 147, Eff. Nov. 15;—Am. 1970, p. 481, Act 147, Imd. Eff. Sep. 1.

764.9d Complaint; filing; contents; dismissal.

Sec. 9d. (1) Except as otherwise provided by sections 9f and 9g, a police officer or other public servant who has issued and served an appearance ticket, at or before the time the appearance ticket is returnable, shall file or cause to be filed in the local criminal court in which it is returnable a complaint charging the person named in the appearance ticket with the offense specified therein.

(2) If the complaint is not sufficient on its face, and if the court is satisfied that a complaint sufficient on its face cannot be drawn and filed on the basis of the available facts or evidence, it shall dismiss the complaint.

HISTORY: Add. 1968, p. 210, Act 147, Eff. Nov. 15;—Am. 1970, p. 481, Act 147, Imd. Eff. Sep. 1.

764.9e Failure to appear; arrest.

Sec. 9e. If after the service of an appearance ticket and filing of a complaint for the offense designated therein the defendant does not appear in the designated local criminal court at the time the appearance ticket is returnable, the court may issue a summons or a warrant of arrest based upon the complaint filed.

HISTORY: Add. 1968, p. 211, Act 147, Eff. Nov. 15.

764.9f Appearance ticket; definition; form, sections.

Sec. 9f. (1) As used in sections 9a to 9g, "appearance ticket" means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law to issue it, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated violation or violations of state law or local ordinance for which the maximum permissible penalty does not exceed 90 days in jail and a fine of \$500.00. The appearance tickets shall be numbered consecutively, be in such form as deter-

mined by the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:

(a) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(b) The first copy which shall be the abstract of court record.

(c) The second copy which shall be retained by the local enforcement agency.

(d) The third copy which shall be delivered to the alleged violator.

(2) With the prior approval of such state officials, such appearance ticket may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices.

HISTORY: Add. 1970, p. 481, Act 147, Imd. Eff. Sep. 1;—Am. 1970, p. 623, Act 232, Imd. Eff. Dec. 3.

764.9g Magistrates jurisdiction; pleas, complaint.

Sec. 9g. (1) When under the provisions of sections 9b or 9c an officer issues an appearance ticket, an examining magistrate may accept a plea of guilty or not guilty upon the appearance ticket, without the necessity of a sworn complaint. If the offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for an offense charged in the appearance ticket until a sworn complaint is filed with the magistrate.

(2) A district court magistrate may accept a plea of guilty upon an appearance ticket, without the necessity of a sworn complaint, for those offenses within his jurisdiction as prescribed by section 8511 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8511 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 482, Act 147, Imd. Eff. Sep. 1.

764.10 Offense cognizable by justice; recognizance for appearance; liberation.

Sec. 10. Such magistrate may take from the person arrested a recognizance with sufficient sureties for his appearance before the magistrate having cognizance of the offense within 20 days thereafter, and the person arrested shall thereupon be liberated.

HISTORY: CL 1929, 17144;—CL 1948, 764.10. See Sec. 6 of R.S. 1846, Ch. 163, being CL 1857, 5962;—CL 1871, 7848;—How. 9459;—CL 1897, 11843;—CL 1915, 15670;—As Am. 1925, p. 446, Act 302, Eff. Aug. 27.

764.11 Offense cognizable by justice; warrant, certification to bail; disposal.

Sec. 11. Such magistrate shall certify on the warrant the fact of his having let the defendant to bail and shall deliver the same, together with the recognizance taken by him, to the person who made the arrest, who shall cause the same to be delivered without unnecessary delay to the magistrate or clerk of the court before which the accused was recognized to appear.

CL 1929, 17145;—CL 1948, 764.11. See Sec. 7 of R.S. 1846, Ch. 163, being CL 1857, 5963;—CL 1871, 7849;—How. 9460;—CL 1897, 11844;—CL 1915, 15671.

764.12 Offense cognizable by justice; insufficient bail; records, disposition of prisoner.

Sec. 12. If such magistrate determines that no sufficient bail has been offered, he shall make a note of the same in his records and the person having the person arrested in charge shall take him before the magistrate who issued the warrant or before some other magistrate of the same county, as hereinbefore provided.

HISTORY: CL 1929, 17146;—CL 1948, 764.12. See Sec. 8 of R.S. 1846, Ch. 163, being CL 1857, 5964;—CL 1871, 7850;—How. 9461;—CL 1897, 11845;—CL 1915, 15672.

764.13 Disposition of person; arrest by peace officer without warrant; filing complaint.

Sec. 13. A peace officer who has arrested a person for a felony offense without a warrant must without unnecessary delay, take the person arrested before the most

convenient magistrate of the county in which the offense was committed, and must make before the magistrate a complaint, stating the offense for which the person was arrested.

HISTORY: Add. 1964, p. 65, Act 58, Eff. Aug. 28.

Former section 764.13 (Sec. 13, Ch. IV, Act 175, 1927, p. 281, Eff. Sept. 5) was repealed by Act 44, 1961, p. 46, Imd. Eff. May 20. It provided for taking of person arrested without warrant before magistrate without unnecessary delay, and for making a complaint.

764.14 Disposition of person; following arrest by private person; complaint.

Sec. 14. A private person who has made an arrest must without unnecessary delay, take the person arrested before the most convenient magistrate in the county in which the offense was committed or deliver him to a peace officer, who must without unnecessary delay take him before such magistrate. The peace officer or private person so taking the person arrested before such magistrate must lay before the magistrate a complaint stating the offense for which the person was arrested.

HISTORY: CL 1929, 17148;—CL 1948, 764.14.

764.15 Arrest; power of officer without warrant.

Sec. 15. Any peace officer may, without a warrant, arrest a person—

- (a) For the commission of any felony or misdemeanor committed in his presence;
- (b) When such person has committed a felony although not in the presence of the officer;
- (c) When a felony in fact has been committed and he has reasonable cause to believe that such person has committed it;
- (d) When he has reasonable cause to believe that a felony has been committed and reasonable cause to believe that such person has committed it;
- (e) When he has received positive information by written, telegraphic, teletypic, telephonic, radio or other authoritative source that another officer holds a warrant for such arrest;
- (f) When he has received such positive information broadcast from any recognized police or other governmental radio station, or teletype, as may afford him reasonable cause to believe that a felony has been committed and reasonable cause to believe that such person has committed it;
- (g) When he has reasonable cause to believe that such person is an escaped convict, or has violated a condition of parole from any prison, or has violated a condition of probation imposed by any court, or has violated any condition of a pardon granted by the executive.

HISTORY: CL 1929, 17149;—Am. 1935, p. 138, Act 84, Imd. Eff. May 27;—CL 1948, 764.15.

CITED IN OTHER SECTIONS: The above section is cited in § 338.1080.

764.16 Arrest; power of private persons.

Sec. 16. A private person may make an arrest—

- (a) For a felony committed in his presence;
- (b) When the person to be arrested has committed a felony although not in his presence;
- (c) When summoned by any peace officer to assist said officer in making an arrest.

HISTORY: CL 1929, 17150;—CL 1948, 764.16.

764.17 Arrest; time.

Sec. 17. An arrest may be made on any day at any time of the day or night.

HISTORY: CL 1929, 17151;—CL 1948, 764.17.

764.18 Arrest; under warrant; duty of officer.

Sec. 18. Where an arrest is made under a warrant, it shall not be necessary for the arresting officer personally to have the warrant in his possession but such officer must,

if possible, inform the person arrested that there is a warrant for his arrest and, after the arrest is made, shall show such person said warrant if required, as soon as practicable.

HISTORY: CL 1929, 17152;—CL 1948, 764.18.

764.19 Arrest; without warrant; officer, duties; return as evidence.

Sec. 19. When arresting a person, without a warrant, the officer making the arrest shall inform the person arrested of his authority and the cause of the arrest, except when the person arrested is engaged in the commission of a criminal offense, or if he flees or if he forcibly resists arrest before the officer has time to inform him. The return of the officer making the arrest, endorsed upon the warrant upon which the accused person shall be subsequently held, affirming compliance with the provisions herein, shall be prima facie evidence of the fact in the trial of any criminal cause.

HISTORY: CL 1929, 17153;—CL 1948, 764.19.

764.20 Arrest; private persons, duty.

Sec. 20. A private person, before making an arrest, shall inform the person to be arrested of the intention to arrest him and the cause of the arrest, except when he is then engaged in the commission of a criminal offense, or if he flees or forcibly resists arrest before the person making the arrest has opportunity so to inform him.

HISTORY: CL 1929, 17154;—CL 1948, 764.20.

764.21 Arrest; right to break open door.

Sec. 21. To make an arrest, a private person, if the offense be a felony committed in his presence, or a peace officer with a warrant or in cases of felony when authorized without a warrant, may break open an inner or outer door of any building in which the person to be arrested is or is reasonably believed to be if, after he has announced his purpose, he is refused admittance.

HISTORY: CL 1929, 17155;—CL 1948, 764.21.

764.22 Arrest; right to break out of building.

Sec. 22. A peace officer or private person who has lawfully entered a building for the purpose of making an arrest, may break open a door or window of the building if detained therein, when necessary for the purpose of liberating himself and an officer may also do the same when necessary for the purpose of liberating a person who lawfully entered the building for the purpose of making an arrest and is detained therein.

HISTORY: CL 1929, 17156;—CL 1948, 764.22.

764.23 Arrest; escape or rescue; pursuit and recapture; time, place, necessity of warrant.

Sec. 23. If a person lawfully arrested escape or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place within the state without a warrant.

HISTORY: CL 1929, 17157;—CL 1948, 764.23.

764.24 Arrest; escape or rescue; means of recapture.

Sec. 24. To retake the person escaping or rescued, the person pursuing may use the same means to retake as are authorized for an arrest.

HISTORY: CL 1929, 17158;—CL 1948, 764.24.

764.25 Arrest; weapons and articles on prisoner; seizure, disposal.

Sec. 25. Any person making an arrest shall take from the person arrested, all offensive weapons or incriminating articles which he may have about his person and must deliver them to the sheriff of the county, chief of police of the city or to the magistrate before whom he is taken.

HISTORY: CL 1929, 17159;—CL 1948, 764.25.

764.26 Arrest; rights of alleged felon.

Sec. 26. Every person charged with a felony shall, without unnecessary delay after his arrest, be taken before a magistrate or other judicial officer and, after being informed as to his rights, shall be given an opportunity publicly to make any statement and answer any questions regarding the charge that he may desire to answer.

HISTORY: CL 1929, 17160;—CL 1948, 764.26.

764.27 Arrest; procedure in case of child under seventeen.

Sec. 27. Whenever any child under the age of 17 years is arrested with or without a warrant, such child shall be taken immediately before the juvenile division of the probate court of the county wherein the offense is alleged to have been committed and the officer making the arrest shall immediately make and file or cause to be made and filed, a petition against such child as provided by chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being sections 712A.1 to 712A.28 of the Compiled Laws of 1948 and the said court shall proceed to hear and determine the matter in like manner as provided by said act, as amended. If, during the pendency of any criminal case against any child in any court in this state having criminal jurisdiction, it shall be ascertained that said child is under the age of 17 years, it shall be the duty of the court before whom such case is pending to immediately transfer such case, together with all papers connected therewith to the juvenile division of the probate court of the county wherein the offense is alleged to have been committed: Provided, however, That in any case where a child over the age of 15 years is charged with a felony the judge of probate of the county wherein the offense is alleged to have been committed, may, after investigation and examination, and upon motion of the prosecuting attorney, waive jurisdiction; whereupon it shall be lawful to try such child in the court having general criminal jurisdiction of such offenses. If, during the pendency of any criminal case against any child in any court of record other than a probate court, it shall be determined that said child is 17 or 18 years of age, then the said court may in its discretion if the court finds that any of the conditions exist as outlined in subsection (d) of section 2 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.2 of the Compiled Laws of 1948, upon motion of the prosecuting attorney, the child or his or her representative, transfer such case together with all papers connected therewith to the juvenile division of the probate court of the counties wherein the offense is alleged to have been committed.

HISTORY: CL 1929, 17161;—Am. 1931, p. 506, Act 309, Eff. Sept. 18;—CL 1948, 764.27;—Am. 1958, p. 285, Act 212, Eff. Sep. 13.

This section as originally enacted superseded Sec. 6 of Act 6 of 1907, Ex. Ses., as Am. 1915, p. 558, Act 308, Eff. Aug. 24, being CL 1915, 2016;—As Am. 1923, p. 148, Act 105, Eff. Aug. 30, which, however, was not expressly repealed by this act.

764.28 Arrest; person who defaults on appeal from justice court.

Sec. 28. When any person under recognizance on an appeal in a criminal proceeding from a conviction and judgment of a justice of the peace, shall not appear according to the condition of such recognizance, and the said recognizance shall have become forfeited by reason of the breach of the condition thereof, and such forfeiture shall have been entered on record by order of the circuit court, it shall be lawful for said court to issue a *capias* for the arrest of the appellant or defendant named in such recognizance, to bring him before the court to answer to the complaint or prosecution against him in the proceedings in which appeal was taken.

HISTORY: CL 1929, 17162;—CL 1948, 764.28. This section supersedes Sec. 2 of Act 209 of 1861, being CL 1871, 7962;—How. 9575;—CL 1897, 11959;—CL 1915, 15832.

CHAPTER V.

BAIL

765.1	Admission to bail; persons having power; clerk in municipal court.	765.19	Construction of act.
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765.1 Admission to bail; persons having power; clerk in municipal court.

Sec. 1. Officers before whom persons charged with crime shall be brought, shall have power to let them to bail as follows:

(a) Any justice of the supreme court, judge of a circuit court, judge of any court of record having jurisdiction of criminal causes, circuit court commissioners, in all cases except for offenses enumerated in section 5 of this chapter;

(b) Any justice of the peace, judge of a police or municipal court, mayor of a city, in all cases where the punishment for the offense charged shall be less than imprisonment for life in the state prison: Provided, That in courts in cities, in which the justice or judge, or justices or judges, as the case may be, have the criminal jurisdiction of a justice of the peace, or the jurisdiction to try and sentence for violations of city ordinances, or both, and having a clerk, recognizances for the appearance of persons charged with a criminal offense, may be taken and entered into by and before the clerks of such courts, subject to the direction of the court, when the amount of bail has been set by the justice or judge.

HISTORY: CL 1929, 17163;—CL 1948, 765.1;—Am. 1951, p. 4, Act 3, Imd. Eff. Mar. 6.

This section as originally enacted superseded, with additions, Sec. 26 of R.S. 1846, Ch. 163, being CL 1857, 6002;—As Am. 1858, p. 13, Act 4, Eff. May 6;—CL 1871, 7868;—How. 9479;—CL 1897, 11863;—CL 1915, 15690.

CIVIL CASES: See Compilers' § 600.1815 et seq.

765.2 Admission to bail; courts of record having power.

Sec. 2. The several circuit courts, the recorder's court of the city of Detroit, the superior court of the city of Grand Rapids, and all courts of record having jurisdiction

over criminal causes, shall have power to let to bail any person committed, in all cases in which a justice of the supreme court is authorized to let such person to bail.

HISTORY: CL 1929, 17164;—CL 1948, 765.2. This section supersedes, with additions, Sec. 27 of R.S. 1848, Ch. 163, being CL 1857, 6003.
—CL 1871, 7869;—How. 9480;—CL 1897, 11864;—CL 1915, 15691.

RECORDER'S COURT: For a similar provision, see Compilers' § 726.14.

765.3 Admission to bail; application, notice to prosecutor.

Sec. 3. Any justice of the supreme court, circuit court commissioner or any judge of any circuit court for any county, or of the recorder's court of the city of Detroit or the superior court of the city of Grand Rapids or of any court of record having jurisdiction of criminal causes, on application of any prisoner committed for any bailable offense, and after due notice to the prosecuting attorney for the county, may inquire into the case and admit such prisoner to bail; and any person committed for not finding such sureties to recognize for him, may be admitted to bail by any of the said officers.

HISTORY: CL 1929, 17165;—CL 1948, 765.3. This section supersedes, with additions, Sec. 23 of R.S. 1848, Ch. 163, being CL 1857, 5999.
—CL 1871, 7865;—As Am. 1873, p. 182, Act 134, Eff. July 31;—How. 9476;—CL 1897, 11860;—CL 1915, 15687.

765.4 Admission to bail; procedure for information, same as under indictment.

Sec. 4. Any person who may, according to law, be committed to jail or become recognized or held to bail with sureties for his appearance in court to answer to any indictment may, in like manner so be committed to jail, or become recognized and held to bail for his appearance, to answer to any information or indictment as the case may be.

HISTORY: CL 1929, 17166;—CL 1948, 765.4. This section re-enacts Sec. 5 of Act 138 of 1859, being CL 1871, 7941;—How. 9552;—CL 1897, 11937;—CL 1915, 15764.

765.5 Admission to bail; persons not entitled.

Sec. 5. No person charged with treason or murder shall be admitted to bail if the proof of his guilt is evident or the presumption great.

HISTORY: CL 1929, 17167;—CL 1948, 765.5.

CONSTITUTION: See Const. I, 15.

765.6 Admission to bail; persons entitled; amount.

Sec. 6. In all other cases the person accused shall be entitled to bail, the amount to be uniform whether the bail bond be executed by the person for whom bail has been set or by a surety. The amount of the recognizance shall be fixed with consideration of the seriousness of the offense charged, the previous criminal record of the defendant and the probability or improbability of his appearing at the trial of the cause.

HISTORY: CL 1929, 17168;—CL 1948, 765.6;—Am. 1969, p. 400, Act 222, Imd. Eff. Aug. 6.

CONSTITUTION: See Const. I, 15.

765.7 Admission to bail; writ of error taken by people.

Sec. 7. In all cases where a writ of error shall be taken by or on behalf of the people of the state of Michigan from any court of record to the supreme court, the defendant shall be admitted to bail on his own recognizance, pending the prosecution and determination of said writ; unless the trial court shall determine and certify that the character of the offense, of the respondent and of the questions involved in such review, render it advisable that bail be required.

HISTORY: CL 1929, 17169;—CL 1948, 765.7. This section supersedes Sec. 3 of Act 159 of 1917.

BAIL: See also Compilers' § 770.9.

WRIT OF ERROR: When allowed to the people, see Compilers' § 770.12.

765.8 Surety; practicing attorney.

Sec. 8. No practicing attorney or counselor shall become security or bail for the appearance of any person charged with a felony or a misdemeanor in any criminal action

and any such surety or bail for appearance taken by a judge, circuit court commissioner, justice of the peace or other officer authorized by law to take security or bail, shall be void.

HISTORY: CL 1929, 17170;—CL 1948, 765.8. This section re-enacts Sec. 75 of Ch. 1 of Act 314 of 1915 (Jud. Act), being CL 1915, 12080, changing word "crime" to "a felony or a misdemeanor", which, however, was not expressly repealed. Sec. 75, in turn re-enacted Sec. 1 of Act 61 of 1965, being CL 1871, 5645;—How. 7196;—CL 1897, 1143, omitting "at law." See Compilers' § 601.75.

SURETY COMPANY: See Compilers' § 550.101 for the right of such a company to act as surety on a recognizance for the appearance of a person charged with crime.

765.9 Surety; person acting in same capacity on other bond.

Sec. 9. Any magistrate or judge of any court shall have authority in his discretion to refuse to accept as surety upon a bond any person who shall, at the time of so offering himself, be acting as surety on any other bond pending in his court.

HISTORY: CL 1929, 17171;—CL 1948, 765.9.

SURETIES: For a similar provision as to municipal courts of record, see Compilers' § 725.16.

765.10 Recognizance in case of offense against municipal ordinance; power of clerk.

Sec. 10. All recognizances for the appearance of offenders in the several municipal courts of this state, to answer for offenses committed against the by-laws and ordinances of any municipal corporation, may be taken and entered into by and before the clerks of said courts: Provided, however, That if the party or parties becoming recognized shall not be satisfied with the sum fixed therein by the clerk, the same shall be fixed by the judge of the court, if demanded by the party or parties becoming recognized.

HISTORY: CL 1929, 17172;—CL 1948, 765.10. This section re-enacts Act 228 of 1859, being CL 1871, 7878;—How. 9489;—CL 1897, 11874;—CL 1915, 15701, omitting first word, "that".

765.11 Cash in lieu of bond; justice court cause; acceptance, forfeiture, discharge.

Sec. 11. When under the laws of this state any bond is required in any cause, in any justice court in this state, it shall be lawful for the party from whom such bond is required to deposit cash in lieu thereof. Such security shall be taken and accepted by the justice of the peace and be forfeited or discharged in the same manner as the bond required.

HISTORY: CL 1929, 17173;—CL 1948, 765.11. This section supersedes Act 250 of 1917.

765.12 Deposit of cash; certified check or certain securities in lieu of bond or bail; right.

Sec. 12. In any criminal cause or proceeding where bond or bail of any character is required or permitted for any purpose, the party or parties required or permitted to furnish such bail or bond may deposit, in lieu thereof, in the manner herein provided, cash, certified check on any state or national bank in this state, obligations of the United States government negotiable by delivery or bonds of any municipality of this state negotiable by delivery, equal in amount to the amount of the bond or bail so required or permitted.

HISTORY: CL 1929, 17174;—CL 1948, 765.12. This section supersedes Sec. 1 of Act 332 of 1919.

CIVIL CASES: See Act 212 of 1929, being Compilers' § 600.2631.

765.13 Depository; receipt.

Sec. 13. Such cash, check or security shall be deposited with the clerk of the court, if under bond, or with the treasurer of the county, city, village or township within which the bail or bond is to be furnished or, in any case, with the state treasurer. Such treasurer or clerk shall accept such cash, check or security and deliver to the depositor thereof a receipt, in duplicate, reciting the fact and purpose of such deposit. In case such bail or bond be required after the office hours of the treasurer or clerk with whom the deposit should be made, such deposit may be made with the officer who has the function of approving the bond or bail or with the sheriff of the county or his dep-

uty in charge of the county jail or sheriff's office, who shall accept the same, give duplicate receipts therefor and cause the cash, check or security to be delivered to the proper treasurer or clerk within 48 hours thereafter.

HISTORY: CL 1929, 17175;—CL 1948, 765.13;—Am. 1970, p. 175, Act 78, Imd. Eff. Jul. 16.

This section supersedes part of Sec. 4 of Act 332 of 1919.

765.14 Deposit of cash; filing duplicate receipts in court, effect.

Sec. 14. The filing of 1 of such duplicate receipts in the court in which such bond or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond or bail and shall be taken and given effect by such court and its officers in lieu of such bond or bail.

HISTORY: CL 1929, 17176;—CL 1948, 765.14. This section supersedes Sec. 3 of Act 332 of 1919.

765.15 Bail; deposit of cash; disposition upon forfeiture or discharge of bond or bail.

Sec. 15. (a) If such bond or bail be forfeited, the court shall enter an order upon its records directing, within 45 days of the order, the disposition of such cash, check or security, and the treasurer or clerk, upon presentation of a certified copy of such order, shall make disposition thereof. The court shall set aside the forfeiture and discharge the bail or bond, within 1 year from the time of the forfeiture judgment, in accordance with subsection (b) of this section if the person who forfeited bond or bail is apprehended and the ends of justice have not been thwarted and the county has been repaid its costs for apprehending the person.

(b) If such bond or bail be discharged, the court shall enter an order to that effect with a statement of the amount to be returned to the depositor. Upon presentation of a certified copy of such order, the treasurer or clerk having such cash, check or security shall pay or deliver the same to the person named therein or to his order.

(c) In case such cash, check or security shall be in the hands of the sheriff or any officer, other than such treasurer or clerk, at the time it is declared discharged or forfeited, the officer holding the same shall make such disposition thereof as the court shall order, upon presentation of a certified copy of the order of the court.

HISTORY: CL 1929, 17177;—CL 1948, 765.15;—Am. 1970, p. 175, Act 78, Imd. Eff. Jul. 16;—Am. 1970, p. 610, Act 226, Eff. Apr. 1, 1970.

This section supersedes part of Sec. 4 of Act 332 of 1919.

765.16 Subjection to legal process; assignment.

Sec. 16. Cash, checks or securities deposited hereunder shall not be subject to garnishment or attachment. No assignment thereof shall be valid unless it be in writing, signed by the depositor, before 2 witnesses, acknowledged before an officer having authority to take the acknowledgment of deeds, and specifically stating the desired disposition of the whole of the deposit. An assignment made before the order of the court directing the disposition of such cash, check or security shall be contingent upon the discharge of the same and shall not be valid or effective unless and until it is filed with the court having jurisdiction to discharge the bond or bail. No assignment made after the order of the court discharging such bail or bond shall be valid unless it is indorsed upon or attached to the certified copy of the discharge order presented to the treasurer, clerk or officer having custody of the cash, check or security. In case 1 or more assignments be filed with the court before the order discharging the bail or bond, the court shall, in the order, determine the persons to whom such cash shall be paid or securities delivered.

HISTORY: CL 1929, 17178;—CL 1948, 765.16;—Am. 1970, p. 175, Act 78, Imd. Eff. Jul. 16.

This section supersedes, in part, part of Sec. 4 of Act 332 of 1919.

765.17 Deposit in special fund; interest.

Sec. 17. Any cash or securities received by any treasurer or clerk under the provisions of this chapter shall be deposited in a special fund, or place of deposit subject to

the order of the proper court. Any interest accumulating upon such fund shall be paid into the general fund or corresponding fund of the state, county, city, village or township according to the nature of the case or in accordance with the order of the proper court. When bonds or other securities are deposited the interest coupons shall not be detached therefrom but shall follow the disposition of the securities.

HISTORY: CL 1929, 17179;—CL 1948, 765.17;—Am. 1970, p. 178, Act 78, Imd. Eff. Jul. 18.

This section re-enacts Sec. 5 of Act 332 of 1919, omitting words "board or commission" after "court," changing "act" to "chapter."

765.18 Deposit of cash; redemption before forfeiture by substitution of bond.

Sec. 18. Any person, firm or corporation availing himself or itself of the provisions of this chapter may, at any time before forfeiture of the same, redeem any cash or securities so deposited by substituting the bond originally required or permitted.

HISTORY: CL 1929, 17180;—CL 1948, 765.18. This section re-enacts Sec. 6 of Act 332 of 1919, changing "themselves" to "himself or itself", and "act" to "chapter".

765.19 Construction of act.

Sec. 19. Nothing in this chapter shall be construed to repeal any of the provisions of Act No. 332 of the Public Acts of 1919, so far as the same may apply to commissions or bodies other than courts having jurisdiction of criminal cases.

HISTORY: CL 1929, 17181;—CL 1948, 765.19.

NOTE: Act 332 of 1919, above referred to, was repealed, perhaps inadvertently, by this act, see Compilers' § 776.19n. It dealt with the use of cash or security in lieu of bail and its repeal left no law of that nature in force. Act 212 of 1929, being Compilers' §§ 691.771 to 691.776, is practically a re-enactment of Act 332 of 1919, but applies only to civil proceedings.

765.20 Surety on recognizance; oath to ascertain financial condition, pledge of realty, justification, lien in case offense cognizable by justice.

Sec. 20. In every court in this state having criminal jurisdiction, each judge thereof shall have power in his discretion to administer an oath to any proposed surety upon any recognizance given for the release of a person accused of any crime, offense, misdemeanor or violation of any city or village ordinance, to ascertain his financial condition. Each of the judges of any such court shall have power in his discretion to require any surety upon any criminal recognizance taken before him, to pledge to the people of the state of Michigan, real estate owned by said surety and located in the county in which such court is established, the value of the interest of said surety in said real estate being at least equal to the penal amount of the said recognizance. Whenever such a pledge of real estate shall be required by any such court or by any of the judges thereof, of any proposed surety, there shall be executed by said surety the usual form of recognizance and in addition there shall be included in said recognizance, as a part thereof, an affidavit of justification in substantially the following form. Such affidavit shall be executed by the proposed surety under an oath administered by the clerk or any judge of said court.

STATE OF MICHIGAN } ss.
COUNTY OF

.....residing at..... who offers
himself as surety forbeing first duly sworn,
deposes and says that he owns in his own right real estate subject to levy of execution located
in the county of
state of Michigan, consisting of
and described as follows, to-wit:;
that the title to the same is in his name only; that the value of the same is not less
than \$..... and is subject to no encumbrances whatever
except..... mortgage of \$.....;
that he is not surety upon any unpaid or forfeited recognizance and that he is not party to any
unsatisfied judgment upon any recognizance; that he is worth in good property no less than
\$..... over and above all debts, liabilities and

lawful claims against him and all liens, encumbrances and lawful claims against his property.

Subscribed and sworn to before me this
..... day of 19

Judge of the court of the city of
county

Each of the judges of any such court may, in his discretion and in addition to the above affidavit, require the proposed surety to depose under oath that he is not at the time of executing said recognizance and affidavit surety upon any other recognizance and that there are no unsatisfied judgments or executions against him. Each of the judges of any such court may, in his discretion, require such proposed surety to depose to any other fact which is relevant and material to a correct determination of the proposed surety's sufficiency to act as bail: Provided, That no lien upon real estate shall be required for any offense cognizable by a justice of the peace.

HISTORY: CL 1929, 17182;—CL 1948, 765.20. This section supersedes, with additions, Sec. 1 of Act 17 of 1926, (Ex. Ses.).

765.21 Surety on recognizance; attachment of lien; record notice of lien, form, effect.

Sec. 21. Upon the execution of any recognizance in the usual form and an affidavit of justification containing a description of real estate there shall immediately attach to the said real estate, described in said affidavit of justification, a lien in favor of the people of the state of Michigan in the penal amount of the recognizance, which lien shall remain in full force and effect during the time that said recognizance remains effective, or until the further order of said court. Upon the acceptance by any of the judges of any such court of a recognizance in the usual form containing the above described affidavit of justification, and description of real estate, the said recognizance shall be immediately filed with the clerk of such court. The clerk of such court shall forthwith upon the filing with him of said recognizance, record with the register of deeds of the county in which said real estate is located, a notice of lien in writing in substantially the following form:

To Whom It May Concern:

TAKE NOTICE that the hereinafter described real estate located in the county ofhas been pledged for the sum of.....dollars (\$.....) to the people of the state of Michigan, by.....surety upon the recognizance of.....in a certain cause pending incourt for the city of.....
county

to-wit:

People of the state of Michigan, Plaintiff, vs.....
Defendant, known and identified in said court as Cause No.....
Description of Real Estate.

.....
.....
.....

city

Clerk of the Court.

For the county of.....
Dated

Said notice of lien, when recorded, shall constitute notice to everyone that the real estate therein described has been pledged to the people of the state of Michigan as security for the performance of the conditions of a criminal recognizance, in the penal amount set forth in said recognizance.

HISTORY: CL 1929, 17183;—CL 1948, 765.21;—Am. 1958, p. 129, Act 122, Eff. Sep. 13.

This section re-enacts Sec. 2 of Act 17 of 1926, (Ex. Ses.).

765.22 Surety on recognizance; discharge; notice, form.

Sec. 22. Whenever by the order of such court a recognizance in the above form shall have been cancelled, discharged or set aside, or the cause in which said recognizance is given shall have been dismissed, the clerk of such court shall forthwith record with the register of deeds of the county in which the real estate is located, a notice of discharge in writing in substantially the following form:

To Whom It May Concern:

TAKE NOTICE that by the order of the.....
of the city.....
county of.....the recognizance of.....
as principal and as surety, given in the cause of the
people of the state of Michigan, Plaintiff, vs.....
Defendant, known and identified as Cause No.....in said court, is cancelled, discharged and set aside and the lien of the people of the state of Michigan to the real estate therein pledged as security is hereby waived, discharged and set aside.

Description of Real Estate.

.....
.....
.....

Clerk of the.....Court.

For the city

county of.....

Dated.....

HISTORY: CL 1929, 17184;—CL 1948, 765.22;—Am. 1958, p. 130, Act 122, Eff. Sep. 13.

This section supersedes Sec. 3 of Act 17 of 1926, (Ex. Ses.).

765.23 Surety on recognizance; register of deeds; duty as to notices of lien and discharges; fees.

Sec. 23. The register of deeds of the county in which such court is located shall properly keep and record all such notices of lien and notices of discharge as hereinbefore provided as may be recorded with him, and shall keep in addition thereto a book or record in which he shall properly index such notice of lien and notices of discharge as may be recorded with him. The register of deeds shall receive for such service the same fee as is provided by law for the recording of deeds.

HISTORY: CL 1929, 17185;—CL 1948, 765.23;—Am. 1958, p. 130, Act 122, Eff. Sep. 13.

This section supersedes Sec. 4 of Act 17 of 1926, (Ex. Ses.).

765.24 Effect of chapter on certain recognizances; order releasing lien.

Sec. 24. Nothing in this chapter shall be construed as limiting or qualifying in any way the power of any such courts or any of the judges thereof to release any accused person upon his personal recognizance, or upon a recognizance executed by a surety in accordance with the provisions of Act No. 229 of the Public Acts of 1923, or upon the deposit with the clerk of such court of any cash bail or other security in accord-

ance with the provisions of section 6 of Act No. 369, of the Public Acts of 1919. Whenever such surety deposits with the clerk of such court the penal amount of such recognizance in cash or in other security satisfactory to such court, an order shall issue releasing the lien on the real estate. Nothing in this act shall be construed as qualifying or in any way changing the usual and legal and existing procedure of collecting upon forfeited recognizances, as provided by law.

HISTORY: CL 1929, 17186;—CL 1948, 765.24. This section re-enacts Sec. 5 of Act 17 of 1926, Ex. Ses., changing "act" to "chapter", inserting word "number" after "act".

NOTE: Act 229 of 1923, amending Act 266 of 1895, above referred to, is Compilers' § 548.101. Sec. 6 of Act 369 of 1919 is Compilers' § 725.8.

765.25 Perjury in affidavit of justification; penalty.

Sec. 25. Any surety who shall swear falsely to any of the material facts set up in his affidavit of justification shall be deemed guilty of perjury and upon conviction thereof, shall be punished in accordance with the law in such case made and provided.

HISTORY: CL 1929, 17187;—CL 1948, 765.25. This section re-enacts Sec. 6 of Act 17 of 1926, Ex. Ses.

PERJURY: For the punishment of this crime see Compilers' § 750.422 et seq.

765.26 Release of surety; arrest of accused; mittimus.

Sec. 26. In all criminal cases where any person or persons have entered into any recognizance for the personal appearance of another and such bail and surety shall afterwards desire to be relieved from his responsibility, he may with or without assistance, arrest the accused and deliver him at the jail or to the sheriff of said county. In making such arrest he shall be entitled to the assistance of the sheriff, chief of police of any city or any peace officer. The sheriff or keeper of any jail in said county is authorized to receive such principal and detain him in jail until he is discharged in due course of law. Upon delivery of his principal at the jail by the surety or any officer, such surety shall be released from the conditions of his recognizance. Whenever the prosecuting attorney of any county shall become satisfied that any person who has been recognized to appear for trial has absconded, or is about to abscond, and that his sureties or either of them have become worthless, or are about to dispose or have disposed of their property for the purpose of evading the payment or the obligation of such bond or recognizance, or with intent to defraud their creditors, and such prosecuting attorney shall make a satisfactory showing to this effect to the court having jurisdiction of such person, said court or judge shall forthwith grant a mittimus to the sheriff or any constable of said county, commanding him forthwith to arrest the person so recognized and bring him before the officer issuing such mittimus, and on the return of said mittimus may, after a full hearing on the merits, order him to be recommitted to the county jail until such time as he shall give additional and satisfactory sureties, or be otherwise discharged according to law.

HISTORY: CL 1929, 17188;—CL 1948, 765.26. This section supersedes Act 98 of 1840, being CL 1857, 8009;—CL 1871, 7877;—As Am. 1877, p. 84, Act 82, Eff. Aug. 21;—How. 9488;—CL 1897, 11872;—CL 1915, 15699.

765.27 Action on recognizance; technicality as bar.

Sec. 27. No action brought upon any recognizance entered into in any criminal prosecution, either to appear and answer, or to testify in any court, shall be barred or defeated nor shall judgment thereon be arrested, by reason of any neglect or omission to note or record the default of any principal or surety at the time when such default shall happen, nor by reason of any defect in the form of the recognizance, if it sufficiently appear, from the tenor thereof, at what court the party or witness was bound to appear, and that the court or a magistrate before whom it was taken was authorized by law to require and take such recognizance.

HISTORY: CL 1929, 17189;—CL 1948, 765.27. This section re-enacts Sec. 32 of R.S. 1846, Ch. 163, being CL 1857, 8008;—CL 1871, 7874;—How. 9485;—CL 1897, 11869;—CL 1915, 15698.

765.28 Default in recognizance; record, notice, summary judgment, execution.

Sec. 28. In addition to any other method available, it is hereby provided that whenever default shall be made in any recognizance in any court of record, the same shall be duly entered of record by the clerk of said court and thereafter said court, upon the motion of the attorney general, prosecuting attorney or city attorney, may give the surety or sureties 20 days' notice, which notice shall be served upon said surety or sureties in person or left at his or their last known place of residence. Said surety or sureties shall be given an opportunity to appear before the court on a day certain and show cause why judgment should not be entered against him or them for the full amount of such recognizance. If good cause is not shown, the court shall then enter judgment against the surety or sureties on said recognizance for such amount as it may see fit not exceeding the full amount thereof. Execution shall be awarded and executed upon said judgment in like manner as is provided in personal actions.

HISTORY: CL 1929, 17190;—CL 1948, 765.28.

ACTION ON RECOGNIZANCE: In case of forfeiture, see Compilers' § 600.4821 et seq.

765.29 Bail for appearance of witness; necessity; repeal.

Sec. 29. It shall not be necessary in any criminal case for any witness to give bail for his appearance as a witness in such cause unless required to do so by the order of a judge of a court of record or a circuit court commissioner; all laws contravening this section are hereby repealed.

HISTORY: CL 1929, 17191;—CL 1948, 765.29. This section re-enacts Act 177 of 1875, as Am. 1879, p. 142, Act 141, Eff. Aug. 30, being How. 9453;—CL 1897, 11817;—CL 1915, 15644, omitting first word, "that", changing "act" to "section"; and undoubtedly repeals Sec. 19 of R.S. 1846, Ch. 163, being CL 1857, 5995;—As Am. 1871, p. 101, Act 77, Eff. July 18;—CL 1871, 7861;—How. 9472;—CL 1897, 11856;—CL 1815, 15683;—As Am. 1925, p. 446, Act 302, Eff. Aug. 27; and Sec. 22 of R.S. 1846, Ch. 163, being CL 1857, 5996;—CL 1871, 7864;—How. 9475;—CL 1897, 11859;—CL 1915, 15686.

POWER TO REQUIRE BAIL: See Compilers' § 767.35.

765.30 Bail for appearance of witness; recognizance in case of married woman or minor.

Sec. 30. When any married woman or minor is a material witness, any other person may be allowed to recognize for the appearance of such witness.

HISTORY: CL 1929, 17192;—CL 1948, 765.30. This section re-enacts Sec. 21 of R.S. 1846, Ch. 163, being CL 1857, 5996;—CL 1871, 7863;—How. 9474;—CL 1897, 11858;—CL 1915, 15685.

765.31 Proceeding to enforce recognizance; venue; service of process.

Sec. 31. Any proceeding to enforce a recognizance taken, as provided in this act, may be brought in the county where the offense is charged to have been committed, and service of process issued in any such proceeding may be made upon the principal or surety or both anywhere in the state, by any person authorized to serve process issued from a court of record.

HISTORY: Add. 1931, p. 506, Act 309, Eff. Sept. 18;—CL 1948, 765.31.

CHAPTER VI. EXAMINATION OF OFFENDERS.

766.1	Right of state and accused to prompt examination.	766.15	Certification; return of examination and recognizance to trial court.
766.2	Complaint of certain offense; examination.	766.15a, 766.15b	Repealed.
766.3	Warrant; issuance, contents.	766.15c	Repealed.
766.4	Examination by magistrate; time, manner.	766.15d	Repealed.
766.5	Admission to bail; commitment to jail.	766.16	Default of recognizance; record; procedure.
766.6	Associate magistrate; powers, duties, fees.	766.17	Admission to bail after commitment to jail; discharge of prisoner.
766.7	Adjournment of examination; grounds, disposition of accused, effect on jurisdiction.	766.18	Admission to bail after commitment to jail; clerk of court, authority.
766.8	Adjournment of examination; form of commitment of accused, order for re-appearance.	766.19	Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; order.
766.9	Exclusion of persons from examination.	766.20	Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; order, file; effect on civil remedy.
766.10	Exclusion of persons from examination; witness not examined, minor; separation of witnesses.	766.21	Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; following indictment; order, effect.
766.11	Subpoena of witness; taking of evidence; procedure, stenographer's oath and fees.	766.22	Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; inapplicability of sections.
766.12	Evidence for defense; examination, cross-examination of witnesses.		
766.13	Discharge of defendant; binding defendant over for trial.		
766.14	Trial of accused where offense proves to be one cognizable by justice.		

766.1 Right of state and accused to prompt examination.

Sec. 1. The state and accused shall be entitled to a prompt examination and determination by the examining magistrate in all criminal causes and it is hereby made the duty of all courts and public officers having duties to perform in connection with such examination, to bring them to a final determination without delay except as it may be necessary to secure to the accused a fair and impartial examination.

HISTORY: CL 1929, 17193;—CL 1948, 766.1.

766.2 Complaint of certain offense; examination.

Sec. 2. Whenever complaint shall be made to any magistrate named in section 1, chapter 4, of this act, that a criminal offense not cognizable by a justice of the peace has been committed, he shall examine on oath the complainant and any witnesses who may be produced by him.

HISTORY: CL 1929, 17194;—CL 1948, 766.2. This section supersedes Sec. 2 of R.S. 1846, Ch. 163, being CL 1857, 5978;—CL 1871, 7844;—How. 9455;—CL 1897, 11839;—CL 1915, 15666.

NOTE: Sec. 1, Ch. 4, above referred to, is Compilers' § 764.1.

OFFENSE COGNIZABLE BY JUSTICE: As to examination and procedure see Compilers' § 774.4, et seq.

766.3 Warrant; issuance, contents.

Sec. 3. If it appears from such examination that any criminal offense not cognizable by a justice of the peace has been committed, the magistrate shall issue a warrant directed to the sheriff, chief of police, constable or any peace officer of the county, reciting the substance of the accusation and commanding him forthwith to take the person accused of having committed the offense and bring him before the appropriate court to be dealt with according to law, and in the same warrant may require the officer to summon such witnesses as are named therein.

HISTORY: CL 1929, 17195;—CL 1948, 766.3;—Am. 1970, p. 594, Act 213, Imd. Eff. Oct. 4.

This section supersedes, with additions, Sec. 3 of R.S. 1846, Ch. 163, being CL 1857, 5979;—CL 1871, 7845;—How. 9456;—CL 1897, 11840;—CL 1915, 15667.

766.4 Examination by magistrate; time, manner.

Sec. 4. The magistrate before whom any person is brought on a charge of having committed an offense not cognizable by the court before which he is brought shall set a day for examination not exceeding 12 days thereafter, at which time the court shall examine the complainant and the witnesses in support of the prosecution, on oath in the presence of the prisoner, in regard to the offense charged and in regard to any other matters connected with such charge which the court considers pertinent.

HISTORY: CL 1929, 171.96;—CL 1948, 766.4;—Am. 1970, p. 594, Act 213, Imd. Eff. Oct. 4.

This section supersedes Sec. 13 of R.S. 1846, Ch. 163, being CL 1857, 5989;—CL 1871, 7855;—How. 9466;—CL 1897, 11850;—CL 1915, 15677.

EXAMINATION: See Compilers' § 767.42 for necessity of examination before filing of information.

766.5 Admission to bail; commitment to jail.

Sec. 5. If it shall appear that an offense not cognizable by a justice of the peace has been committed, and that there is probable cause to believe the prisoner guilty thereof, and if the offense be bailable by the magistrate, and the prisoner offer sufficient bail, it shall be taken and the prisoner discharged; but if no sufficient bail be offered, or the offense be not bailable by the magistrate, the prisoner shall be committed to jail for trial.

HISTORY: CL 1929, 171.97;—CL 1948, 766.5. This section re-enacts Sec. 18 of R.S. 1846, Ch. 163, being CL 1857, 5994;—CL 1871, 7860;—How. 9471;—CL 1897, 11855;—CL 1915, 15682, changing word "prison" to "jail".

See a similar provision in part of Compilers' § 766.13.

766.6 Associate magistrate; powers, duties, fees.

Sec. 6. Any magistrate to whom complaint is made, or before whom any prisoner is brought, may associate with himself 1 or more other magistrates of the same county, and they may together execute the powers and duties conferred upon such magistrates respectively by this chapter, but no fees shall be taxed for such associates.

HISTORY: CL 1929, 171.98;—CL 1948, 766.6. This section re-enacts Sec. 24 of R.S. 1846, Ch. 163, being CL 1857, 6000;—CL 1871, 7866;—How. 9477;—CL 1897, 11861;—CL 1915, 15688, changing "respectfully" to "respectively".

766.7 Adjournment of examination; grounds, disposition of accused, effect on jurisdiction.

Sec. 7. Any magistrate may adjourn an examination for an offense not cognizable by him if the same be necessary, to the same or a different place in the county as such magistrate shall deem necessary; and in such case the accused may in the meantime be committed either to the county jail or to the custody of the officer by whom he was arrested or to any other officer; or, unless he shall be charged with treason or murder, he may be recognized in a sum and with sureties to the satisfaction of the magistrate, for his appearance before such magistrate for further examination: Provided, That no adjournments, continuances or delays of such examination shall be granted by such magistrate except for good cause shown: And provided further, That no magistrate shall adjourn, continue or delay the examination of any cause by the consent of the prosecution and accused unless in his discretion it shall clearly appear by a sufficient showing to said magistrate to be entered upon the record that the reasons for such consent are founded upon strict necessity and that the examination of said cause cannot then be had, or a manifest injustice will be done. No action on the part of the magistrate in adjourning or continuing any case, shall cause said magistrate to lose jurisdiction of said case.

HISTORY: CL 1929, 171.99;—CL 1948, 766.7. This section supersedes, with additions, Sec. 10 of R.S. 1846, Ch. 163, being CL 1857, 5986;—CL 1871, 7852;—How. 9463;—CL 1897, 11847;—CL 1915, 15674.

766.8 Adjournment of examination; form of commitment of accused, order for re-appearance.

Sec. 8. The person accused may be committed as provided in the preceding section, by the verbal order of the magistrate, or by a warrant under his hand, stating that he is committed for such further examination on a day to be named in the warrant; and on

the day therein specified, he may be brought before the magistrate by his verbal order to the same officer by or to whose custody he was committed, or by an order in writing to a different officer.

HISTORY: CL 1929, 17200;—CL 1948, 766.8. This section re-enacts Sec. 11 of R.S. 1846, Ch. 163, being CL 1857, 5967;—CL 1871, 7853;—How. 9464;—CL 1897, 11848;—CL 1915, 15675.

766.9 Exclusion of persons from examination.

Sec. 9. On the preliminary examination of every person charged with the offense of rape, assault with intent to commit rape, seduction, adultery, bastardy or other offense against chastity, morality or decency, it shall be in the discretion of the examining magistrate to exclude from the place where such examination is held, any or all persons not officers of the court, or persons by law required to be in attendance.

HISTORY: CL 1929, 17201;—CL 1948, 766.9. This section re-enacts Act 138 of 1895, being CL 1897, 11873;—CL 1915, 15700, omitting first word, "that".

CIVIL CASES: Exclusion of minors in cases involving scandal or immorality, see Compilers' § 800.1420.

OFFENSES: For other offenses against chastity, morality or decency, see Compilers' § 750.335 et seq.

766.10 Exclusion of persons from examination; witness not examined, minor; separation of witnesses.

Sec. 10. The magistrate while conducting such examination may exclude from the place of the examination all the witnesses who have not been examined; and he may also, if requested or if he sees cause, direct the witnesses whether for or against the prisoner, to be kept separate so that they cannot converse with each other until they shall have been examined. And such magistrate may in his discretion, also exclude from the place of examination any or all minors during the examination of such witnesses.

HISTORY: CL 1929, 17202;—CL 1948, 766.10. This section re-enacts Sec. 15 of R.S. 1846, Ch. 163, being CL 1857, 5991;—CL 1871, 7857;—How. 9468;—As Am. 1885, p. 244, Act 178, Eff. Sept. 19;—CL 1897, 11852;—CL 1915, 15679.

766.11 Subpoena of witness; taking of evidence; procedure, stenographer's oath and fees.

Sec. 11. Witnesses may be compelled to appear before such magistrate by subpoenas issued by him, or by any officer or court authorized to issue subpoenas, in the same manner and with the like effect and subject to the same penalties for disobedience, or for refusing to be sworn or to testify, as in cases of trials before justices of the peace; and the evidence given by the witnesses examined shall be reduced to writing by such magistrate, or under his direction and shall be signed by the witnesses respectively: Provided, That unless otherwise provided by law, the evidence so given shall be taken down in shorthand by a county stenographer where one has been appointed under the provision of any local act of the legislature or by the board of supervisors of the county wherein such examination is held, or the magistrate for cause shown may appoint some other suitable stenographer at the request of the prosecuting attorney of said county with the consent of the respondent or his attorney to act as official stenographer pro tem. for the court of such magistrate to take down in shorthand the testimony of any such examination, and any stenographer so appointed shall take the constitutional oath as such official stenographer and shall be entitled to the following fees: \$6.00 for each day and \$3.00 for each half day while so employed in taking down such testimony and 10 cents per folio for typewriting such testimony so taken down in shorthand, or such other compensation and fees as shall be fixed by the board of supervisors appointing such stenographer, and the same may be allowed and paid out of the treasury of the county in which such testimony is taken: Provided further, That it shall not be necessary for a witness or witnesses whose testimony is taken in shorthand by such stenographer above provided, to sign such testimony, but any witness or witnesses shall have the right to have such testimony read to them upon their request. Such testimony, after being typewritten, shall be received and filed in the court to which the accused is held for trial without the signature of such witness or witnesses

for the same purpose and with like effect as the testimony of witnesses hereinabove provided, which is signed by such witness or witnesses and such testimony so taken shall be considered prima facie evidence of the testimony of such witness or witnesses at such examination.

HISTORY: CL 1929, 17203;—CL 1948, 766.11;—Am. 1954, p. 28, Act 19, Imd. Eff. Mar. 22.

This section supersedes Sec. 16 of R.S. 1846, Ch. 163, being CL 1857, 5992;—As Am. 1863, p. 307, Act 168, Eff. June 22;—CL 1871, 7556.—How. 9469;—CL 1897, 11853;—As Am. 1915, p. 272, Act 160, Eff. Aug. 24;—CL 1915, 15680;—As Am. 1917, p. 809, Act 329, Eff. Aug. 10.

REFUSAL TO TESTIFY: See Compilers' § 774.10.

766.12 Evidence for defense; examination, cross-examination of witnesses.

Sec. 12. After the testimony in support of the prosecution has been given, the witnesses for the prisoner, if he have any, shall be sworn, examined and cross-examined and he may be assisted by counsel in such examination and in the cross-examination of the witnesses in support of the prosecution.

HISTORY: CL 1929, 17204;—CL 1948, 766.12. This section re-enacts Sec. 14 of R.S. 1846, Ch. 163, being CL 1857, 5990;—CL 1871, 7556.—How. 9467;—CL 1897, 11851;—CL 1915, 15678, inserting word "cross-examined" before "and", omitting word "also" before "in the."

766.13 Discharge of defendant; binding defendant over for trial.

Sec. 13. If it shall appear to the magistrate upon the examination of the whole matter, either that no offense has been committed or that there is not probable cause for charging the defendant therewith, he shall discharge such defendant. If it shall appear to the magistrate upon the examination of the whole matter, that an offense not cognizable by a justice of the peace has been committed and there is probable cause for charging the defendant therewith, said magistrate shall forthwith bind such defendant to appear before the circuit court of such county or any court having jurisdiction of said cause, for trial.

HISTORY: CL 1929, 17205;—CL 1948, 766.13. This section re-enacts, in part, Sec. 17 of R.S. 1846, Ch. 163, being CL 1857, 5993;—CL 1871, 7859;—How. 9470;—CL 1897, 11854;—CL 1915, 15681, changing word "prisoner" to "defendant".

See a similar provision in Compilers' § 766.5.

766.14 Trial of accused where offense proves to be one cognizable by justice.

Sec. 14. If, upon the examination of a person charged with a felony or an offense not cognizable by a justice of the peace, it shall appear that the offense charged is not a felony or is an offense cognizable by a justice of the peace, the accused shall not be dismissed but the magistrate shall proceed, as soon as possible, to the trial of said accused in the same manner as if he had been charged with the misdemeanor or offense cognizable by a justice of the peace.

HISTORY: CL 1929, 17206;—CL 1948, 766.14.

766.15 Certification; return of examination and recognizance to trial court.

Sec. 15. All examinations and recognizances taken by any magistrate pursuant to any of the provisions of this chapter, shall be forthwith certified and returned by him to the clerk of the court before which the party charged is bound to appear, and if such magistrate shall refuse or neglect to return the same, he may be compelled forthwith by rule of the court, and in case of disobedience he may be proceeded against by attachment as for a contempt.

HISTORY: CL 1929, 17207;—CL 1948, 766.15. This section re-enacts Sec. 25 of R.S. 1846, Ch. 163, being CL 1857, 6001;—CL 1871, 7867;—How. 9478;—CL 1897, 11862;—CL 1915, 15689.

ATTACHMENT FOR CONTEMPT: See GCR 760.

766.15a, 766.15b Repealed. 1951, p. 217, Act 170, Eff. Sep. 28.

Sections provided for mental examination of any person charged with murder, and set penalty for failure of any clerk of court to notify state hospital commission as to fact of binding over of person charged with murder.

766.15c Repealed. 1966, p. 381, Act 266, Eff. Mar. 10, 1967.

Section provided for commitment to state hospital for criminally insane for life of one acquitted of murder by reason of insanity, subject to discharge by governor.

766.15d Repealed. 1951, p. 217, Act 170, Eff. Sep. 28.

Section defined psychiatrist under section providing for mental examination of persons charged with murder.

766.16 Default of recognizance; record; procedure.

Sec. 16. If the person recognized according to the provisions of this chapter shall not appear before the magistrate at the time appointed for his further examination, the magistrate shall record the default, and shall certify the recognizance, with the record of such default, to the court to which the accused might otherwise have been held for trial, and the like proceedings shall be had thereon as upon the breach of the condition of a recognizance for appearance before such court.

HISTORY: CL 1929, 17206;—CL 1948, 766.16. This section supersedes Sec. 12 of R.S. 1846, Ch. 163, being CL 1857, 5988;—CL 1871, 7854;—How. 9465;—CL 1897, 11849;—CL 1915, 15676.

766.17 Admission to bail after commitment to jail; discharge of prisoner.

Sec. 17. Whenever no sufficient bail is offered, and the prisoner is committed to jail, the magistrate before whom the examination was had, shall certify upon the mittimus issued by him, the sum for which bail was required, and if the prisoner shall offer sufficient bail for such sum to the clerk of the court wherein the prisoner was committed for trial, it shall be taken by said clerk and the prisoner shall be discharged.

HISTORY: CL 1929, 17209;—CL 1948, 766.17. This section re-enacts Sec. 33 of R.S. 1846, Ch. 163, as Add. 1859, p. 444, Act 159, Eff. May 15, being CL 1871, 7875;—How. 9486;—CL 1897, 11870;—CL 1915, 15697, changing word "county" to "court."

766.18 Admission to bail after commitment to jail; clerk of court, authority.

Sec. 18. The clerk of the court to whom such bail is offered, is authorized and required to examine the person or persons offered for bail on oath as to their pecuniary responsibility, and if he shall be satisfied with the same, to take bail and certify and return the recognizance in the same manner and to the same effect as the magistrate might have done.

HISTORY: CL 1929, 17210;—CL 1948, 766.18. This section re-enacts Sec. 34 of R.S. 1846, Ch. 163, as Add. 1859, p. 444, Act 159, Eff. May 15, being CL 1871, 7876;—How. 9487;—CL 1897, 11871;—CL 1915, 15698, changing word "county" to "court".

766.19 Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; order.

Sec. 19. When any person brought before a justice of the peace shall be committed to jail, or shall be under recognizance to answer to any charge of assault and battery or other misdemeanor for which the injured party shall have a remedy by civil action, if the injured party shall appear before the magistrate having cognizance of the offense, who made the commitment or took the recognizance, and acknowledge in writing that he has received satisfaction for the injury, the magistrate may in his discretion, on payment of the costs which have accrued, discharge the accused and the recognizance, or supersede the commitment by an order under his hand.

HISTORY: CL 1929, 17211;—CL 1948, 766.19. This section re-enacts part of Sec. 28 of R.S. 1846, Ch. 163, being CL 1857, 6004;—CL 1871, 7870;—How. 9481;—CL 1897, 11865;—CL 1915, 15692, changing word "prison" to "jail", "or" to "and" before "the recognizance".

766.20 Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; order, file; effect on civil remedy.

Sec. 20. Every such order discharging any recognizance, shall be filed in the office of the clerk of the proper court; and every such order superseding the commitment of the offender, shall be delivered to the keeper of the jail where he shall be confined, who shall forthwith discharge him; and every such order, if so filed and delivered, and not otherwise, shall forever bar all remedy by civil action for such injury.

HISTORY: CL 1929, 17212;—CL 1948, 766.20. This section re-enacts Sec. 29 of R.S. 1846, Ch. 163, being CL 1857, 6005;—CL 1871, 7871;—How. 9482;—CL 1897, 11866;—CL 1915, 15693, changing word "county" to "proper court".

766.21 Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; following indictment; order, effect.

Sec. 21. If an indictment shall be found on any such charge, the injured party may in like manner appear in the court where such indictment is pending and acknowledge

satisfaction for the injury and damages sustained by him; and such court may in its discretion, on payment of the costs incurred, order that no further proceedings be had on such indictment, and may discharge the defendant therefrom; which order shall operate as a perpetual stay of all further proceedings on such indictment.

HISTORY: CL 1929, 17213;—CL 1948, 766.21. This section re-enacts Sec. 30 of R.S. 1846, Ch. 163, being CL 1857, 6006;—CL 1871, 7872. —How. 9483;—CL 1897, 11867;—CL 1915, 15694.

766.22 Discharge of accused and recognizance in misdemeanor case where injured party has received satisfaction; inapplicability of sections.

Sec. 22. The provisions of the last 3 sections shall not extend to any charge or indictment for any assault and battery or other misdemeanor charged to have been committed riotously or with intent to commit a felony or upon any public officer while in the execution of the duties of his office.

HISTORY: CL 1929, 17214;—CL 1948, 766.22. This section supersedes Sec. 31 of R.S. 1846, Ch. 163, being CL 1857, 6007;—CL 1871, 7873;—How. 9484;—CL 1897, 11868;—CL 1915, 15695.

CHAPTER VII.
GRAND JURIES, INDICTMENTS, INFORMATIONS AND PROCEEDINGS
BEFORE TRIAL.

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767.1 Courts of record; jurisdiction over prosecutions upon information.

Sec. 1. The several circuit courts of this state, the recorders' courts and any court of record having jurisdiction of criminal causes, shall possess and may exercise the same

power and jurisdiction to hear, try and determine prosecutions upon informations for crimes, misdemeanors and offenses, to issue writs and process and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictments.

HISTORY: CL 1929, 17215;—CL 1948, 767.1. This section supersedes Sec. 1 of Act 138 of 1859, being CL 1871, 7937;—How. 9548;—CL 1897, 11933;—CL 1915, 15760; and merging Sec. 9 of Act 138 of 1859, being CL 1871, 7945;—How. 9556;—CL 1897, 11941;—CL 1915, 15768.

767.2 Applicability of indictment laws to informations.

Sec. 2. All provisions of the law applying to prosecutions upon indictments, to writs and process therein and the issuing and service thereof, to commitments, bail, motions, pleadings, trials, appeals and punishments, or the execution of any sentence, and to all other proceedings in cases of indictments whether in the court of original or appellate jurisdiction, shall, in the same manner and to the same extent as near as may be, be applied to informations and all prosecutions and proceedings thereon.

HISTORY: CL 1929, 17216;—CL 1948, 767.2. See Sec. 4 of Act 138 of 1859, being CL 1871, 7940;—How. 9551;—CL 1897, 11936;—CL 1915, 15763.

767.3 Proceedings before trial; inquiry; summoning witnesses; notification to judge; taking testimony; legal counsel; disqualification of judge.

Sec. 3. Whenever by reason of the filing of any complaint, which may be upon information and belief, or upon the application of the prosecuting attorney or attorney general, any judge of a court of law and of record shall have probable cause to suspect that any crime, offense or misdemeanor has been committed within his jurisdiction, and that any persons may be able to give any material evidence respecting such suspected crime, offense or misdemeanor, such judge in his discretion may make an order directing that an inquiry be made into the matters relating to such complaint, which order, or any amendment thereof, shall be specific to common intent of the scope of the inquiry to be conducted, and thereupon conduct such inquiry. In any court having more than 1 judge such order and the designation of the judge to conduct the inquiry shall be made in accordance with the rules of such court. Thereupon such judge shall require such persons to attend before him as witnesses and answer such questions as the judge may require concerning any violation of law about which they may be questioned within the scope of the order. The proceedings to summon such witness and to compel him to testify shall, as far as possible, be the same as proceedings to summon witnesses and compel their attendance and testimony. The witnesses shall not receive any compensation or remuneration other than witness fees as paid witnesses in other criminal proceedings. The witness shall not be employed in any capacity by the judge or by any person connected with such inquiry, within the scope of the inquiry being conducted. Whenever a subpoena is issued by the judge conducting the inquiry, commanding the appearance of a witness before the judge forthwith upon the service of such subpoena, and, following the service thereof, the witness arrives at the time and place stated in the subpoena, the judge issuing the same shall be forthwith notified of the appearance by the officer serving the subpoena, and the judge forthwith shall appear and take the testimony of the witness. Any person called before the grand jury shall at all times be entitled to legal counsel not involving delay and he may discuss fully with his counsel all matters relative to his part in the inquiry without being subject to a citation for contempt. The witness shall have the right to have counsel present in the room where the inquiry is held. All matters revealed to the attorney shall be subject to the requirements of secrecy in section 4, and any revelation thereof by the attorney shall make him subject to punishment as provided in section 4. No testimony shall be taken or given by any witness except in the presence of the judge.

Any judge, prosecuting attorney or special prosecuting attorney, or the attorney general participating in any inquiry under this section which continues more than 30

calendar days shall thereafter be disqualified from appointment or election to any office other than one held at the time of the inquiry. The disqualification shall not extend more than 1 year from date of termination of the inquiry, as determined by final order of the judge entered prior to such date.

HISTORY: CL 1929, 17217;—CL 1948, 767.3;—Am. 1949, p. 636, Act 311, Eff. Sep. 23;—Am. 1951, p. 582, Act 276, Eff. Sep. 25;—Am. 1965, p. 429, Act 251, Imd. Eff. Jul. 21.

This section re-enacts Sec. 1 of Act 196 of 1917.

767.4 Proceedings before trial; apprehension of suspect; disqualification as examining magistrate; finding as to misconduct in office; disclosures, penalty, exceptions; report of no finding of criminal guilt; period of inquiry; successor judge, appointment.

Sec. 4. If upon such inquiry the judge shall be satisfied that any offense has been committed and that there is probable cause to suspect any person to be guilty thereof, he may cause the apprehension of such person by proper process and, upon the return of such process served or executed, the judge having jurisdiction shall proceed with the case, matter or proceeding in like manner as upon formal complaint. The judge conducting the inquiry under section 3 shall be disqualified from acting as the examining magistrate in connection with the hearing on the complaint or indictment, or from presiding at any trial arising therefrom, or from hearing any motion to dismiss or quash any complaint or indictment, or from hearing any charge of contempt under section 5, except alleged contempt for neglect or refusal to appear in response to a summons or subpoena. If upon such inquiry the judge shall find from the evidence that there is probable cause to believe that any public officer, elective or appointive and subject to removal by law, has been guilty of misfeasance or malfeasance in office or wilful neglect of duty or of any other offense prescribed as a ground of removal, the judge shall make a written finding setting up the offense so found and shall serve said finding upon the public officer, public board or body having jurisdiction under the law to conduct removal proceedings against the officer. The finding shall be a sufficient complaint as a basis for removal of said officer and the public officer, public board or public body having jurisdiction of removal proceedings against the officer shall proceed in the method prescribed by law for a hearing and determination of said charges. Except in cases of prosecutions for contempt or perjury against witnesses who may have been summoned before the judge conducting such inquiry, or for the purpose of determining whether the testimony of a witness examined before the judge is consistent with or different from the testimony given by such witness before a court in any subsequent proceeding, or in cases of disciplinary action against attorneys and counselors in this state, any judge conducting the inquiry, any prosecuting attorney and other persons who may at the discretion of the judge be admitted to such inquiry, who shall while conducting such inquiry or while in the services of the judge or after his services with the judge shall have been discontinued, utter or publish any statement pertaining to any information or evidence involved in the inquiry, or who shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, or who shall disclose that any person has been questioned or summoned in connection with the inquiry, who shall disclose or publish or cause to be published any of the proceedings of the inquiry otherwise than by issuing or executing processes prior to the indictment, or shall disclose, publish or cause to be published any comment, opinion or conclusions related to the proceedings of the inquiry, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not less than \$100.00 nor more than \$1,000.00, or both fine and imprisonment in the discretion of the court, and the offense when committed by a public official shall also constitute malfeasance in office. The limitations, restrictions and penalties relating to the uttering, publishing or disclosing of any statement pertaining to any

information or evidence, imposed by this section, do not apply to disclosures of information or evidence made by a judge conducting such an investigation to another judge concurrently conducting an investigation as provided in section 3. Upon the termination of the inquiry if the judge shall make no presentment of crime or wrongdoing as to any person whose apprehension or removal from office he has not so caused, he may, in his discretion, with the consent of the person who may be named, file with the clerk of the county in which such inquiry has been conducted, a report of no finding of criminal guilt as to any person or persons involved in such inquiry, either as witness or otherwise, whose involvement in such inquiry has become public.

No inquiry or proceeding under this chapter shall continue longer than 6 months unless extended by specific order of the judge or his successor for an additional period not to exceed 6 months.

In the event any judge conducting such inquiry shall be unable to continue because of physical disability, disqualification, termination of office or death, the presiding circuit judge of Michigan shall appoint a successor.

HISTORY: CL 1929, 17218;—Am. 1947, p. 39, Act 33, Imd. Eff. Apr. 4;—CL 1948, 767.4;—Am. 1949, p. 637, Act 311, Eff. Sep. 23;—Am. 1951, p. 583, Act 276, Eff. Sep. 28;—Am. 1967, p. 89, Act 70, Eff. Nov. 2.

This section re-enacts Sec. 2 of Act 196 of 1917;—As Am. 1921, p. 724, Act 395, Eff. Aug. 18.

CITED IN OTHER SECTIONS: The above section is cited in § 201.7.

767.4a Proceedings before trial; unlawful use or possession of testimony, exhibits or proceedings; exceptions, penalty.

Sec. 4a. It shall be unlawful for any person, firm or corporation to possess, use, publish, or make known to any other person any testimony, exhibits or secret proceedings obtained or used in connection with any grand jury inquiry conducted prior to the effective date of this act, except in the manner specifically provided herein, and also excepting any information heretofore disclosed before any investigating committee of the Congress of the United States or any agency of the federal government. Any person violating the provisions of this section shall be guilty of a felony.

HISTORY: Add. 1951, p. 584, Act 276, Eff. Sep. 28.

767.5 Proceedings before trial; failure of witnesses to appear or answer questions; hearing, penalty; commutation or suspension of sentence.

Sec. 5. Any witness neglecting or refusing to appear in response to such summons or to answer any questions which such judge may require as material to such inquiry, shall be deemed guilty of a contempt and after a public hearing in open court and conviction of such contempt, shall be punished by a fine not exceeding \$1,000.00 or imprisonment in the county jail not exceeding 1 year or both at the discretion of the court: Provided, That if such witness after being so sentenced shall offer to appear before such judge to purge himself of such contempt, the judge shall cause such witness to be brought before him and, after examination of such witness, the judge may in his discretion commute or suspend the further execution of such sentence.

HISTORY: CL 1929, 17219;—CL 1948, 767.5;—Am. 1949, p. 638, Act 311, Eff. Sep. 23;—Am. 1951, p. 584, Act 276, Eff. Sep. 28.

This section re-enacts Sec. 3 of Act 196 of 1917.

767.5a Proceedings before trial; certain communications declared privileged and confidential.

Sec. 5a. In any inquiry authorized by this act communications between reporters of newspapers or other publications and their informants are hereby declared to be privileged and confidential. Any communications between attorneys and their clients, between clergymen and the members of their respective churches, and between physicians and their patients are hereby declared to be privileged and confidential when such communications were necessary to enable such attorneys, clergymen, or physicians to serve as such attorney, clergyman, or physician.

HISTORY: Add. 1949, p. 638, Act 311, Eff. Sep. 23;—Am. 1951, p. 584, Act 276, Eff. Sep. 28.

767.6 Proceedings before trial; incriminating answers of witnesses; immunity order, delivery to witness; application; transcript; secrecy.

Sec. 6. No witness shall upon such inquiry be required to answer any questions, or shall be convicted for contempt upon refusal to do so, when the answers might tend to incriminate him. A written order granting to such witness immunity from such incrimination may be entered by said judge pursuant to a written motion by the prosecuting attorney or other duly authorized representative of the state in such proceeding, which order shall set forth verbatim the questions which such witness refused to answer. A true copy of such motion and order shall be delivered to such witness before he shall answer such questions. The order granting immunity so made shall thereafter extend to all related questions which may thereafter be put to such witness until such judge advises the witness that said immunity no longer applies. All such questions and the answers thereto shall be reduced to writing under the direction of such judge and a true copy of such transcript, duly certified by such judge, shall be delivered to such witness as soon as practicable thereafter. The provisions for secrecy provided for in section 3 hereof shall apply to all copies of such motion, order and transcript so delivered to such witness except that the witness may be privileged to disclose the same to his attorney if such witness should thereafter be prosecuted for any offense directly or indirectly growing out of any testimony given by him in such inquiry. No person required to answer such questions shall thereafter be prosecuted for any offense concerning which such answers may have tended to incriminate him. No such order granting immunity shall extend beyond the scope of such inquiry, nor shall it extend beyond the particular questions set forth in any such motion, order or transcript.

HISTORY: CL 1929, 17220;—CL 1948, 787.6;—Am. 1949, p. 638, Act 311, Eff. Sep. 23;—Am. 1951, p. 584, Act 278, Eff. Sep. 28.

This section re-enacts Sec. 4 of Act 196 of 1917.

767.6a Docket, journal, transcript and record; seal and file; violation of secrecy; available in connection with appeal, order, receipt; destruction of transcripts, notes and records.

Sec. 6a. On termination of any such inquiry lasting not more than 30 calendar days the docket, journal, reporters' notes, transcript and other record of such judge in such inquiry shall be sealed and filed with the clerk of the court having jurisdiction; and if lasting more than 30 calendar days shall be sealed and filed with the clerk of the supreme court of the state of Michigan, where it shall be held secretly in a separate container securely locked. Any person who shall violate the secrecy herein ordered as to such docket, journal, transcript and record shall be punished as provided in section 4 hereof. And the entire transcript and record as to any witness, and so far as material, including any grant of immunity, shall be available to such witness in connection with any appeal or other judicial proceeding where it may be relevant upon such witness filing a petition with the circuit court of the county in which he resides setting forth the proceeding for which such documents are sought and describing the portions of such transcript and record as to such witness only, which such witness requested for such appeal or proceeding; the judge of such circuit court shall issue an order upon the filing of such petition directed to the clerk of the supreme court of the state of Michigan or the clerk of the court, as the case may be, ordering such clerk to make available to such witness all such portions of the transcript and record as shall pertain to such witness and as set forth in the petition. The clerk shall immediately reseal the remaining transcript and records after compliance with such order. The petitioner shall execute to the clerk of the supreme court a receipt for such documents and such documents shall be returned to the clerk immediately upon the termination of such appeal or proceeding for which the same shall have been obtained: Provided, however, upon the petition of the prosecuting attorney of the county in which such inquiry was conducted, or any other interested person, any circuit judge, acting as such in said county,

upon determining that there is no further need for preserving and retaining the same, shall enter an order providing for the referring to the supreme court, for the entry of such order or orders as a majority of the court may at any time determine, for the destruction of said transcripts, notes and records, or any part thereof: Provided further, That no such order shall be entered by such circuit judge until at least 6 years after the termination of such inquiry.

HISTORY: Add. 1951, p. 585, Act 276, Eff. Sep. 28.

767.6b Public accounting by judge; time, filing.

Sec. 6b. Within 90 days after the termination of such inquiry, such judge shall file with the clerk of the court having jurisdiction a public accounting of all monies disbursed by him or disbursed at his direction.

HISTORY: Add. 1951, p. 585, Act 276, Eff. Sep. 28.

767.7 Grand jury; summoning, procedure.

Sec. 7. Grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any court within this state, as provided by law, unless the judge thereof shall so direct by writing under his hand, and filed with the clerk of said court.

HISTORY: CL 1929, 17221;—CL 1948, 767.7. This section re-enacts Sec. 7 of Act 138 of 1859, being CL 1871, 7943;—How. 9554;—CL 1897, 11939;—CL 1915, 15706.

767.7a Grand jurors; term of service; recalling.

Sec. 7a. Notwithstanding the provisions of section 1343 of Act No. 236 of the Public Acts of 1961, as added, being section 600.1343 of the Compiled Laws of 1948, the term of service of grand jurors shall be 6 months unless extended by specific order of the judge who summoned such jurors or his successor for an additional period not to exceed 6 months, except that the grand jurors may be recalled at any time by the judge who summoned such jurors or by his successor to conclude business commenced during their term of service.

HISTORY: Add. 1970, p. 19, Act 9, Imd. Eff. Mar. 26.

767.8 Grand jury; juror; grounds for discharge; summoning new juror.

Sec. 8. Any court in which a grand jury may be sitting, may discharge any of the grand jurors for intoxication or other gross misconduct; and in case of such discharge, or in case of the sickness, death or non-attendance of any grand juror, after he shall have been sworn, the court may cause another juror to be summoned from among the bystanders, or inhabitants of the city, township or village having the qualifications required by law, and to be sworn and to serve in his stead.

HISTORY: CL 1929, 17223;—CL 1948, 767.8. This section re-enacts Sec. 1 of R.S. 1846, Ch. 164, being CL 1857, 6010;—CL 1871, 7879;—How. 9490;—CL 1897, 11875;—CL 1915, 15702.

767.9 Grand jury; list; oath, form.

Sec. 9. The clerk of the court shall prepare an alphabetical list of all the persons returned as grand jurors, and when the jury is to be impaneled, the following oath shall be administered to them: "You as grand jurors of this inquest, for the body of this county of do solemnly swear that you will diligently inquire and true presentment make of all such matters and things as shall be given you in charge; your own counsel and the counsel of the people, and of your fellows, you shall keep secret; you shall present no person for envy, hatred or malice, neither shall you leave any person unrepresented for love, fear, favor, affection or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding; so help you God".

HISTORY: CL 1929, 17223;—CL 1948, 767.9. This section re-enacts Sec. 2 of R.S. 1846, Ch. 164, being CL 1857, 6011;—CL 1871, 7890;—How. 9491;—CL 1897, 11876;—CL 1915, 15703; and supersedes Sec. 3 of R.S. 1846, Ch. 164, being CL 1857, 6012;—CL 1871, 7881;—How. 9492;—CL 1897, 11877;—CL 1915, 15704.

767.10 Grand jury; affirmation in lieu of oath.

Sec. 10. Any person returned as a grand juror shall be allowed to make affirmation, substituting the word "affirm" instead of the word "swear"; and also the words, "this you do under the pains and penalties of perjury", instead of the words "so help you God".

HISTORY: CL 1929, 17224;—CL 1948, 767.10. This section re-enacts Sec. 4 of R.S. 1846, Ch. 164, being CL 1857, 6013;—CL 1871, 7862. —How. 9493;—CL 1897, 11878;—CL 1915, 15705.

767.11 Grand jury; size; foreman, appointment.

Sec. 11. There shall be no more than 17 persons nor less than 13 persons sworn on any grand jury; and after such jurors have been impaneled and have received their charge from the court, they shall retire with the officer appointed to attend them and before they proceed to discharge the duties of their office, the court shall appoint 1 of their number to be foreman and the clerk shall record the same.

HISTORY: CL 1929, 17225;—CL 1948, 767.11;—Am. 1970, p. 19, Act 9, Imd. Eff. Mar. 28.

This section supersedes Sec. 5 of R.S. 1846, Ch. 164, being CL 1857, 6014;—CL 1871, 7883;—How. 9494;—CL 1897, 11879;—CL 1915, 15706.

767.12 Grand jury; foreman; term, vacancy.

Sec. 12. The foreman appointed by the court in the manner provided in the preceding section, shall be foreman during the whole time they are required to serve; but in case of his death or absence or if he shall be discharged, or excused before the grand jury shall be dismissed, another of such jurors shall be appointed foreman for the residue of such time of service.

HISTORY: CL 1929, 17226;—CL 1948, 767.12. This section supersedes Sec. 6 of R.S. 1846, Ch. 164, being CL 1857, 6015;—CL 1871, 7884;—How. 9495;—CL 1897, 11880;—CL 1915, 15707.

767.13 Grand jury; juror; grounds of objection to competency.

Sec. 13. A person held to answer to any criminal charge may object to the competency of any 1 summoned to serve as a grand juror, on the ground that he is the prosecutor or complainant upon any charge against such person; and if such objection be established, the person so summoned shall be set aside.

HISTORY: CL 1929, 17227;—CL 1948, 767.13. This section re-enacts Sec. 7 of R.S. 1846, Ch. 164, being CL 1857, 6016;—CL 1871, 7885. —How. 9496;—CL 1897, 11881;—CL 1915, 15708.

767.14 Grand jury; no challenge of array or individual juror in other cases.

Sec. 14. No challenge to the array of grand jurors, or to any person summoned as a grand juror, shall be allowed in any other case than that specified in the preceding section.

HISTORY: CL 1929, 17228;—CL 1948, 767.14. This section re-enacts Sec. 8 of R.S. 1846, Ch. 164, being CL 1857, 6017;—CL 1871, 7886. —How. 9497;—CL 1897, 11882;—CL 1915, 15709.

767.15 Grand jury; witnesses; administration of oath, list.

Sec. 15. The foreman of every grand jury, the attorney general and the prosecuting attorney, or other prosecuting officer who shall be before them, shall have authority to administer all oaths and affirmations, in the manner prescribed by law, to witnesses who shall appear before such jury for the purpose of testifying in any matter of which they may have cognizance, and the foreman shall return to the court, or deliver to the prosecuting officer, a list of all the witnesses sworn before the grand jury in each case in which an indictment shall be found.

HISTORY: CL 1929, 17229;—CL 1948, 767.15. This section re-enacts Sec. 9 of R.S. 1846, Ch. 164, being CL 1857, 6018;—CL 1871, 7887;—How. 9498;—CL 1897, 11883;—CL 1915, 15710.

767.16 Grand jury; clerk, stenographer; appointment, duties.

Sec. 16. The grand jury may appoint 1 of their number to be their clerk, to preserve minutes of their proceedings and of evidence given before them; which minutes shall be delivered to the prosecuting officer, when so directed by the grand jury. Whenever it appears to the judge that it is necessary he may appoint a stenographer to take the testimony given before the grand jury.

HISTORY: CL 1929, 17230;—CL 1948, 787.16. This section re-enacts, in part, Sec. 10 of R.S. 1846, Ch. 164, being CL 1857, 6019;—CL 1871, 7888;—How. 9499;—CL 1897, 11884;—CL 1915, 15711.

767.17 Grand jury; summoning after dismissal.

Sec. 17. When the grand jury attending any court shall have been dismissed before the court is adjourned without day, they may be summoned to attend again, in the same term at such time as the court shall direct, for the dispatch of any business that may come before them.

HISTORY: CL 1929, 17231;—CL 1948, 787.17. This section re-enacts Sec. 11 of R.S. 1846, Ch. 164, being CL 1857, 6020;—CL 1871, 7889;—How. 9500;—CL 1897, 11885;—CL 1915, 15712.

767.18 Grand jury; disclosure of indictment for felony.

Sec. 18. No grand juror, stenographer or officer of the court shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until such person has been arrested.

HISTORY: CL 1929, 17232;—CL 1948, 787.18. This section re-enacts Sec. 12 of R.S. 1846, Ch. 164, being CL 1857, 6021;—CL 1871, 7890;—How. 9501;—CL 1897, 11886;—CL 1915, 15713, inserting word "stenographer" after "juror".

767.19 Grand jury; testimony to certain facts required.

Sec. 19. Members of the grand jury may be required by any court to testify, whether the testimony of a witness examined before such jury is consistent with, or different from the evidence given by such witness before such court; and they may also be required to disclose the testimony given before them by any person, upon complaint against such person for perjury, or upon his trial for such offense; but in no case can a member of a grand jury be obliged or allowed to testify or declare in what manner he or any other member of the jury voted on any question before them, or what opinions were expressed by any juror in relation to any such question.

HISTORY: CL 1929, 17233;—CL 1948, 787.19. This section re-enacts Sec. 13 of R.S. 1846, Ch. 164, being CL 1857, 6022;—CL 1871, 7891;—How. 9502;—CL 1897, 11887;—CL 1915, 15714.

767.19a Grand jury; immunity order; application, issuance.

Sec. 19a. The prosecuting attorney may apply to the judge who summoned the jury or his successor for an order granting immunity to any person, designated by name and address in the application, who might give testimony concerning any matter before the grand jury. The application shall be accompanied by a verified petition of the prosecuting attorney setting forth the facts upon which the application is based. If the judge to whom the application is presented is satisfied that it is in the interest of justice that such immunity be granted, he shall enter an order granting immunity to the witness if the witness appears before the grand jury and testifies under oath concerning any matter before the grand jury and set forth in the petition of the prosecuting attorney.

HISTORY: Add. 1970, p. 19, Act 9, Imd. Eff. Mar. 28.

767.19b Grand jury; immunity order; copy to witness; extent; duration; termination.

Sec. 19b. (1) A true copy of the order granting immunity shall be delivered to the witness before he answers such questions before the grand jury. The order granting immunity shall extend to all related questions which may thereafter be put to the witness and he shall not be prosecuted for any offense which is discovered as a result of any answers to a question put to him irrespective of the degree of knowledge provided

to the questioning authority. All such questions and answers thereto shall be reduced to writing. No person required to answer such questions shall thereafter be prosecuted for any offense concerning which such answers may have tended to incriminate him. If a witness who has been granted immunity is thereafter prosecuted for an offense which he alleges was subject to the grant of immunity, then a true copy, duly certified by an officer authorized to administer oaths, of the transcript of the questions put to, and the answers of, such witness shall be delivered to the witness as soon as practicable.

(2) The order granting immunity shall continue in effect until such time as the judge who summoned the jury or his successor, in his discretion and upon the application of the prosecuting attorney, enters an order terminating the order granting immunity as to questions which may thereafter be put to the witness and advises the witness of such order of termination.

HISTORY: Add. 1970, p. 20, Act 9, Imd. Eff. Mar. 26.

767.19c Grand jury; witness, failing to appear, contempt; penalty; purging.

Sec. 19c. Any witness who neglects or refuses to appear or testify or both in response to a summons of the grand jury or to answer any questions before the grand jury concerning any matter or thing of which the witness has knowledge concerning matters before the grand jury after service of a true copy of an order granting the witness immunity as to such matters shall be guilty of a contempt and after a public hearing in open court and conviction of such contempt shall be fined not exceeding \$10,000.00 or imprisoned not exceeding 1 year, or both. If the witness thereafter appears before the court to purge himself of such contempt, the court shall order the recalling of the grand jury to afford such opportunity, and after appearance of the witness before the grand jury upon a transcript of the testimony there and then given, the witness shall be brought before the court and after examination, the court shall determine whether the witness has purged himself of the contempt and shall commute the sentence upon a finding that the witness has purged himself.

HISTORY: Add. 1970, p. 20, Act 9, Imd. Eff. Mar. 26.

767.19d Grand jury; perjury.

Sec. 19d. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined is subject to the penalties of perjury as prescribed by law.

HISTORY: Add. 1970, p. 20, Act 9, Imd. Eff. Mar. 26.

767.19e Grand jury; witness, right to counsel.

Sec. 19e. A witness granted immunity as provided by sections 19a and 19b of this chapter has the right to have counsel present at his side at all times at which he is being questioned concerning matters included within the order granting immunity.

HISTORY: Add. 1970, p. 20, Act 9, Imd. Eff. Mar. 26.

767.19f Grand jury; publication of testimony prohibited; penalty, exception.

Sec. 19f. Except as otherwise provided by law, it is unlawful for any person to publish or make known to any other person any testimony or exhibits obtained or used, or any proceeding conducted, in connection with any grand jury inquiry. Any person violating the provisions of this section is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$1,000.00, or both. The provisions of this section respecting secrecy shall not apply to communications between prosecuting officers for the purpose of presenting evidence before the grand jury, for the purpose of reviewing evidence presented to the grand jury for prospective prosecution or for any other purpose involving the execution of a public duty. The provisions of this section shall apply to applications and petitions for

and orders of immunity and to any transcript of testimony which may be delivered to a witness pursuant to his being granted immunity except that the witness may be privileged to disclose such application, petition, order and transcript to his attorney.

HISTORY: Add. 1970, p. 20, Act 9, Imd. Eff. Mar. 26.

767.19g Grand jury; testimony, when made available.

Sec. 19g. The testimony of any witness before the grand jury shall not be made available to any person indicted by such grand jury prior to the time of trial of the indictment. At such time during the course of the trial when the direct examination of a person who previously testified before the grand jury has been completed, a copy of the person's testimony before the grand jury relative to the offense with which the defendant is charged, upon the request of the defendant, shall be furnished by the prosecuting attorney to the defendant.

HISTORY: Add. 1970, p. 21, Act 9, Imd. Eff. Mar. 26.

767.20 Grand jury; duty of prosecutor, attendance.

Sec. 20. Whenever required by the grand jury, it shall be the duty of the prosecuting attorney of the county to attend them for the purpose of examining witnesses in their presence or of giving them advice upon any legal matter.

HISTORY: CL 1929, 17234;—CL 1948, 767.20. This section re-enacts Sec. 14 of R.S. 1846, Ch. 164, being CL 1857, 6023;—CL 1871, 7892;—How. 9503;—CL 1897, 11888;—CL 1915, 15715.

767.21 Grand jury; prosecutor to subpoena witness.

Sec. 21. The prosecuting attorney and other prosecuting officers, may, in all cases, issue subpoenas for witnesses to appear and testify on behalf of the people of this state; and the subpoena, under the hand of such officer, shall have the same force and be obeyed in the same manner and under the same penalties, as if issued by the clerk or any magistrate.

HISTORY: CL 1929, 17235;—CL 1948, 767.21. This section re-enacts Sec. 15 of R.S. 1846, Ch. 164, being CL 1857, 6024;—CL 1871, 7893;—How. 9504;—CL 1897, 11889;—CL 1915, 15716.

767.22 Grand jury; appearance of prosecutor to inform.

Sec. 22. The prosecuting attorney of the county, or other prosecuting officer, shall be allowed at all times to appear before the grand jury, on his request, for the purpose of giving information relative to any matter cognizable by them; but no prosecuting officer, constable or any other person, except grand jurors, shall be present during the expression of their opinions, or the giving of their votes upon any matter before them.

HISTORY: CL 1929, 17236;—CL 1948, 767.22. This section re-enacts Sec. 16 of R.S. 1846, Ch. 164, being CL 1857, 6025;—CL 1871, 7894;—How. 9505;—CL 1897, 11890;—CL 1915, 15717.

767.23 Grand jury; indictment, vote required; true bill.

Sec. 23. No indictment can be found without the concurrence of at least 9 grand jurors; and when so found, and not otherwise, the foreman of the grand jury shall certify thereon, under his hand, that the same is a true bill.

HISTORY: CL 1929, 17237;—CL 1948, 767.23;—Am. 1970, p. 21, Act 9, Imd. Eff. Mar. 26.

This section re-enacts Sec. 17 of R.S. 1846, Ch. 164, being CL 1857, 6026;—CL 1871, 7895;—How. 9506;—CL 1897, 11891;—CL 1915, 15718;—CL 1948, 767.23.

767.24 Indictment by grand jury; for crime of murder, kidnapping, extortion, assault with intent to commit murder, conspiracy to commit murder, time limitation.

Sec. 24. An indictment for the crime of murder may be found at any period after the death of the person alleged to have been murdered; indictments for the crimes of kidnapping, extortion, assault with intent to commit murder and conspiracy to commit murder shall be found and filed within 10 years after the commission of the offense; all other indictments shall be found and filed within 6 years after the commission of the offense; but any period during which the party charged was not usually and publicly

resident within this state shall not be reckoned as part of the time within which the respective indictments shall be found and filed.

HISTORY: CL 1929, 17238;—Am. 1935, p. 223, Act 144, Eff. Sept. 21;—CL 1948, 767.24;—Am. 1954, p. 124, Act 100, Imd. Eff. Apr. 14.

This section as originally enacted re-enacted Sec. 18 of R.S. 1846, Ch. 164, being CL 1857, 6027;—CL 1871, 7896;—How. 9507;—CL 1897, 11892;—CL 1915, 15719.

767.25 Indictment by grand jury; indorsement, presentment, filing, inspection.

Sec. 25. Indictments found by a grand jury, with the names of the complainant and all the witnesses indorsed on the back thereof, shall be presented by their foreman, in their presence, to the court, and shall there be filed and remain as public records; but such as are found against any person for a felony, not being in actual confinement, shall not be open to the inspection of any person except the attorney general or prosecuting attorney until the defendant therein shall have been arrested.

HISTORY: CL 1929, 17239;—CL 1948, 767.25. This section re-enacts Sec. 19 of R.S. 1846, Ch. 164, being CL 1857, 6028;—CL 1871, 7897. —How. 9508;—CL 1897, 11893;—CL 1915, 15720.

767.26 Discharge of accused in absence of indictment.

Sec. 26. Any person held in prison on any charge of having committed a crime, shall be discharged if he be not indicted before the end of the second term of the court at which he is held to answer unless it shall appear to the satisfaction of the court that the witnesses on the part of the people have been enticed or kept away, or are detained and prevented from attending the court by sickness or some inevitable accident, and except in the case provided for in the next section.

HISTORY: CL 1929, 17240;—CL 1948, 767.26. This section re-enacts Sec. 20 of R.S. 1846, Ch. 164, being CL 1857, 6029;—CL 1871, 7896. —How. 9509;—CL 1897, 11894;—CL 1915, 15721.

767.27 Repealed. 1966, p. 381, Act 266, Eff. Mar. 10, 1967.

Section related to procedure followed when person accused of felony was found to be insane or when he was acquitted of felony upon grounds of insanity.

767.27a Persons incompetent to stand trial; procedure.

Sec. 27a. (1) A person accused of a crime who is incompetent to stand trial shall not be proceeded against while he is incompetent. A person is incompetent to stand trial within the meaning of this section if he is incapable of understanding the nature and object of the proceedings against him, of comprehending his own condition in reference to the proceedings, or of assisting in his defense in a rational or reasonable manner.

Raising issue of competence; court rule.

(2) The issue of competence to stand trial may be raised by the prosecuting attorney, defense counsel, by any interested person on leave of the court, or by the court on its own motion. The time and form of the procedure incident to raising the issue of competence shall be provided by court rule.

Commitment for psychiatric evaluation; time; reports.

(3) Upon a showing that the defendant may be incompetent to stand trial, the court shall commit the defendant in the criminal case to the custody of the center for forensic psychiatry or to any other diagnostic facility certified by the department of mental health for the performance of forensic psychiatric evaluation. The commitment shall be for a period not to exceed 60 days. Within that period the center or other facility shall prepare a diagnostic report and recommendations which are to be transmitted to the committing court.

Determination of competency; report and recommendation, admissibility as evidence.

(4) Upon receipt of the diagnostic report and recommendations the sheriff shall immediately return the defendant to the committing court and the court shall immediately hear and determine the issue of competence to stand trial. The diagnostic report

and recommendations shall be admissible as evidence in the hearing, but not for any other purpose in the pending criminal proceedings.

Adjudication of incompetency; commitment to department of mental health.

(5) If the defendant is adjudged to be incompetent to stand trial, he shall be committed to the department of mental health for treatment in a public institution approved for the purpose by the department of mental health.

Department's certification as to defendant's competency; report; redetermination of competency; admissibility as evidence.

(6) If at any time within 18 months of the entry of the order of commitment entered under section [sic] (5) the defendant has regained competence to stand trial, in the opinion of the department of mental health, it shall certify its opinion, together with a detailed psychiatric report, to the committing court and shall return the defendant to the control of that court. The return shall be made by the sheriff at the request of the department. The court shall immediately hear and determine the question of competence to stand trial. The certificate and psychiatric report shall be admissible as evidence in the hearing, but not for any other purpose in the pending criminal proceedings.

Department's certification as to defendant's inability to regain competence to probate court.

(7) If after the defendant has been committed to its custody under subsection (5), the department of mental health believes that the defendant cannot recover competence to stand trial within 18 months from the entry of the order of commitment, or if by the expiration of 18 months from the entry of the order of commitment the defendant has not regained competence to stand trial, in the opinion of the department of mental health, the department shall certify its opinion, together with a detailed psychiatric report, to the probate court in the county from which the defendant was originally committed. The probate court shall receive the certification and psychiatric report as the equivalent to a petition and physician's report under section 11 of Act No. 151 of the Public Acts of 1923, as amended, being section 330.21 of the Compiled Laws of 1948, and shall proceed to determine the matter as provided in that section.

Commitment by probate court; transfer to circuit court; rehearing de novo; reversal and recommitment.

(8) If the probate court which has received the case under subsection (7) determines that the respondent is mentally diseased and shall be committed, it shall enter an appropriate order. If the probate court determines that the respondent is not to be committed, it shall transfer the case to the circuit court which originally determined the respondent to be incompetent to stand trial. The original committing court shall proceed to hearing de novo. If the original committing court determines that the respondent is competent to stand trial, it shall proceed to trial. If the original committing court determines that the defendant is still incompetent to stand trial and enters an order to that effect, the decision of the probate court is reversed, and the original committing court shall immediately commit the defendant to the department of mental health for treatment in an appropriate state hospital, until discharged in accordance with Act No. 151 of the Public Acts of 1923, as amended, being sections 330.11 to 330.71 of the Compiled Laws of 1948. The county prosecutor shall be notified and given an opportunity to be heard in any proceedings held under this subsection.

Credits against criminal sentence; when statute of limitations begins to run.

(9) Time spent in custody under subsections (3), (5), (6), (7) and (8) shall be credited against any sentence imposed on the defendant in the pending criminal case or in any other case arising from the same transaction. The statute of limitations on the pending

criminal charge or any other charge arising from the same transaction shall commence to run on the entry of an order of commitment under subsection (5) of this section and shall continue to run until and unless the committing court determines under subsection (8) that the defendant is competent to stand trial.

HISTORY: Add. 1966, p. 379, Act 266, Eff. Mar. 10, 1967.

767.27b Commitment of persons acquitted by reasons of insanity; necessity of evaluation and recommendation for release.

Sec. 27b. Any person, who is tried for a crime and is acquitted by the court or jury by reason of insanity, shall be committed immediately by order of the court to the department of mental health for treatment in an appropriate state hospital, until discharged in accordance with Act No. 151 of the Public Acts of 1923, as amended. The person shall not be released on convalescent care or final discharge without first being evaluated and recommended for release by the center for forensic psychiatry.

HISTORY: Add. 1966, p. 380, Act 266, Eff. Mar. 10, 1967.

767.27c Persons confined for incompetency to stand trial; commitment or transfer; assignment of visiting or retired judge.

Sec. 27c. (1) Notwithstanding any other provision of law, any person in confinement at the Ionia state hospital as of March 10, 1967, having been previously committed for reasons of incompetency to stand trial under the provisions of section 27 prior to its repeal, shall as soon as practical be certified to the probate court of Ionia county. If, in the opinion of the department of mental health, the patient has not regained competence to stand trial within 18 months from the entry of the order of commitment, the department shall certify its opinion, together with the detailed psychiatric report, to that court, which shall receive the certification and psychiatric report as the equivalent to a petition and physicians' certificates under section 11 of Act No. 151 of the Public Acts of 1923, as amended, being section 330.21 of the Compiled Laws of 1948, and shall proceed to determine the matter as provided in that section. In each case so certified, the court shall notify the guardian and one or more relatives if their addresses be known and the prosecuting attorney of the county from which the patient was originally committed as incompetent to stand trial, at least 20 days in advance of the date set for the hearing on the matter and supply the prosecuting attorney with a copy of the certification and psychiatric report. Such notices shall be by certified mail. If the probate court determines that the respondent is mentally diseased and enters an appropriate commitment order, a copy of the order shall be supplied to the criminal court having committed the patient as incompetent to stand trial. If the probate court determines that the respondent is not to be committed, it shall transfer the case to the criminal court which originally determined the respondent to be incompetent to stand trial and such court shall proceed as provided in subsection (8) of section 27a.

Assignment of visiting or retired judge; costs.

(2) The court administrator shall assign a visiting or retired judge to the Ionia county probate court for a period not to extend beyond June 30, 1969 for the exclusive purpose of hearing cases under this section which judge is authorized to hold court within the Ionia state hospital. All costs of conducting the probate court presided over by a visiting or retired judge for the processing of cases under this section shall be a charge against state funds appropriated to the department of mental health for such purposes and not against Ionia county or any other county of the state.

HISTORY: Add. 1967, p. 491, Act 257, Imd. Eff. Jul. 19;—Am. 1968, p. 89, Act 48, Imd. Eff. May 28.

767.28 Indictment; right of indictée to copy.

Sec. 28. Every person indicted for any offense, who shall have been arrested upon process issued upon such indictment or who shall have duly entered into recognizance

to appear and answer to such indictment shall, on demand, be entitled to a copy of the indictment and of all endorsements thereon.

HISTORY: CL 1929, 17242;—CL 1948, 767.28. This section re-enacts Sec. 22 of R.S. 1846, Ch. 164, being CL 1857, 6031;—CL 1871, 7900;—How. 9511;—CL 1897, 11896;—CL 1915, 15723.

767.29 Indictment; right to discontinue prosecution.

Sec. 29. It shall not hereafter be lawful for any prosecuting attorney to enter a nolle prosequi upon any indictment, or in any other way to discontinue or abandon the same, without stating on the record the reasons therefor and without the leave of the court having jurisdiction to try the offense charged, entered in its minutes.

HISTORY: Am. 1929, p. 51, Act 24, Imd. Eff. April 2;—CL 1929, 17243;—CL 1948, 767.29. This section as originally enacted re-enacted Sec. 23 of R.S. 1846, Ch. 164, being CL 1857, 6032;—CL 1871, 7901;—How. 9512;—CL 1897, 11897;—CL 1915, 15724.

767.30 Warrant for arrest of indictée; issuance, persons.

Sec. 30. A warrant for the arrest of any person indicted may be issued by the court to which the indictment shall be presented, or by any justice of the supreme court, or judge of the court for the county in which such indictment shall be found, or judge of any recorder's court or any court of record having jurisdiction of criminal causes, either in vacation or during the sitting of any such court; but such warrant shall not be issued by any other officer.

HISTORY: CL 1929, 17244;—CL 1948, 767.30. This section supersedes, with additions, Sec. 24 of R.S. 1846, Ch. 164, being CL 1857, 6033;—CL 1871, 7902;—How. 9513;—CL 1897, 11898;—CL 1915, 15725.

767.31 Warrant for arrest of indictée; persons to whom directed; place of execution.

Sec. 31. Every warrant shall be directed to the sheriff, constable, police officer or peace officer of the county in which the indictment shall be found, and may be executed in any part of this state.

HISTORY: CL 1929, 17245;—CL 1948, 767.31. This section supersedes, with additions, Sec. 25 of R.S. 1846, Ch. 164, being CL 1857, 6034;—CL 1871, 7903;—How. 9514;—CL 1897, 11899;—CL 1915, 15726.

767.32 Subpoena; witness for defendant; issuance by county clerk, fee.

Sec. 32. The clerk of any county in which an indictment shall be found, upon the application of the defendant, and without requiring any fees, shall issue subpoenas as well during the sitting of any court as in vacation, for such witnesses as the defendant may require, whether residing in or out of the county.

HISTORY: CL 1929, 17246;—CL 1948, 767.32. This section re-enacts Sec. 26 of R.S. 1846, Ch. 164, being CL 1857, 6035;—CL 1871, 7904;—How. 9515;—CL 1897, 11900;—CL 1915, 15727.

767.33 Subpoena; witness for defendant; disobedience; penalty, civil liability.

Sec. 33. Disobedience to any subpoena issued pursuant to the foregoing provisions, shall be punished in the same manner and upon the like proceedings, as provided by law in other cases; and the person guilty of such disobedience shall be liable to the party at whose instance such subpoena issued in the same manner and to the like extent as in cases of subpoenas issued in any civil suit.

HISTORY: CL 1929, 17247;—CL 1948, 767.33. This section re-enacts Sec. 27 of R.S. 1846, Ch. 164, being CL 1857, 6036;—CL 1871, 7905;—How. 9516;—CL 1897, 11901;—CL 1915, 15728.

DISOBEDIENCE TO SUBPOENA: See Compilers' § 600.1701 and GCR 506.

767.34 Witness; issuance of capias.

Sec. 34. Any circuit court or any court of record shall have power to issue capias, in the first instance, for any witness or witnesses in criminal cases, when it shall satisfactorily appear that such witness or witnesses are material and that there will be danger of the loss of their testimony unless such writ be issued.

HISTORY: CL 1929, 17248;—CL 1948, 767.34. This section supersedes Sec. 1 of Act 209 of 1861, being CL 1871, 7961;—How. 9574;—CL 1897, 11958;—CL 1915, 15831.

767.35 Witness; danger of loss of testimony; admission to bail or commitment.

Sec. 35. Whenever it shall appear to any court of record that any person is a material witness in any criminal case pending in any court in the county and that there is danger of the loss of testimony of such witness unless he be required to furnish bail or be committed in the event that he fails to furnish such bail, said court, or a circuit court commissioner in the absence of a judge of any court of record, shall require such witness to be brought before him and after giving him an opportunity to be heard, if it shall appear that such witness is a material witness and that there is danger of the loss of his testimony unless he furnish bail or be committed, said court may require such witness to enter into a recognizance with such sureties and in such amount as the court may determine for his appearance at any examination or trial of said cause. All witnesses who fail to so recognize, shall be committed to jail by said court, there to remain until they comply with such order or are discharged by future order of said court.

HISTORY: CL 1929, 17249;—CL 1948, 767.35. This section supersedes, with additions, Sec. 20 of R.S. 1846, Ch. 163, being CL 1857, 5996;—CL 1871, 7962;—How. 9473;—CL 1897, 11857;—CL 1915, 15684; and Sec. 22 of R.S. 1846, Ch. 163, being CL 1857, 5998;—CL 1871, 7964;—How. 9475;—CL 1897, 11859;—CL 1915, 15686. See Sec. 19 of R.S. 1846, Ch. 163, being CL 1857, 5995;—As Am. 1871, p. 101, Act 77, Eff. July 18;—CL 1871, 7861;—How. 9472;—CL 1897, 11856;—CL 1915, 15683.

BAIL FOR WITNESS: See Compilers' § 765.29.

767.36 Witness; subpoena by prosecution; necessity of fee.

Sec. 36. It shall not be necessary to pay or tender any fees whatever to any witness subpoenaed on the part of the people of this state in support of any prosecution, but such witness shall be bound to attend as if the fees allowed by law to witnesses in civil actions had been duly paid to him.

HISTORY: CL 1929, 17250;—CL 1948, 767.36. This section re-enacts Sec. 28 of R.S. 1846, Ch. 164, being CL 1857, 6037;—CL 1871, 7906;—How. 9517;—CL 1897, 11902;—CL 1915, 15729, omitting clause "or to any witness subpoenaed on the part of any defendant in any indictment."

767.37 Indictree; plea on arraignment.

Sec. 37. When any person shall be arraigned upon an indictment, it shall not be necessary in any case to ask him how he will be tried but if, on being so arraigned, he shall refuse to plead or answer or shall not confess the indictment to be true, the court shall order a plea of not guilty to be entered and thereupon the proceedings shall be the same as if he had pleaded not guilty to the indictment. At the arraignment of any person upon an indictment or upon the charge in a warrant, complaint or information the court may accept a plea of nolo contendere and if such a plea is accepted, the court shall proceed as if he had pleaded guilty.

HISTORY: CL 1929, 17251;—CL 1948, 767.37;—Am. 1909, p. 761, Act 334, Imd. Eff. Nov. 10.

This section re-enacts Sec. 29 of R.S. 1846, Ch. 164, being CL 1857, 6038;—CL 1871, 7907;—How. 9518;—CL 1897, 11903;—CL 1915, 15730.

767.38 Indictree; right to trial or admission to bail.

Sec. 38. Every person held in prison upon an indictment shall, if he require it, be tried at the next term of court after the expiration of 6 months from the time when he was imprisoned, or shall be bailed upon his own recognizance, unless it shall appear to the satisfaction of the court that the witnesses on behalf of the people have been enticed or kept away, or are detained and prevented from attending court by sickness, or some inevitable accident.

HISTORY: CL 1929, 17252;—CL 1948, 767.38. This section re-enacts Sec. 30 of R.S. 1846, Ch. 164, being CL 1857, 6039;—CL 1871, 7908;—How. 9519;—CL 1897, 11904;—CL 1915, 15731, omitting word "the" before first "court."

767.39 Abolition of distinction between accessory and principal.

Sec. 39. Every person concerned in the commission of an offense, whether he directly commits the act constituting the offense or procures, counsels, aids, or abets in its commission may hereafter be prosecuted, indicted, tried and on conviction shall be punished as if he had directly committed such offense.

HISTORY: CL 1929, 17253;—CL 1948, 767.39. This section supersedes Sec. 19 of Act 77 of 1855, being CL 1857, 6085;—CL 1871, 7934;—How. 9545;—CL 1897, 11930;—CL 1915, 15757. See Secs. 3 and 5 of R.S. 1846, Ch. 161, being CL 1857, 5639, 5941;—CL 1871, 7805, 7807;—How. 9415, 9417;—CL 1897, 11776, 11778;—CL 1915, 15603, 15605.

767.40 Information; filing, signature; indorsement of names of witnesses, names of additional witnesses.

Sec. 40. All informations shall be filed in the court having jurisdiction of the offense specified therein, after the proper return is filed by the examining magistrate, by the prosecuting attorney of the county as informant; he shall indorse thereon the names of the witnesses known to him at the time of filing the same. The information shall be subscribed by the prosecuting attorney or in his name by an assistant prosecuting attorney. Names of additional witnesses may be indorsed before or during the trial by leave of the court and upon such conditions as the court shall determine.

HISTORY: Am. 1929, p. 52, Act 24, Imd. Eff. April 2;—CL 1929, 17254;—CL 1948, 767.40;—Am. 1955, p. 277, Act 184, Eff. Oct. 14;—Am. 1961, p. 12, Act 11, Eff. Sep. 8.

This section as originally enacted superseded Sec. 2 of Act 138 of 1859, being CL 1871, 7938;—How. 9549;—CL 1897, 11934;—CL 1915, 15761; and part of Sec. 3 of Act 138 of 1859, being CL 1871, 7939;—How. 9550;—CL 1897, 11935;—CL 1915, 15762.

767.40a Res gestae witnesses may be impeached by prosecution.

Sec. 40a. Witnesses whom the people are obliged by law to call as res gestae witnesses may be impeached the same as though such witnesses had been called by the respondent.

HISTORY: Add. 1941, p. 580, Act 336, Eff. Jan. 10, 1942;—CL 1948, 767.40a.

767.41 Investigation by prosecutor; failure to file information, statement of reasons; order of court for filing.

Sec. 41. It shall be the duty of the prosecuting attorney of the proper county to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examination as provided by law, touching the commission of any offense whereon the offender shall be committed to jail or become recognized or held to bail; and if the prosecuting attorney shall determine in any case that an information ought not be filed, he shall make, subscribe and file with the clerk of the court a statement, in writing, containing his reasons in fact and in law, for not filing an information in such case and that such statement shall be filed at and during the term of the court at which the offender shall be held for appearance: Provided, That in such case such court may examine said statement, together with the evidence filed in the case and if, upon such examination, the court shall not be satisfied with said statement, the prosecuting attorney shall be directed by the court to file the proper information and bring the case to trial.

HISTORY: CL 1929, 17255;—CL 1948, 767.41. This section re-enacts Sec. 6 of Act 138 of 1859, as Am. 1863, p. 279, Act 147, Eff. June 22, being CL 1871, 7942;—How. 9553;—CL 1897, 11938;—CL 1915, 15765, omitting word "such" before "case."

767.42 Examination as condition precedent to filing of information; waiver; benefit of counsel; fugitives from justice.

Sec. 42. No information shall be filed against any person for any offense until such person shall have had a preliminary examination therefor, as provided by law, before a justice of the peace or other examining magistrate or officer, unless such person shall waive his right to such examination. If any person waives his right to such examination without having had the benefit of counsel at the time and place of the waiver, upon proper and timely application by said person or his counsel, before trial or plea of guilty, the court having jurisdiction of the cause, in its discretion, may remand the case to the magistrate for preliminary examination. Informations may be filed without such

examination against fugitives from justice, and any fugitive from justice against whom an information shall be filed, may be demanded by the governor of this state of the executive authority of any other state or territory, or of any foreign government, in the same manner and the same proceedings may be had thereon as provided by law in like cases of demand upon indictment filed.

HISTORY: CL 1929, 17256;—CL 1948, 767.42;—Am. 1957, p. 46, Act 38, Eff. Sep. 27.

This section re-enacts Sec. 8 of Act 138 of 1859, being CL 1871, 7944;—How. 9555;—CL 1897, 11940;—CL 1915, 15767.

767.43 Indictment; form in general.

Sec. 43. The indictment may be substantially in the following form:

In the (here give the name of the court) term, 19..... the People of the state of Michigan vs. (here give the name or description of the accused.)

The grand jury of the county of do present that (here give name or description of the accused), (here set forth the offense and transaction according to the rules herein enunciated).

HISTORY: CL 1929, 17257;—CL 1948, 767.43.

767.44 Indictment; forms for particular offenses, bill of particulars.

Sec. 44. The following forms may be used in the cases in which they are applicable but any other forms authorized by this or any other law of this state may also be used:

Adultery—A.B. a married man, committed adultery with C.D.; or A.B. committed adultery with C.D., a married woman.

Affray—A.B. and C.D. made an affray.

Assault—A.B. assaulted C.D.

Assault and Battery—A.B. committed an assault and battery on C.D.

Assault with intent—A.B. assaulted C.D. with intent to murder, or kill, or rob, or maim, or rape (as the case may be).

Arson—A.B. committed arson by burning the dwelling house of C.D.

Attempt—A.B. attempted to steal from C.D.; A.B. attempted to commit larceny of the goods of C.D.; A.B. attempted to commit burglary of a building belonging to C.D. (as the case may be).

Burglary—A.B. committed burglary of the house of C.D. A.B. broke and entered the dwelling house of C.D. in the night time with intent to commit larceny, or murder, or robbery therein (as the case may be).

Conspiracy—A.B. and C.D. conspired together to murder E.F. or to steal the property of E.F. or to rob E.F. (as the case may be).

Forgery—A.B. forged a certain instrument purporting to be a promissory note (or describe instrument or give its tenor or substance).

Larceny—Embezzlement and false pretenses. A.B. stole from C.D. 1 horse of the value of more than 100 dollars.

Murder—A.B. murdered C.D.

Manslaughter—A.B. killed C.D.

Perjury—A.B. appeared as a witness in a case between C.D. and E.F. being heard before the (set forth the tribunal) and committed perjury by testifying as follows: (set forth the testimony).

Rape—A.B. raped or ravished C.D.

Rape (statutory)—A.B. raped or ravished C.D., she C.D. being then under the age of (statutory age) years.

Robbery Armed—A.B. robbed C.D., A.B. being armed.

Robbery—A.B. robbed C.D., A.B. not being armed.

Provided, That the prosecuting attorney, if seasonably requested by the respondent, shall furnish a bill of particulars setting up specifically the nature of the offense charged.

HISTORY: CL 1929, 17258;—CL 1948, 767.44. See Sec. 2 of Act 77 of 1855, being CL 1857, 6048;—CL 1871, 7917;—How. 9526;—CL 1897, 11913;—CL 1915, 15740.

767.45 Indictment; contents; nature, time and place of offense.

Sec. 45. The indictment or information shall contain:

1. The nature of the offense stated in language which will fairly apprise the accused and the court of the offense charged;
2. The time of the offense as near as may be but no variance as to time shall be fatal unless time is of the essence of the offense.
3. That the offense was committed in the county or within the jurisdiction of the court. But no verdict shall be set aside or a new trial granted by reason of failure to prove that the offense was so committed unless the accused have raised such question before the case is submitted to the jury.

HISTORY: CL 1929, 17259;—CL 1948, 767.45. This section supersedes, in part, Sec. 13 of Act 77 of 1855, being CL 1857, 6059;—CL 1871, 7928;—How. 9539;—CL 1897, 11924;—CL 1915, 15751; and Sec. 7 of Act 77 of 1855, being CL 1857, 6053;—CL 1871, 7922;—How. 9533;—CL 1897, 11918;—CL 1915, 15745.

767.46 Indictment; amendment of certain parts.

Sec. 46. Any defect, error or omission in the caption, commencement or conclusion of an indictment may be amended.

HISTORY: CL 1929, 17260;—CL 1948, 767.46.

767.47 Indictment; effect of repugnant and unnecessary allegations.

Sec. 47. No indictment is invalid by reason of any repugnant allegations contained therein, provided that an offense is charged. All unnecessary allegations shall be rejected as surplusage.

HISTORY: CL 1929, 17261;—CL 1948, 767.47. See Sec. 8 of Act 77 of 1855, being CL 1857, 6054;—CL 1871, 7923;—How. 9534;—CL 1897, 11919;—CL 1915, 15746.

767.48 Indictment; necessity of negating statutory exception.

Sec. 48. No indictment for any offense created or defined by statute shall be deemed objectionable for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense. The fact that the charge is made shall be considered as an allegation that no legal excuse for the doing of the act exists in the particular case.

HISTORY: CL 1929, 17262;—CL 1948, 767.48.

767.49 Indictment; statement of name of individual, association or corporation.

Sec. 49. In any indictment it is sufficient for the purpose of identifying the accused to state his true name, to state the name, appellation or nickname by which he has been or is known, to state a fictitious name, or to describe him as a person whose name is unknown or to describe him in any other manner. In stating the true name or the name by which the accused has been or is known or a fictitious name, it is sufficient to state a surname, a surname and 1 or more christian name or names, or a surname and 1 or more abbreviations or initials of a christian name or names. It is sufficient for the purpose of identifying any group or association of persons, not incorporated, to state the proper name of such group or association (if such there be), to state any name or designation by which the group or association has been or is known, to state the names of all the persons in such group or association or of 1 or more of them, or to state the name or names of 1 or more persons in such group or association referring to the other or others as "another" or "others". It is sufficient for the purpose of identifying a corporation to state the corporate name of such corporation, or any name or designation by which such corporation has been or is known. It is not necessary for the purpose of

identifying any group or association of persons or any corporation to state or prove the legal form of such group or association of persons or of such corporation. In no case is it necessary to aver or prove that the true name of any person, group or association of persons or corporation is unknown to the grand jury, complainant or prosecuting officer. If in the course of the trial the true name of any person, group or association of persons or corporation identified otherwise than by the true name, is disclosed by the evidence, the court shall on motion of the accused or of the prosecuting attorney, and may without such motion, insert the true name in the indictment wherever the name appears otherwise.

HISTORY: CL 1929, 17263;—CL 1948, 767.49. This section supersedes, with additions, Sec. 14 of Act 77 of 1855, being CL 1857, 6060.—CL 1871, 7929;—How. 9540;—CL 1897, 11925;—CL 1915, 15752; and part of Sec. 8 of Act 77 of 1855, being CL 1857, 6054;—CL 1871, 7923.—How. 9534;—CL 1897, 11919;—CL 1915, 15746.

767.50 Indictment; description of instrument.

Sec. 50. Whenever in an indictment an allegation relative to any instrument which consists wholly or in part of writing or figures, pictures or designs, is necessary, it is sufficient to describe such instrument by any name or description by which it is usually known or by its purport without setting forth a copy or facsimile of the whole or any part thereof.

HISTORY: CL 1929, 17264;—CL 1948, 767.50. This section supersedes, with additions, Sec. 10 of Act 77 of 1855, being CL 1857, 6056.—CL 1871, 7925;—How. 9536;—CL 1897, 11921;—CL 1915, 15748.

767.51 Indictment; allegation of time.

Sec. 51. Except insofar as time is an element of the offense charged, any allegation of the time of the commission of the offense, whether stated absolutely or under a *vi-delicet*, shall be sufficient to sustain proof of the charge at any time before or after the date or dates alleged, prior to the finding of the indictment or the filing of the complaint and within the period of limitations provided by law: Provided, That the court may on motion require the prosecution to state the time or identify the occasion as nearly as the circumstances will permit, to enable the accused to meet the charge.

HISTORY: CL 1929, 17265;—CL 1948, 767.51. This section supersedes, with additions, part of Sec. 8 of Act 77 of 1855, being CL 1857, 6064;—CL 1871, 7923;—How. 9534;—CL 1897, 11919;—CL 1915, 15746.

767.52 Indictment; allegation of means of offense.

Sec. 52. The indictment need contain no allegation of the means by which the offense was committed except insofar as the means is an element of the offense.

HISTORY: CL 1929, 17266;—CL 1948, 767.52.

767.53 Indictment; allegation of value or price.

Sec. 53. The indictment need not allege the value or price of any property unless the value or price is an element of the offense and in such case it is sufficient to aver that the value or price is an element of the offense and in such case it is sufficient to aver that the value or price of the property is less than, equals or exceeds the certain value or price which determines the offense or grade thereof.

HISTORY: CL 1929, 17267;—CL 1948, 767.53. This section supersedes, with additions, part of Sec. 8 of Act 77 of 1855, being CL 1857, 6054;—CL 1871, 7923;—How. 9534;—CL 1897, 11919;—CL 1915, 15746. See Sec. 16 of Act 77 of 1855, being CL 1857, 6062;—CL 1871, 7931;—How. 9542;—CL 1897, 11927;—CL 1915, 15754.

767.54 Indictment; ownership; allegation, proof.

Sec. 54. The indictment need not allege the ownership of any property unless such ownership is necessary to indicate the offense. Proof of possession or right of possession or lien or special property in the person alleged to be the owner shall be sufficient to sustain an allegation of ownership in such person.

HISTORY: CL 1929, 17268;—CL 1948, 767.54. This section supersedes Sec. 10 of R.S. 1846, Ch. 161, being CL 1857, 5946;—CL 1871, 7812;—How. 9422;—CL 1897, 11783;—CL 1915, 15810.

767.55 Indictment; allegation of certain matters in the alternative.

Sec. 55. In an indictment for an offense which is constituted of 1 or more of several acts, or which may be committed by 1 or more of several means, or with 1 or more of

several intents, or which may produce 1 or more of several results, 2 or more of such acts, means, intents or results may be charged in the alternative.

HISTORY: CL 1929, 17269;—CL 1948, 767.55.

767.56 Indictment; allegation of prior conviction.

Sec. 56. Whenever it is necessary to allege a prior conviction of the accused in an indictment, it is sufficient to allege that the accused was at a certain stated time, in a certain stated court, convicted of a certain stated offense, giving the name of the offense, if it have one, or stating the substantial elements thereof.

HISTORY: CL 1929, 17270;—CL 1948, 767.56.

767.57 Pleading; statute or statutory right.

Sec. 57. In pleading a statute or a right derived therefrom it is sufficient to refer to the statute by its title, or in any other manner which identifies the statute and the court must thereupon take judicial notice thereof.

HISTORY: CL 1929, 17271;—CL 1948, 767.57. See Sec. 13 of Act 77 of 1855, being CL 1857, 6059;—CL 1871, 7928;—How. 9539;—CL 1897, 11924;—CL 1915, 15751.

767.58 Pleading; judgment or proceeding.

Sec. 58. In pleading a judgment or other determination of, or a proceeding before any court or officer, civil or military, it is unnecessary to allege the facts conferring jurisdiction on such court or officer, but it is sufficient to allege generally that such judgment or determination was duly given or made or such proceedings had.

HISTORY: CL 1929, 17272;—CL 1948, 767.58. This section supersedes Sec. 17 of Act 77 of 1855, being CL 1857, 6063;—CL 1871, 7932;—How. 9543;—CL 1897, 11928;—CL 1915, 15755.

767.59 Indictment; unnecessary formal words and phrases.

Sec. 59. The indictment need not allege that the offense was committed or the act done "feloniously" or "traitorously" or "unlawfully" or "with force of arms" or "with a strong hand," nor need it use any phrase of like kind otherwise than to characterize the offense, nor need it allege that the offense was committed or the act done "burglariously", "wilfully", "knowingly", "maliciously", "negligently" nor need it otherwise characterize the manner of the commission of the offense unless such description is necessary to indicate the offense. The indictment need not contain the words "contrary to the statute", "as appears by the record", or any other words of similar import.

HISTORY: CL 1929, 17273;—CL 1948, 767.59. This section supersedes, with additions, part of Sec. 8 of Act 77 of 1855, being CL 1857, 6054;—CL 1871, 7923;—How. 9534;—CL 1897, 11919;—CL 1915, 15746. See part of Sec. 34 of R.S. 1846, Ch. 164, being CL 1857, 6043;—CL 1871, 7912;—How. 9523;—CL 1897, 11908;—CL 1915, 15735.

767.60 Indictment; allegations in embezzlement, larceny and false pretense cases.

Sec. 60. In any prosecution for the offenses of embezzlement, larceny, larceny by conversion, or obtaining money or property by false pretenses under the statutes of this state, it shall be sufficient to allege generally in the information or indictment the embezzlement, larceny, larceny by conversion or obtaining by false pretenses of personal property to a certain amount without specifying the particulars of such embezzlement, larceny, larceny by conversion or obtaining by false pretenses, and on the trial evidence may be given of any such embezzlement, larceny, larceny by conversion or obtaining money or property by false pretenses within 6 months next after the time stated in the information or indictment, and it shall be sufficient to maintain the charge in the information or indictment and shall not be deemed at variance if it shall be proved that any personal property was fraudulently embezzled, stolen or obtained by false pretenses within the said period of 6 months.

HISTORY: CL 1929, 17274;—CL 1948, 767.60. This section supersedes Sec. 9 of R.S. 1846, Ch. 161, being CL 1857, 5945;—CL 1871, 7811;—How. 9421;—CL 1897, 11782;—CL 1915, 15609;—As Am. 1927, p. 52, Act 39, Imd. Eff. April 13.

767.61 Indictment; description of money, bonds, mortgage and similar instrument in offense relating thereto.

Sec. 61. In an indictment for larceny, larceny by conversion, embezzlement, robbery, obtaining money by false pretenses, receiving stolen property or for any other criminal conversion or misappropriation where the offense relates to money or currency, it shall be sufficient to describe the same under the terms "money", "currency", or "dollars" without specifying the particular character, number, denomination, kind, species, nature or value thereof. Where such indictment relates to promissory notes, certificates of stock, bonds, bills of lading, mortgages or any other negotiable or non-negotiable instruments, or securities or evidence of debt or property, it is sufficient to designate the same by general description without specifying the particular number or denomination thereof.

HISTORY: CL 1929, 17275;—CL 1948, 767.61. This section supersedes, with additions, Sec. 15 of Act 77 of 1855, being CL 1857, 6061;—CL 1871, 7930;—How. 9541;—CL 1897, 11926;—CL 1915, 15753.

767.61a Indictment; offense committed by sexually delinquent person; prosecution; expert testimony provided; examination of witnesses; testimony in open court; record; punishment.

Sec. 61a. In any prosecution for an offense committed by a sexually delinquent person for which may be imposed an alternate sentence to imprisonment for an indeterminate term, the minimum of which is 1 day and the maximum of which is life, the indictment shall charge the offense and may also charge that the defendant was, at the time said offense was committed, a sexually delinquent person. In every such prosecution the people may produce expert testimony and the court shall provide expert testimony for any indigent accused at his request. In the event the accused shall plead guilty to both charges in such indictment, the court in addition to the investigation provided for in section 35 of chapter 8 of this act, and before sentencing the accused, shall conduct an examination of witnesses relative to the sexual delinquency of such person and may call on psychiatric and expert testimony. All testimony taken at such examination shall be taken in open court and a typewritten transcript or copy thereof, certified by the court reporter taking the same, shall be placed in the file of the case in the office of the county clerk. Upon a verdict of guilty to the first charge or to both charges or upon a plea of guilty to the first charge or to both charges the court may impose any punishment provided by law for such offense.

HISTORY: Add. 1952, p. 389, Act 234, Eff. Sep. 18.

767.62 Place of indictment, trial and conviction; receiver of stolen property.

Sec. 62. In the cases where any person shall be liable to prosecution as the receiver of any personal property that shall have been feloniously stolen, taken or embezzled he may be indicted, tried and convicted in any county where he received or had such property, notwithstanding such theft was committed in another county.

HISTORY: CL 1929, 17276;—CL 1948, 767.62. This section re-enacts Sec. 31 of R.S. 1846, Ch. 164, being CL 1857, 6040;—CL 1871, 7909;—How. 9520;—CL 1897, 11905;—CL 1915, 15732.

767.63 Place of indictment; removal of stolen property from another county.

Sec. 63. When any property shall be stolen in 1 county and brought into another, the offender may be indicted, tried and convicted in the county into which such stolen property was brought, in the same manner as if such property had been originally stolen in that county; and when such property shall have been taken by burglary or rob-

bery the offender may be indicted, tried and convicted of said burglary or robbery, in the county into which such property was brought in the same manner as if such burglary or robbery had been committed in that county.

HISTORY: CL 1929, 17277;—CL 1948, 767.63. This section re-enacts Sec. 32 of R.S. 1846, Ch. 164, being CL 1857, 6041;—CL 1871, 7910;—How. 9521;—CL 1897, 11906;—CL 1915, 15733.

767.64 Place and manner of indictment, conviction and punishment; removing stolen property from another state or country; prior conviction or acquittal.

Sec. 64. Every person who shall feloniously steal the property of another, in any other state or country, and shall bring the same into this state, may be indicted, convicted and punished in the same manner as if such larceny had been committed in this state; and in every such case such larceny may be charged to have been committed in any town or city into or through which such stolen property shall have been brought: Provided, That every such person may plead a former conviction or acquittal for the same offense in another state or country; and if such plea be admitted or established, it shall be a bar to any further or other proceedings against such person for the same offense.

HISTORY: CL 1929, 17278;—CL 1948, 767.64. This section re-enacts Sec. 1 of Act 119 of 1850, being CL 1857, 5797;—CL 1871, 7606;—How. 9177;—CL 1897, 11592;—CL 1915, 15347, omitting first word, "that", and adding "indicted" before "convicted".

767.65 Place and manner of indictment; receiver of property stolen in another state or country.

Sec. 65. Every receiver of personal property that shall have been feloniously stolen, knowing the same to have been stolen, may be indicted, convicted and punished in any county where he received or had such property in the same manner that receivers of personal property stolen in this state are indicted, convicted and punished, notwithstanding such theft was committed in any other state or country.

HISTORY: CL 1929, 17279;—CL 1948, 767.65. This section re-enacts Sec. 2 of Act 119 of 1850, being CL 1857, 5798;—CL 1871, 7607;—How. 9178;—CL 1897, 11593;—CL 1915, 15348.

767.66 Place and manner of indictment; person aiding and abetting thief who removes stolen property from another state or country.

Sec. 66. Every person who shall aid and abet any thief, such thief having brought the stolen property into this state, may be indicted, convicted and punished in the same manner, notwithstanding such theft was committed in any other state or country, that aiders and abettors are punished, where the theft was originally committed within this state.

HISTORY: CL 1929, 17280;—CL 1948, 767.66. This section re-enacts Sec. 3 of Act 119 of 1850, being CL 1857, 5799;—CL 1871, 7608;—How. 9179;—CL 1897, 11594;—CL 1915, 15349.

767.67 Indictment; charging accessory without principal; substantial felony.

Sec. 67. Any number of accessories after the fact, or receivers, buyers, or persons aiding in the concealment of any stolen money, goods, or property may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amendable to justice.

HISTORY: CL 1929, 17281;—CL 1948, 767.67. This section re-enacts Sec. 5 of Act 77 of 1855, being CL 1857, 6051;—CL 1871, 7920;—How. 9531;—CL 1897, 11916;—CL 1915, 15743.

767.68 Indictment; charge of jointly receiving or concealing stolen property; conviction of less than all indictees.

Sec. 68. If 2 or more persons are indicted for jointly receiving, buying or aiding in the concealment of any stolen property, and the evidence shall be that 1 or more persons separately, knowingly received, bought or aided in the concealment of any part of

such property, the jury may convict upon such indictment those who are proved to have received, bought or aided in the concealment of any part of such property.

HISTORY: CL 1929, 17282;—CL 1948, 767.68. This section re-enacts Sec. 6 of Act 77 of 1855, being CL 1857, 6052;—CL 1871, 7921.—How. 9532;—CL 1897, 11917;—CL 1915, 15744.

767.69 Indictment for larceny; additional counts; conviction; election between counts unnecessary.

Sec. 69. An indictment for larceny may contain also a count for embezzlement, larceny by conversion, obtaining property by false pretenses or for receiving or having in possession, or aiding in concealing the same property, knowing it to have been stolen, and the jury may convict of any such offense; and the jury may find all or any of the persons indicted, guilty of any of the offenses charged in the indictment. The prosecuting attorney shall not be required to elect between the offenses so charged.

HISTORY: CL 1929, 17283;—Am. 1931, p. 506, Act 309, Eff. Sept. 18;—CL 1948, 767.69. This section as originally enacted superseded, with additions, part of Sec. 20 of Act 77 of 1855, being CL 1857, 6066;—CL 1871, 7935;—How. 9546;—CL 1897, 11931;—CL 1915, 15758.

767.70 Indictment for libel; statement of application to party libelled.

Sec. 70. An indictment for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libelled of the defamatory matter on which the indictment is founded, but it is sufficient to state generally that the same was published concerning him.

HISTORY: CL 1929, 17284;—CL 1948, 767.70. This section re-enacts Sec. 18 of Act 77 of 1855, being CL 1857, 6064;—CL 1871, 7933.—How. 9544;—CL 1897, 11929;—CL 1915, 15756, changing words "shall be" to "is", omitting words "of and" after "published".

767.71 Indictment for murder and manslaughter; charging act.

Sec. 71. In all indictments for murder and manslaughter it shall not be necessary to set forth the manner in which nor the means by which the death of the deceased was caused; but it shall be sufficient in any indictment for murder to charge that the defendant did murder the deceased; and it shall be sufficient in manslaughter to charge that the defendant did kill the deceased.

HISTORY: CL 1929, 17285;—CL 1948, 767.71. This section supersedes Sec. 1 of Act 77 of 1855, being CL 1857, 6047;—CL 1871, 7916.—How. 9527;—CL 1897, 11912;—CL 1915, 15739.

767.72 Indictment for manslaughter; added count for abortion; admissibility of dying declaration under either count.

Sec. 72. An indictment or information for manslaughter may contain also a count for procuring or attempting to procure an abortion and the jury may convict of either offense. Dying declarations shall be admissible in evidence in proof of either count.

HISTORY: CL 1929, 17286;—CL 1948, 767.72.

767.73 Indictment; perjury; sufficiency of statement.

Sec. 73. An indictment for perjury or for subornation of, solicitation, or conspiracy to commit perjury, is sufficient which indicates the offense for which the accused is prosecuted, the nature of the controversy in respect of which the offense was committed and before what court or officer the oath was taken or was to have been taken, without setting forth any part of the records or proceedings with which the oath was connected, and without stating the commission or authority of the court or other authority before whom the perjury was committed or was to have been committed or the form of the oath or affirmation or the manner of administering the same.

HISTORY: CL 1929, 17287;—CL 1948, 767.73. This section supersedes, with additions, Sec. 3 of Act 77 of 1855, being CL 1857, 6049.—CL 1871, 7918;—How. 9529;—CL 1897, 11914;—CL 1915, 15741.

767.74 Indictment; motion to quash, dilatory plea; proof.

Sec. 74. No motion to quash, plea in abatement or other dilatory plea to the indictment, shall be received by any court unless the party offering such plea shall prove the truth thereof by affidavit, or by some other sworn evidence.

HISTORY: CL 1929, 17288;—CL 1948, 767.74. This section re-enacts Sec. 33 of R.S. 1846, Ch. 164, being CL 1857, 6042;—CL 1871, 7911.—How. 9522;—CL 1897, 11907;—CL 1915, 15734, inserting words "motion to quash" before "plea".

767.75 Indictment; certain defects; quashing not allowed, remedy.

Sec. 75. No indictment shall be quashed, set aside or dismissed for any 1 or more of the following defects: (First) That there is a misjoinder of the parties accused; (Second) That there is a misjoinder of the offenses charged in the indictment, or duplicity therein; (Third) That any uncertainty exists therein. If the court be of the opinion that the first and second defects or either of them exist in any indictment, it may sever such indictment into separate indictments or informations or into separate counts as shall be proper. If the court be of the opinion that the third defect exists in any indictment, it may order that the indictment be amended to cure such defect.

HISTORY: CL 1929, 17289;—CL 1948, 767.75. See Sec. 3 of Act 138 of 1859, being CL 1871, 7939;—How. 9550;—CL 1897, 11935;—CL 1915, 15762.

767.76 Indictment; time of objection to defect, amendment; discharge of jury; continuance of cause; double jeopardy; review of action by court.

Sec. 76. No indictment shall be quashed, set aside or dismissed or motion to quash be sustained or any motion for delay of sentence for the purpose of review be granted, nor shall any conviction be set aside or reversed on account of any defect in form or substance of the indictment, unless the objection to such indictment, specifically stating the defect claimed, be made prior to the commencement of the trial or at such time thereafter as the court shall in its discretion permit. The court may at any time before, during or after the trial amend the indictment in respect to any defect, imperfection or omission in form or substance or of any variance with the evidence. If any amendment be made to the substance of the indictment or to cure a variance between the indictment and the proof, the accused shall on his motion be entitled to a discharge of the jury, if a jury has been impaneled and to a reasonable continuance of the cause unless it shall clearly appear from the whole proceedings that he has not been misled or prejudiced by the defect or variance in respect to which the amendment is made or that his rights will be fully protected by proceeding with the trial or by a postponement thereof to a later day with the same or another jury. In case a jury shall be discharged from further consideration of a case under this section, the accused shall not be deemed to have been in jeopardy. No action of the court in refusing a continuance or postponement under this section shall be reviewable except after motion to and refusal by the trial court to grant a new trial therefor and no writ of error or other appeal based upon such action of the court shall be sustained, nor reversal had, unless from consideration of the whole proceedings, the reviewing court shall find that the accused was prejudiced in his defense or that a failure of justice resulted.

HISTORY: CL 1929, 17290;—CL 1948, 767.76. This section supersedes and merges, in part, Sec. 34 of R.S. 1846, Ch. 164, being CL 1857, 6043;—CL 1871, 7912;—How. 9523;—CL 1897, 11906;—CL 1915, 15735; and Secs. 9, 11, 12 and 14 of Act 77 of 1855, being CL 1857, 6055, 6057, 6059, 6060;—CL 1871, 7924, 7926, 7927, 7929;—How. 9535, 9537, 9538, 9540;—CL 1897, 11920, 11922, 11923, 11925;—CL 1915, 15747, 15749, 15750, 15752.

CIVIL CASES: As to variance between pleading and proofs, see GCR 117. Amendments, see Compilers' §§ 600.1905 and 600.2301.

767.77 Commission to examine out-of-state witness; granting on application of defendant.

Sec. 77. When an issue of fact shall be joined upon any indictment, the court in which the same is pending may, on application of the defendant, grant a commission to examine any material witnesses residing out of this state, in the same manner as in civil cases.

HISTORY: CL 1929, 17291;—CL 1948, 767.77. This section re-enacts part of Sec. 35 of R.S. 1846, Ch. 164, being CL 1857, 6044;—CL 1871, 7913;—How. 9524;—CL 1897, 11909;—CL 1915, 15736.

COMMISSION: See GCR 306 and 307.

767.78 Commission to examine out-of-state witness; interrogatories, reading of deposition.

Sec. 78. Interrogatories to be annexed to such commission shall be settled and such commission shall be issued, executed and returned in the manner prescribed by law in

respect to commissions in civil cases, and the deposition taken thereon and returned shall be read in the same cases, and with like effect in all respects, as in civil suits.

HISTORY: CL 1929, 17292;—CL 1948, 767.78. This section re-enacts Sec. 36 of R.S. 1846, Ch. 164, being CL 1857, 6045;—CL 1871, 7914;—How. 9525;—CL 1897, 11910;—CL 1915, 15737, changing "depositions" to "deposition", omitting word "the" before "like".

767.79 Conditional examination of witness for defendant; order, notice to prosecutor.

Sec. 79. After an indictment shall be found against any defendant, he may have witnesses examined in his behalf conditionally on the order of a judge of the court in which the indictment is pending, in the same cases upon the like notice to the prosecuting attorney, and with like effect in all respects as in civil suits.

HISTORY: CL 1929, 17293;—CL 1948, 767.79. This section re-enacts Sec. 37 of R.S. 1846, Ch. 164, being CL 1857, 6046;—CL 1871, 7915;—How. 9526;—CL 1897, 11911;—CL 1915, 15738, omitting word "the" before "like".

Act 2 of 1847, p. 2, Imd. Eff. Jan. 19, gave the above Sec. 37 immediate effect as of that date.

767.80, 767.81 Repealed. 1970, p. 628, Act 232, Imd. Eff. Dec. 3.

767.82 Indictment for rape, attempted rape, indecent liberties; conviction.

Sec. 82. Any indictment charging any person with rape, or an attempt to commit rape, upon any female, if such female shall be at the time such offense is claimed to have taken place, under the age of 16 years, may also contain a count charging such person with taking indecent and improper liberties with the person of such child, without committing or intending to commit the crime of rape; and the jury may convict of either offense, and may find all or any of the persons indicted guilty of either of the offenses charged in such indictment.

HISTORY: Add. 1931, p. 508, Act 309, Eff. Sept. 18;—CL 1948, 767.82.

767.83 Indictment involving intent to defraud; sufficiency of allegations and proof.

Sec. 83. In any prosecution where an intent to defraud is required to constitute the offense, it shall be sufficient to allege in the indictment an intent to defraud without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment, it shall be deemed sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States, or any state, county, city or township, or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

HISTORY: Add. 1931, p. 508, Act 309, Eff. Sept. 18;—CL 1948, 767.83.

767.91 Out of state witnesses, attendance; definitions.

Sec. 91. As used in sections 91 to 95 of this chapter:

(a) "Witness" includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

(b) "State" includes any territory of the United States and the District of Columbia.

(c) "Summons" includes a subpoena, order or other notice requiring the appearance of a witness.

HISTORY: Add. 1970, p. 628, Act 232, Imd. Eff. Dec. 3.

767.92 Attendance in another state; hearing; summons; custody; fee.

Sec. 92. (1) A judge of a court of record in a state which by law has provided for commanding persons within that state to attend and testify in this state may certify under seal of his court that for purposes of a criminal prosecution in his court or a grand jury investigation in his state, a person in this state is required as a material witness for a specified number of days.

(2) Upon presentation of a certificate issued pursuant to subsection (1) to a judge of a court of record in a county where such witness is found, the judge shall fix a time and place for a hearing and make an order directing the witness to appear at the hear-

ing. At such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) The judge shall issue a summons with a copy of the certificate attached directing the witness to attend and testify in the court where the criminal prosecution is pending or a grand jury is investigating if he determines at the hearing that:

(a) The witness is material and necessary to the prosecution or investigation.

(b) The attendance and testifying in the prosecution or investigation will not cause undue hardship to the witness.

(c) The laws of the state where the prosecution or investigation is being held and the laws of any other state through which the witness may be required to pass by ordinary course of travel protect the witness from arrest and service of civil or criminal process.

(4) If a certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, the judge may direct that the witness be forthwith brought before him for a hearing without notice. If the judge at the hearing is satisfied of the desirability of custody and delivery, for which determination the certificate shall be prima facie proof of desirability, he may order that the witness be forthwith taken into custody and delivered to an officer of the requesting state without issuing a summons.

(5) If a witness, who is summoned pursuant to this section and is paid by an authorized person the sum of 10 cents for each mile of the ordinary traveled route to and from the court where such prosecution or investigation is being held and \$5.00 for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

HISTORY: Add. 1970, p. 626, Act 232, Imd. Eff. Dec. 3.

767.93 Attendance from without the state; certificate; fee.

Sec. 93. (1) If a person in a state, which by law provides for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(2) If the witness is summoned to attend and testify in this state he shall be tendered the sum of 10 cents for each mile of the ordinary traveled route to and from the court where the prosecution or investigation is being held and \$5.00 for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state longer than the period stated in the certificate, unless otherwise ordered by the court. If the witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

HISTORY: Add. 1970, p. 627, Act 232, Imd. Eff. Dec. 3.

767.94 Immunity of witness.

Sec. 94. (1) If a person comes into this state in obedience to a summons which is issued pursuant to section 93 he shall not while in this state pursuant to such summons

be subject to arrest or the service of civil or criminal process in connection with matters which arose before his entrance into this state under the summons.

(2) If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of civil or criminal process in connection with matters which arose before his entrance into this state under the summons.

HISTORY: Add. 1970, p. 627, Act 232, Imd. Eff. Dec. 3.

767.95 Short title; uniformity.

Sec. 95. Sections 91 to 95 constitute the uniform act to secure the attendance of witnesses from without a state in criminal proceedings and shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of the states which enact them.

HISTORY: Add. 1970, p. 628, Act 232, Imd. Eff. Dec. 3.

CHAPTER VIII.

TRIALS.

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768.1 Speedy trial; right of parties, duty of public officers.

Sec. 1. The people of this state and persons charged with crime are entitled to and shall have a speedy trial and determination of all prosecutions and it is hereby made the duty of all public officers having duties to perform in any criminal case, to bring such case to a final determination without delay except as may be necessary to secure to the accused a fair and impartial trial.

HISTORY: CL 1929, 17294;—CL 1948, 768.1.

768.2 Criminal cases; precedence, adjournment, continuance.

Sec. 2. The trial of criminal cases shall take precedence over all other cases; but this provision shall not be interpreted to mean that trials of civil cases shall not be interspersed between trials of criminal cases triable before a jury at any term of court. No adjournments, continuances or delays of criminal causes shall be granted by any court except for good cause shown in the manner provided by law for adjournments, continuances and delays in the trial of civil causes in courts of record: Provided, That no court shall adjourn, continue or delay the trial of any criminal cause by the consent of the prosecution and accused unless in his discretion it shall clearly appear by a sufficient showing to said court to be entered upon the record, that the reasons for such consent are founded upon strict necessity and that the trial of said cause cannot be then had without a manifest injustice being done.

HISTORY: CL 1929, 17295;—CL 1948, 768.2.

768.3 Person indicted; presence at trial.

Sec. 3. No person indicted for a felony shall be tried unless personally present during the trial; persons indicted or complained against for misdemeanors may, at their own request, through an attorney, duly authorized for that purpose, by leave of the court, be put on trial in their absence.

HISTORY: CL 1929, 17296;—CL 1948, 768.3. This section supersedes Sec. 9 of R.S. 1846, Ch. 165, being CL 1857, 6076;—CL 1871, 7955.—How. 9568;—CL 1897, 11951;—CL 1915, 15824.

768.4 Proof of felony at trial for misdemeanor; effect.

Sec. 4. If, upon the trial of any person for a misdemeanor, the facts given in evidence amount in law to a felony, he shall not by reason thereof, be entitled to an acquittal of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the court before which the trial shall be had, shall discharge the jury from giving any verdict upon such trial, and shall direct such person to be indicted for felony.

HISTORY: CL 1929, 17296;—CL 1948, 768.4. This section re-enacts Sec. 4 of Act 77 of 1855, being CL 1857, 6050;—CL 1871, 7919;—How. 9530;—CL 1897, 11915;—CL 1915, 15742.

768.5 Defendants jointly indicted; separation of trials.

Sec. 5. When 2 or more defendants shall be jointly indicted for any criminal offense, they shall be tried separately or jointly, in the discretion of the court.

HISTORY: CL 1929, 17296;—CL 1948, 768.5. This section supersedes Sec. 14 of R.S. 1846, Ch. 165, being CL 1857, 6061;—CL 1871, 7960;—How. 9573;—CL 1897, 11956;—CL 1915, 15829.

768.6 Commission of offense in certain state institutions; penalty.

Sec. 6. Any person now or hereafter confined in any penal or reformatory institution in this state, and who during the term of such confinement shall commit any crime or offense punishable under the laws of this state by imprisonment in such institution, shall be subject to the same punishment as if the crime had been committed at any other place or by a person not so confined.

HISTORY: CL 1929, 17299;—CL 1948, 768.6. This section supersedes Sec. 64 of Act 118 of 1893, being CL 1897, 2143;—CL 1915, 1762; and Sec. 1 of Act 132 of 1887, being How. 9414a;—CL 1897, 11772;—CL 1915, 11586.

768.7 Commission of offense in certain state institutions; jurisdiction of court, procedure, fees, person outside prison.

Sec. 7. The circuit court of the county in which the prison or institution named in the preceding section is, shall have jurisdiction over cases arising under the foregoing section, and the proceedings thereto pertaining shall in all ways conform to the law and rules in cases of like offenses occurring elsewhere, except that the examination may be held in 1 of the offices of the penal institutions where the crime is committed, at the option of the magistrate before whom the complaint may be made, and that the warrant shall be made in the ordinary form, shall be directed to the warden or keeper of such institution, and shall set forth that the accused is imprisoned in such institution under and by authority of the laws of the state of Michigan; and further, that the person so confined shall remain in the custody of such warden or keeper subject to the order of the circuit court of the county in which such institution is located. All jurors' fees, witness fees and fees of attorneys appointed by the court under the statute, for the defendant, shall be approved by the circuit judge and audited and allowed by the board of state auditors and paid by the state treasurer upon the warrant of the auditor general. The provisions of this and the preceding section shall apply to persons who are temporarily outside the limits of the institutions named in such sections, except those prisoners who have received a parole by due process of law and are at liberty under the terms of such parole.

HISTORY: CL 1929, 17300;—CL 1948, 768.7. This section supersedes and merges Secs. 2 and 4 of Act 132 of 1887, being How. 9414d;—CL 1897, 11773, 11775;—CL 1915, 15587, 15589, and supersedes, with additions, Sec. 65 of Act 118 of 1893, being CL 1897, 2144;—CL 1915, 1763;—As Am. 1917, p. 61, Act 35, Eff. Aug. 10.

FEES: Of witnesses and attorneys for defendant, see Compilers' §§ 775.13 and 775.16.

768.7a Escape from penal or reformatory institution; sentence; supplementary power.

Sec. 7a. Any person who is now or hereafter incarcerated in any penal or reformatory institution in this state, or who escapes from such institution, and commits a crime punishable by imprisonment in any penal or reformatory institution in this state shall, upon conviction thereof, be subject to sentence therefor in the manner provided by law for such crimes. The term of sentence imposed for such crime may, at the discretion of the court pronouncing judgment in such cause, commence forthwith or at the expiration of the term or terms of sentence which such person is serving or has theretofore become liable to serve in any penal or reformatory institution in this state.

The powers conferred upon the court by this section shall be deemed to be supplementary to any other power conferred by law.

HISTORY: Add. 1954, p. 124, Act 100, Imd. Eff. Apr. 14.

768.8 Jury; trial of issues of fact, empaneling, waiver.

Sec. 8. Issues of fact joined upon any indictment shall be tried by a jury drawn, returned, examined on voir dire and empaneled in the manner provided by law for the trial of issues of fact in civil cases: Provided, That nothing in this act shall change any of the provisions of statutes now in force providing special methods of drawing, returning, empaneling and examining jurors in courts where such provision is made by any general, special or local act: Provided further, That the accused may waive any trial by jury in the manner set forth by the provisions of this act.

HISTORY: CL 1929, 17301.—CL 1948, CL 768.8. This section supersedes, with additions, Sec. 1 of R.S. 1846, Ch. 165, being CL 1857, 6068.—CL 1871, 7947;—How. 9559;—CL 1897, 11942;—CL 1915, 15815.

CIVIL CASES: See Compilers' § 600.1201 et seq. and GCR 511 and 516.

For trials of issues of law and fact, see GCR 517.

768.9 Challenge to juror for cause; membership on grand jury.

Sec. 9. No member of the grand jury which has found an indictment shall be put upon the jury for the trial of such indictment, if challenged for that cause by the defendant.

HISTORY: CL 1929, 17302;—CL 1948, 768.9. This section re-enacts Sec. 2 of R.S. 1846, Ch. 165, being CL 1857, 6069;—CL 1871, 7948;—How. 9560;—CL 1897, 11943;—CL 1915, 15816.

768.10 Challenge to juror for cause; effect of opinion or impression not positive in character; declaration by juror.

Sec. 10. The previous formation or expression of opinion or impression, not positive in its character, in reference to the circumstances upon which any criminal prosecution is based, or in reference to the guilt or innocence of the prisoner, or a present opinion or impression in reference thereto, such opinion or impression not being positive in its character, or not being based on personal knowledge of the facts in the case, shall not be a sufficient ground of challenge for principal cause, to any person who is otherwise legally qualified to serve as a juror upon the trial of such action: Provided, That the person proposed as a juror, who may have formed or expressed, or has such opinion or impression as aforesaid, shall declare on oath, that he verily believes that he can render an impartial verdict according to the evidence submitted to the jury on such trial: Provided further, That the court shall be satisfied that the person so proposed as a juror does not entertain such a present opinion as would influence his verdict as a juror.

HISTORY: CL 1929, 17303;—CL 1948, 768.10. This section re-enacts Act 117 of 1873, being How. 9564;—CL 1897, 11947;—CL 1915, 15820, omitting first word, "that", inserting word "that" as first word of provisos.

768.11 Challenge to juror for cause; opinion as to death penalty.

Sec. 11. No person whose opinions are such as to preclude him from finding any defendant guilty of an offense punishable with death, shall be compelled or allowed to serve as a juror on the trial of any indictment for such an offense.

HISTORY: CL 1929, 17304;—CL 1948, 768.11. This section re-enacts Sec. 6 of R.S. 1846, Ch. 165, being CL 1857, 6073;—CL 1871, 7952;—How. 9565;—CL 1897, 11948;—CL 1915, 15821.

768.12 Peremptory challenge; offense not punishable by death or life imprisonment; number.

Sec. 12. Any person who is put on trial for an offense which is not punishable by death or life imprisonment shall be allowed to challenge peremptorily 5 of the persons drawn to serve as jurors and no more; and the prosecuting officers on behalf of the people shall be allowed to challenge peremptorily in such cases 5 of such jurors and no more. In cases involving 2 or more defendants who are being jointly tried for such an offense, each of said defendants shall be allowed to challenge peremptorily 5 persons returned as jurors and no more; and the prosecuting officers on behalf of the people shall be allowed to challenge peremptorily as many times 5 of the persons returned as jurors as there may be defendants being so jointly tried.

HISTORY: CL 1929, 17305;—CL 1948, 768.12. This section supersedes and merges Secs. 3 and 4 of R.S. 1846, Ch. 165, being CL 1857, 6070, 6071;—CL 1871, 7949, 7950;—How. 9561, 9562;—CL 1897, 11944, 11945;—CL 1915, 15817, 15818, and supersedes part of Sec. 58 of R.S. 1846, Ch. 103, being CL 1857, 4400;—CL 1871, 6027;—As Am. 1883, p. 159, Act 147, Eff. Sept. 8;—How. 7607;—CL 1897, 10235;—CL 1915, 14594, which, however, was not expressly repealed by this act, probably because it covered civil as well as criminal cases. Said Sec. 58 has never been expressly repealed but since it had been re-enacted in respect to civil cases by Compilers' § 618.40 it would now seem to be superseded in entirety and therefore does not appear in the present compilation.

CHALLENGE IN JUSTICE COURT: See Compilers' § 774.17.

768.13 Peremptory challenge; offense punishable by death or life imprisonment; number.

Sec. 13. Any person who is put on trial for an offense punishable by death or imprisonment for life, shall be allowed to challenge peremptorily 20 of the persons drawn to serve as jurors, and no more; and the prosecuting officers on behalf of the people shall be allowed to challenge peremptorily 15 of such persons, and no more. In cases involving 2 or more defendants, who are being jointly tried for such an offense, each of said defendants shall be allowed to challenge peremptorily 20 persons returned as jurors, and no more; and the prosecuting officers on behalf of the people shall be allowed to challenge peremptorily as many times 15 of the persons returned as jurors as there may be defendants being so jointly tried.

HISTORY: CL 1929, 17306;—CL 1948, 768.13. This section supersedes, with additions, Sec. 5 of R.S. 1846, Ch. 165, being CL 1857, 6072;—As Am. 1861, p. 75, Act 72, Eff. June 15;—CL 1871, 7951;—As Am. 1883, p. 144, Act 139, Eff. Sept. 8;—How. 9563;—CL 1897, 11946;—CL 1915, 15819.

768.14 Jurors; form of oath.

Sec. 14. The following oath shall be administered to the jurors for the trial of all criminal cases: "You shall well and truly try, and true deliverance make, between the people of this state and the prisoner at bar, whom you shall have in charge, according to the evidence and the laws of this state; so help you God."

HISTORY: CL 1929, 17307;—CL 1948, 768.14. This section re-enacts Sec. 7 of R.S. 1846, Ch. 165, being CL 1857, 6074;—CL 1871, 7953;—How. 9566;—CL 1897, 11949;—CL 1915, 15822, omitting word "the" before "bar".

768.15 Jurors; affirmation in lieu of oath.

Sec. 15. Any juror shall be allowed to make affirmation, substituting the words "This you do under the pains and penalties of perjury" instead of the words "so help you God."

HISTORY: CL 1929, 17308;—CL 1948, 768.15. This section re-enacts Sec. 8 of R.S. 1846, Ch. 165, being CL 1857, 6075;—CL 1871, 7954;—How. 9567;—CL 1897, 11950;—CL 1915, 15823.

768.16 Jurors; liberty, oath and duty of officer in charge.

Sec. 16. The jurors sworn to try a criminal action in any court of record in this state, may, at any time before the cause is submitted to the jury, in the discretion of the court, be permitted to separate or to be kept in charge of proper officers. When an or-

der shall have been entered by the court in which such action is being tried, directing said jurors to be kept in charge of such officers, the following oath shall be administered by the clerk of the court to said officers: "You do solemnly swear that you will, to the utmost of your ability, keep the persons sworn as jurors on this trial from separating from each other; that you will not suffer any communication to be made to them, or any of them, orally or otherwise; that you will not communicate with them, or any of them, orally or otherwise, except by the order of this court, or to ask them if they have agreed on their verdict, until they shall be discharged; and that you will not, before they render their verdict, communicate to any person the state of their deliberations or the verdict they have agreed upon, so help you God." And thereafter it shall be the duty of the officer so sworn to keep the jury from separating, or from receiving any communication of any character, until they shall have rendered their verdict, except under a special instruction in writing from the trial judge. After the jurors retire to consider their verdict, the court may permit the jurors to separate temporarily, whenever in his judgment such a separation is deemed proper: Provided, That in cases where separation of the members of a jury is now forbidden by law, the authority hereby granted shall not extend to permitting separation of the members of the jury of the same sex.

HISTORY: CL 1929, 17309;—CL 1948, 768.16. This section re-enacts Sec. 1 of Act 176 of 1893, being CL 1897, 11960;—As Am. 1909, p. 8, Act 4, Eff. Sept. 1;—CL 1915, 15833, changing word "on" to "upon" before "so help you God", inserting word "a" before "special"; and supersedes, in part, Act 385 of 1919, Eff. Aug. 14.

768.17 Jurors; medical attendance, use of newspapers and letters.

Sec. 17. The trial judge may order, in case of illness of any jurors mentioned in the preceding section, that such juror may receive medical attendance, and may be removed to his home or some other place agreeable to the judge during the continuance of his illness; and that any of the jurors may receive such newspapers and letters as make no mention of the trial then in progress, or of any facts connected therewith, which shall first be inspected by the said judge.

HISTORY: CL 1929, 17310;—CL 1948, 768.17. This section supersedes Sec. 2 of Act 176 of 1893, being CL 1897, 11961;—CL 1915, 15834.

768.18 Jury; number; procedure.

Sec. 18. Any judge of a court of record in this state about to try a criminal case which is likely to be protracted, may order a jury empaneled of not to exceed 14 members, who shall have the same qualifications and shall be empaneled in the same manner as is, or may be, provided by law for empaneling juries in such courts. All of said jurors shall sit and hear said cause. Should any condition arise during the trial of said cause which in the opinion of the trial court justifies the excusal of any of the jurors so empaneled from further service, he may do so and said trial shall proceed, unless the number of said jurors be reduced to less than 12, and in the event that there shall be more than 12 jurors left on said jury after the charge of the court, the clerk of the court in the presence of said court shall place the names of all of the said jurors on slips, folded so as to conceal the names thereon, in a suitable box provided for that purpose, and shall draw therefrom the names of a sufficient number to reduce the jury to 12 members who shall then proceed to determine the issue presented in the manner provided by law.

HISTORY: CL 1929, 17311;—CL 1948, 768.18. This section re-enacts Act 56 of 1923, omitting words "either a civil or" after "try", which, however, was not expressly repealed.

768.19 Perjury; acts of officer under oath.

Sec. 19. Any officer having taken an oath required by any provision of this chapter who shall knowingly and wilfully violate the same or permit the same to be violated, shall, on conviction thereof, be adjudged guilty of the crime of perjury and subject to all the pains and penalties thereof.

HISTORY: CL 1929, 17312;—CL 1948, 768.19. This section supersedes Sec. 3 of Act 176 of 1893, being CL 1897, 11962;—CL 1915, 15835.
PENALTY FOR PERJURY: See Compilers' § 750.422 et seq.

768.20 Defense of alibi or insanity; notice to prosecutor; witnesses.

Sec. 20. Whenever a defendant in a criminal case not cognizable by a justice of the peace shall propose to offer in his defense testimony to establish an alibi on behalf of the defendant, or of the insanity of such defendant either at the time of the alleged offense or at the time of trial, such defendant shall at the time of arraignment or within 10 days thereafter but not less than 4 days before the trial of such cause file and serve upon the prosecuting attorney in such cause a notice in writing of his intention to claim such defense and the names of witnesses to be called in behalf of such defendant to establish such defense known to him at that time. Names of other witnesses may be filed and served before or during the trial by leave of the court and upon such conditions as the court shall determine. In cases of a claimed alibi such notice shall include specific information as to the place at which the accused claims to have been at the time of the alleged offense.

HISTORY: Am. 1929, p. 52, Act 24, Imd. Eff. April 2;—CL 1929, 17313;—Am. 1939, p. 136, Act 90, Eff. Sept. 29;—CL 1948, 768.20.

768.21 Defense of alibi or insanity; notice to prosecutor; failure to file notice, effect.

Sec. 21. In the event of the failure of a defendant to file the written notice prescribed in the preceding section, the court may in its discretion exclude evidence offered by such defendant for the purpose of establishing an alibi or the insanity of such defendant as set forth in the preceding section.

HISTORY: CL 1929, 17314;—CL 1948, 768.21.

768.22 Rules of evidence; applicability of criminal and quasi criminal proceedings; evidence of prior conviction.

Sec. 22. (1) The rules of evidence in civil actions, insofar as the same are applicable, shall govern in all criminal and quasi criminal proceedings except as otherwise provided by law.

(2) In prosecutions charging a second or subsequent offense under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, a certification by a judge or clerk of a court under the seal of the court of a prior conviction for the same offense is admissible and is prima facie evidence of the fact of conviction. The certification shall include the person's full name, address, date of birth, operator's or chauffeur's license number and vehicle registration number, if such information is available to the person so certifying, and the dates of the offense and the conviction thereof.

HISTORY: CL 1929, 17315;—CL 1948, 768.22;—Am. 1967, p. 63, Act 44, Eff. Nov. 2.

This section supersedes Act 208 of 1917.

RULES OF EVIDENCE: In civil actions, see the chapter on Evidence in the Jud. Act.

768.23 Exception; necessity of taking.

Sec. 23. It shall be not necessary in the trial of any criminal cause to except to any ruling or action of the court, if an objection thereto was fully made but an exception shall be deemed to follow as a matter of course.

HISTORY: CL 1929, 17316;—CL 1948, 768.23. This section is similar to part of Sec. 60 of Ch. XVIII (Jud. Act), being Compilers' § 615.60, which see for the rule in civil cases.

See Sec. 2 of R.S. 1846, Ch. 166, being CL 1857, 6093;—CL 1871, 7964;—How. 9577;—As Am. 1885, p. 77, Act 79, Eff. Sept. 19;—CL 1897, 11964;—CL 1915, 15837.

EXCEPTION TO CHARGE: See Compilers' § 768.30.

768.24 Evidence; leading question.

Sec. 24. Within the discretion of the court no question asked of a witness shall be deemed objectionable solely because it is leading.

HISTORY: CL 1929, 17317;—CL 1948, 768.24.

768.25 Evidence; proof of signature.

Sec. 25. Whenever in the trial of any criminal case it shall be necessary or proper to prove the signature of any person, it shall be competent to introduce in evidence for the purpose of comparison, any specimen or specimens of the handwriting or signature of such person, admitted or proved to the satisfaction of the court to be genuine, whether or not the paper on which such handwriting or signature appears is one in evidence or connected with the case or not.

HISTORY: CL 1929, 17318;—CL 1948, 768.25.

768.26 Evidence; use of former testimony; deposition for defendant.

Sec. 26. Testimony taken at an examination, preliminary hearing, or at a former trial of the case, or taken by deposition at the instance of the defendant, may be used by the prosecution whenever the witness giving such testimony can not, for any reason, be produced at the trial, or whenever the witness has, since giving such testimony become insane or otherwise mentally incapacitated to testify.

HISTORY: CL 1929, 17319;—CL 1948, 768.26.

768.27 Evidence; proof of intent or motive by similar acts.

Sec. 27. In any criminal case where the defendant's motive, intent, the absence of, mistake or accident on his part, or the defendant's scheme, plan or system in doing an act, is material, any like acts or other acts of the defendant which may tend to show his motive, intent, the absence of, mistake or accident on his part, or the defendant's scheme, plan or system in doing the act, in question, may be proved, whether they are contemporaneous with or prior or subsequent thereto; notwithstanding that such proof may show or tend to show the commission of another or prior or subsequent crime by the defendant.

HISTORY: CL 1929, 17320;—CL 1948, 768.27.

768.28 Evidence; view by jury.

Sec. 28. The court may order a view by any jury empaneled to try a criminal case, whenever such court shall deem such view necessary.

HISTORY: CL 1929, 17321;—CL 1948, 768.28. This section re-enacts Sec. 10 of R.S. 1846, Ch. 165, being CL 1857, 6077;—CL 1871, 7956;—How. 9509;—CL 1897, 11952;—CL 1915, 15825.

CIVIL CASES: See Compilers' § 800.2405 and GCR 513.

768.29 Judge's duty at trial; effect of failure to instruct.

Sec. 29. It shall be the duty of the judge to control all proceedings during the trial, and to limit the introduction of evidence and the argument of counsel to relevant and material matters, with a view to the expeditious and effective ascertainment of the truth regarding the matters involved. The court shall instruct the jury as to the law applicable to the case and in his charge make such comment on the evidence, the testimony and character of any witnesses, as in his opinion the interest of justice may require. The failure of the court to instruct on any point of law shall not be ground for setting aside the verdict of the jury unless such instruction is requested by the accused.

HISTORY: CL 1929, 17322;—CL 1948, 768.29.

CIVIL CASES: As to instructions, see GCR 516.

INSTRUCTIONS: Procedure, see GCR 516.

COMMENT BY COURT: As to comment on failure of accused to testify, see Compilers' § 800.2159.

768.30 Exception to charge or refusal to charge; necessity.

Sec. 30. It shall not be necessary in any criminal suit, action or proceeding in any court of record, to except to the charge given to the jury, or to the refusal to give any charge requested by either of the parties to such suit, action or proceeding, but any party aggrieved by any such charge or refusal to charge, may assign error upon such charge or refusal to charge in his assignments of error, the same as if exception had been made to such charge or refusal to charge.

HISTORY: CL 1929, 17323;—CL 1948, 768.30. This section supersedes, with additions, part of Act 101 of 1885, being How. 7621b;—CL 1897, 10247;—As Am. 1901, p. 79, Act 52, Eff. Sept. 5;—CL 1915, 14576, which, however, was not expressly repealed by this act probably be-

cause it covered civil as well as criminal cases. Said Act 101 has never been expressly repealed but since it had been superseded in respect to civil cases by Compilers' § 618.60 it would now seem to be superseded in entirety and therefore does not appear in the present compilation
EXCEPTIONS IN GENERAL: See Compilers' § 768.23.

768.31 Joint defendants; discharge for insufficient evidence.

Sec. 31. Whenever 2 or more persons shall be included in the same indictment and it shall appear that there is not sufficient evidence to put any defendant on his defense, it shall be the duty of the court to order such defendant to be discharged from such indictment, before the evidence shall be deemed to be closed.

HISTORY: CL 1929, 17324;—CL 1948, 768.31. This section re-enacts Sec. 13 of R.S. 1846, Ch. 165, being CL 1857, 6080;—CL 1871, 7964;—How. 9572;—CL 1897, 11955;—CL 1915, 15828.

768.32 Offense consisting of different degrees; finding of jury.

Sec. 32. Upon an indictment for any offense, consisting of different degrees, as prescribed in this chapter, the jury may find the accused not guilty of the offense in the degree charged in the indictment and may find such accused person guilty of any degree of such offense, inferior to that charged in the indictment, or of an attempt to commit such offense.

HISTORY: CL 1929, 17325;—CL 1948, 768.32. This section re-enacts Sec. 16 of R.S. 1846, Ch. 161, being CL 1857, 5952;—CL 1871, 7518;—How. 9428;—CL 1897, 11789;—CL 1915, 15616, changing "title" to "chapter".

768.33 Offense consisting of different degrees; subsequent trial prohibited.

Sec. 33. When a defendant shall be acquitted or convicted upon any indictment for an offense, consisting of different degrees, he shall not thereafter be tried or convicted for a different degree of the same offense; nor shall he be tried or convicted for any attempt to commit the offense charged in the indictment or to commit any degree of such offense.

HISTORY: CL 1929, 17326;—CL 1948, 768.33. This section re-enacts Sec. 17 of R.S. 1846, Ch. 161, being CL 1857, 5953;—CL 1871, 7519;—How. 9429;—CL 1897, 11790;—CL 1915, 15617, omitting words "as prescribed in this title".

DOUBLE JEOPARDY: See Compilers' § 763.5.

768.34 Discharged or acquitted prisoner; liability for costs or fees.

Sec. 34. No prisoner or person under recognizance who shall be acquitted by verdict or discharged because no indictment has been found against him, or for want of prosecution, shall be liable for any costs or fees of office or for any charge for subsistence while he was in custody.

HISTORY: CL 1929, 17327;—CL 1948, 768.34. This section re-enacts Sec. 12 of R.S. 1846, Ch. 165, being CL 1857, 6079;—CL 1871, 7968;—How. 9571;—CL 1897, 11954;—CL 1915, 15827.

768.35 Plea of guilty; investigation by judge, sentence; refusal to accept.

Sec. 35. Whenever any person shall plead guilty to an information filed against him in any court, it shall be the duty of the judge of such court, before pronouncing judgment or sentence upon such plea, to become satisfied after such investigation as he may deem necessary for that purpose respecting the nature of the case, and the circumstances of such plea, that said plea was made freely, with full knowledge of the nature of the accusation, and without undue influence. And whenever said judge shall have reason to doubt the truth of such plea of guilty, it shall be his duty to vacate the same, direct a plea of not guilty to be entered and order a trial of the issue thus formed.

HISTORY: CL 1929, 17328;—CL 1948, 768.35. This section re-enacts Sec. 99 of 1875, being How. 9558;—CL 1897, 11957;—CL 1915, 15830, omitting first word, "that", and word "circuit" before "court."

CHAPTER IX. JUDGMENT AND SENTENCE.

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769.10	Subsequent felony; term of imprisonment; probation; second conviction; placing on probation.	769.25	Repealed.
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769.11a	Void sentence; trial judge to credit time served.	769.27	Change of sentence by judge; notice to prosecuting attorney; opposition to change, procedure.
769.11b	Credit time served prior to sentence; lack of bond.	769.28	Commitment or sentence for maximum of one year; place.

769.1 Sentence; authority of judges to pass and pronounce judgment.

Sec. 1. The justices of the supreme court, or any of them, or any of the several circuit judges in the respective circuits, or any judge of a court of record having jurisdiction of criminal cases, in this state, are hereby authorized and empowered to pronounce judgment against and pass sentence upon all persons heretofore convicted, or that may hereafter be convicted in any court held by said justices, or judges, or any of them, for any offense heretofore committed or that may hereafter be committed against the laws of this state: Provided, That such sentence shall in no case or respect be greater than the penalty now or that may be prescribed hereafter by law.

HISTORY: CL 1929, 17329;—CL 1948, 769.1. This section supersedes Sec. 3 of Act 162 of 1850, as Am. 1851, p. 272, Act 166, Imd. Eff. June 26, being CL 1857, 6113;—CL 1871, 7997;—How. 9613;—CL 1897, 11983;—CL 1915, 15856.

EXCESS SENTENCE: Valid to the extent of the lawful penalty, see Compilers' § 769.24.

PLACE OF SENTENCE: See Compilers' §§ 800.29 and 801.212.

Sec. 1a.

HISTORY: Add. 1935, p. 142, Act 88, Imd. Eff. May 27;—Am. 1937, p. 306, Act 196, Imd. Eff. July 14;—Rep. 1939, p. 376, Act 199, Eff. Sept. 29.

This section provided for procedure with respect to persons convicted of indecent crimes in courts of record.

Sec. 1b.

HISTORY: Add. 1937, p. 307, Act 196, Imd. Eff. July 14;—Rep. 1939, p. 376, Act 199, Eff. Sept. 29.

This section provided for procedure with respect to sex degenerates in penal institutions.

769.1c Psychiatrist; definition; aid from state hospitals.

Sec. 1c. A psychiatrist under the meaning of the foregoing sections and sections 22-a and 22-b of chapter 14 of this act is a physician, duly licensed to practice in the state of Michigan, who has had at least 5 years experience in actual practice, including either (a) 3 years' full time practice since January 1, 1933, in the care and treatment of persons suffering from nervous or mental disease or mental defect, in an institution

provided for the care of such persons, or (b) has devoted 5 years prior to the case in which his services are requested, to a practice confined wholly or substantially to the diagnosis, care or treatment of persons suffering from nervous and mental disease or mental defect. If no qualified psychiatrist is immediately available for the purposes of aiding the court in any investigation under the foregoing sections or sections 22-a and 22-b of chapter 14 of this act, the nearest state hospital shall be required to furnish, upon request of the court, without charge, a competent psychiatrist within the meaning of this act.

HISTORY: Add. 1937, p. 308, Act 196, Imd. Eff. July 14;—CL 1948, 769.1c.

NOTE: Secs. 22a-22b, Ch. 14, above referred to, are Compilers' §§ 774.22a-774.22b.

769.1d Expense of confinement in state institutions.

Sec. 1d. The expenses of confinement of any person confined to a state hospital or other state institution as provided for in the foregoing sections and sections 22-a and 22-b of chapter 14 of this act, shall be defrayed by the state and may be recovered from such person or his estate.

HISTORY: Add. 1937, p. 308, Act 196, Imd. Eff. July 14;—CL 1948, 769.1d.

NOTE: Secs. 22a-22b, Ch. 14, above referred to, are Compilers' §§ 774.22a-774.22b.

769.2 Sentence; solitary confinement or hard labor.

Sec. 2. Whenever any person shall be lawfully sentenced by any court to imprisonment in the state prison or in any county jail, it shall be competent for the court awarding the sentence, to incorporate therein a provision that the person so sentenced shall be kept in solitary confinement or at hard labor, or both, during the term of such imprisonment, or any specific portion thereof.

HISTORY: CL 1929, 17330;—CL 1948, 769.2. This section re-enacts Sec. 1 of R.S. 1846, Ch. 168, being CL 1857, 6100;—CL 1871, 7964;—How. 9600;—CL 1897, 11970;—CL 1915, 15843.

SOLITARY CONFINEMENT: Release from, in state prison, see Compilers' § 800.37. Punishment for murder, see Compilers' § 750.316.

HARD LABOR: Sentence to such to accompany sentence to death, see Compilers' § 769.19.

769.2a Prisoners sentenced for sexual act not eligible for outside duties; exception.

Sec. 2a. Whenever any person shall be lawfully sentenced by any court to imprisonment in the state prison, or in any county jail, for a sexual act or murder in connection with a sexual act, the person so sentenced shall not be eligible for custodial incarceration outside the state penal institution or the county jail building: Provided, That the warden of any state penal institution may authorize any person sentenced under this section to work outside the state penal institution on prison farms as operated by the state penal institution.

HISTORY: Add. 1963, p. 135, Act 130, Eff. Oct. 2.

769.3 Conditional sentence; payment of fine, probation.

Sec. 3. When any persons shall be convicted of an offense punishable at the discretion of the court, either by fine or imprisonment in the county jail or by a fine or imprisonment in the state prison, the court may award against such offender a conditional sentence and order him to pay a fine, with or without the costs of prosecution, within a limited time to be expressed in the sentence, and, in default thereof, to suffer such imprisonment as is provided by law and awarded by the court. The court may also place such offender on probation with the condition that he pay a fine or costs or damages or any or all of them, as the case may be, in installments with any limited time and may, in case of the default in any of such payments, impose such sentence as is provided by law.

HISTORY: CL 1929, 17331;—CL 1948, 769.3. This section re-enacts, in part, Sec. 2 of R.S. 1846, Ch. 168, being CL 1857, 6101;—CL 1871, 7985;—How. 9601;—CL 1897, 11971;—CL 1915, 15844.

PROBATION: See Ch. XI of this act being Compilers' § 771.1 et seq.

769.4 Conditional sentence; execution.

Sec. 4. The person against whom any such conditional sentence shall be awarded, shall be forthwith committed to the custody of an officer in court or to the county jail, to be detained until the sentence be complied with; and if he shall not pay the fine within the time limited, the sheriff shall cause the other part of the sentence to be executed forthwith.

HISTORY: CL 1929, 17332;—CL 1948, 769.4. This section re-enacts Sec. 3 of R.S. 1846, Ch. 168, being CL 1857, 6102;—CL 1871, 7986;—How. 9602;—CL 1897, 11972;—CL 1915, 15845.

769.5 Alternative or combined penalties; power of court.

Sec. 5. Whenever it is provided that an offender shall be punished by imprisonment and a fine, such offender may at the discretion of the court, be sentenced to be punished by such imprisonment without the fine or by such fine without the imprisonment; and whenever it is provided that an offense shall be punished by fine or imprisonment, the court may impose both such fine and imprisonment in its discretion. If the court shall impose both a fine, costs and imprisonment in any state prison or reformatory the offender shall be detained in said prison or reformatory until said fine and costs are paid, not exceeding however, the additional time expressed in said sentence for the non-payment of the same.

HISTORY: CL 1929, 17333;—CL 1948, 769.5. This section re-enacts in part, Sec. 4 of R.S. 1846, Ch. 168, being CL 1857, 6103;—CL 1871, 7987;—How. 9603;—CL 1897, 11973;—CL 1915, 15846, omitting words "in the county jail" after "imprisonment."

FORMER ACT: Law prior to 1846, see Sec. 15, Ch. 8, title 2, part fourth, R. S. 1838, as added 1839, p. 233, Act 115, Eff. May 20.

769.6 Recognizance to keep peace; court option.

Sec. 6. Every court before whom any person shall be convicted upon an indictment for any offense not punishable with death or by imprisonment in the state prison may, in addition to the punishment prescribed by law, require such person to recognize with sufficient sureties in a reasonable sum, to keep the peace or to be of good behavior, or both, for any time not exceeding 2 years and to stand committed until he shall so recognize.

HISTORY: CL 1929, 17334;—CL 1948, 769.6. This section re-enacts Sec. 5 of R.S. 1846, Ch. 168, being CL 1857, 6104;—CL 1871, 7988;—How. 9604;—CL 1897, 11974;—CL 1915, 15847.

769.7 Recognizance to keep peace; breach of condition; procedure.

Sec. 7. In case of a breach of the condition of any such recognizance the same proceedings shall be had as are prescribed in relation to recognizances to keep the peace in other cases.

HISTORY: CL 1929, 17335;—CL 1948, 769.7. This section re-enacts Sec. 6 of R.S. 1846, Ch. 168, being CL 1857, 6105;—CL 1871, 7989;—How. 9605;—CL 1897, 11975;—CL 1915, 15848.

RECOGNIZANCE: See Compilers' §§ 772.1 to 772.15.

769.8 Indeterminate sentence; first conviction.

Sec. 8. When any person shall hereafter be convicted for the first time of crime committed after this act takes effect, the punishment for which prescribed by law may be imprisonment in the state prison at Jackson, the Michigan reformatory at Ionia, the state house of correction and branch of the state prison in the upper peninsula, the Detroit house of correction, or any other prison, the court imposing sentence shall not fix a definite term of imprisonment, but shall fix a minimum term except as hereinafter provided. The maximum penalty provided by law shall be the maximum sentence in all cases except as herein provided and shall be stated by the judge in passing sentence. He shall before or at the time of passing such sentence ascertain by examination of such convict on oath, or otherwise, and by such other evidence as can be obtained tending to indicate briefly the causes of the criminal character or conduct of such convict, which facts and such other facts as shall appear to be pertinent in the case, he shall cause to be entered upon the minutes of the court.

HISTORY: CL 1929, 17336;—CL 1948, 769.8. This section supersedes Sec. 1 of Act 184, 1905, being CL 1915, 15859;—As Am. 1921, p. 485, Act 250, Imd. Eff. May 18.

769.9 Indeterminate sentence; inapplicability; invalid sentence.

Sec. 9. The provisions of this chapter, relative to indeterminate sentences, shall not apply to any person convicted of an offense, the only punishment for which prescribed by law is imprisonment for life: Provided, That in all cases where the maximum sentence in the discretion of the court may be for life or any number of years, the court imposing the sentence shall fix both the minimum and maximum sentence. If the sentence so fixed by the court shall be for any number of years, it shall be the duty of the court to fix both the minimum and the maximum of such sentence in terms of years or fraction thereof, and sentences so imposed shall be considered indeterminate sentences. In no case can a valid sentence be hereafter made in which the maximum penalty shall be life imprisonment with a minimum for a term of years included in the same sentence.

HISTORY: CL 1929, 17337;—CL 1948, 769.9;—Am. 1957, p. 244, Act 193, Eff. Sep. 27.

This section supersedes Sec. 3 of Act 184 of 1905, being CL 1915, 15661;—As Am. 1921, p. 485, Act 259, Imd. Eff. May 18.

769.10 Subsequent felony; term of imprisonment; probation; second conviction; placing on probation.

Sec. 10. A person, who after having been convicted within this state of a felony, or an attempt to commit a felony, or, under the laws of any other state, government or country, of a crime which if committed within this state, would be a felony, commits any felony within this state, is punishable upon conviction as follows: If the subsequent felony is such that, upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then such person may be placed on probation or sentenced to imprisonment for a term not more than 1½ times the longest term prescribed for a first conviction of such offense or for any lesser term in the discretion of the court; if the subsequent felony is such that, upon a first conviction the offender might be punished by imprisonment for life then such person may be placed on probation or sentenced to imprisonment for life or for any lesser term in the discretion of the court.

HISTORY: Am. 1929, p. 52, Act 24, Imd. Eff. Apr. 2;—CL 1929, 17338;—CL 1948, 769.10;—Am. 1949, p. 52, Act 56, Eff. Sep. 23.

This section as originally enacted supersedes Sec. 12 of R.S. 1846, Ch. 161, being CL 1857, 5948;—CL 1871, 7814;—How. 9424;—CL 1897, 11785;—CL 1915, 15612.

CITED IN OTHER SECTIONS: The above section is cited in § 780.604.

769.11 Subsequent felony; term of imprisoning; third conviction.

Sec. 11. A person who after having been twice convicted within this state of a felony or an attempt to commit a felony, or under the laws of any other states, governments or countries, of a crime which if committed within this state would be a felony, commits any felony within this state, is punishable upon conviction as follows: If the felony for which such offender is tried is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then such person may be sentenced to imprisonment for a term not more than twice the longest term prescribed by law for a first conviction of such offense or for any lesser term in the discretion of the court; if the subsequent felony is such that, upon a first conviction the offender might be punished by imprisonment for life then such person may be sentenced to imprisonment for life or for any lesser term in the discretion of the court.

HISTORY: Am. 1929, p. 52, Act 24, Imd. Eff. April 2;—CL 1929, 17339;—CL 1948, 769.11;—Am. 1949, p. 53, Act 56, Eff. Sep. 23.

This section as originally enacted superseded Sec. 13 of R.S. 1846, Ch. 161, being CL 1857, 5949;—CL 1871, 7815;—How. 9425;—CL 1897, 11786;—CL 1915, 15613.

CITED IN OTHER SECTIONS: The above section is cited in § 780.604.

769.11a Void sentence; trial judge to credit time served.

Sec. 11a. Whenever any person has been heretofore or hereafter convicted of any crime within this state and has served any time upon a void sentence, the trial court, in imposing sentence upon conviction or acceptance of a plea of guilty based upon facts arising out of the earlier void conviction, shall in imposing the sentence specifically

grant or allow the defendant credit against and by reduction of the statutory maximum by the time already served by such defendant on the sentence imposed for the prior erroneous conviction. Failure of the corrections commission to carry out the terms of said sentence shall be cause for the issuance of a writ of habeas corpus to have the prisoner brought before the court for the taking of such further action as the court may again determine.

HISTORY: Add. 1954, p. 516, Act 205, Eff. Aug. 13;—Am. 1965, p. 97, Act 67, Imd. Eff. Jun. 22.

769.11b Credit time served prior to sentence; lack of bond.

Sec. 11b. Whenever any person is hereafter convicted of any crime within this state and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for such time served in jail prior to sentencing.

HISTORY: Add. 1965, p. 105, Act 73, Eff. Mar. 31, 1966.

769.12 Indeterminate sentence; fourth conviction; eligibility for parole.

Sec. 12. A person who after having been 3 times convicted within this state, of felonies or attempts to commit felonies, or under the law of any other state, government or country, of crimes which if committed within this state would be felonious, commits any felony within this state is punishable upon conviction as follows: If the felony for which such offender is tried is such that upon a first conviction thereof the offender might be imprisoned in a state prison for a maximum term of 5 years or more, or for life, then such person may be sentenced upon conviction of such fourth or subsequent offense to imprisonment in a state prison for the term of his natural life or for any lesser term in the discretion of the court; if the felony for which such offender is tried is such that upon a first conviction thereof the offender could not be imprisoned in a state prison for a maximum term of 5 years or more, or for life, then such person may be sentenced to imprisonment in a state prison for a term of 15 years or any lesser term in the discretion of the court. Offenders sentenced under this and the last 2 preceding sections shall not be eligible to parole before the expiration of the minimum term fixed by the sentencing judge at the time of sentence without the written approval of the judge of such court or any judge of such court if the sentencing judge is not then serving. A person to be punishable under this and the last 2 preceding sections need not have been indicted and convicted as a previous offender in order to receive the increased punishment therein provided, but may be proceeded against as provided in the following section.

HISTORY: Am. 1929, p. 53, Act 24, Imd. Eff. Apr. 2;—CL 1929, 17340;—CL 1948, 769.12;—Am. 1949, p. 53, Act 56, Eff. Sep. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 780.604.

769.13 Supplemental information charging previous convictions; arraignment; trial; sentence.

Sec. 13. If at any time after conviction and either before or after sentence it shall appear that a person convicted of a felony has previously been convicted of crimes as set forth in any of the 3 foregoing sections, the prosecuting attorney of the county in which such conviction was had, in his discretion, may file a separate or supplemental information in such cause accusing the said person of such previous convictions. Whereupon the court in which such conviction was had shall cause the said person whether confined in prison or otherwise, to be brought before it and shall inform him of the allegations contained in such information, and of his right to be tried as to the truth thereof according to law, and shall require such offender to say whether he is the same person as charged in such information or not. If he says he is not the same person, or remains silent, the court shall enter a plea of not guilty, and a jury of 12 jurors shall be empanelled from the petit jurors serving at the then or a following term of

said court to determine the issues raised by such information and plea. The accused may waive trial by jury in the manner provided by this act. The usual practice in the trial of criminal cases shall be followed in the empanelling of such jury and the trial of said issue and the prosecuting officer and the accused shall each be allowed 5 peremptory challenges. If the accused shall plead guilty to such information or if the jury shall return a verdict of guilty, the court may sentence him to the punishment prescribed in the 3 preceding sections, as the case may be, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated if required. Whenever it shall become known to any warden, or prison, probation, parole, or other peace officer that any person charged with or convicted of a felony has been previously convicted within the meaning of the 3 preceding sections, it shall become his duty forthwith to report the facts to the prosecuting attorney of the county in which such person is charged or was sentenced.

HISTORY: CL 1929, 17341;—Am. 1941, p. 540, Act 310, Eff. Jan. 10, 1942;—CL 1948, 769.13;—Am. 1949, p. 53, Act 56, Eff. Sep. 23.

769.14 Review of sentence of prisoner or parolee; application; rights of prisoner.

Sec. 14. Any person now incarcerated in any state prison, or on parole from a sentence thereto, who was sentenced under the terms of sections 10, 11, 12 or 13 of this chapter as in effect prior to the effective date of Act No. 56 of the Public Acts of 1949, shall be entitled to a review of sentence upon application to the court in which he was sentenced. Upon such application any judge of such court may vacate the previous sentence and impose any lesser sentence which in his judgment might have been imposed under sections 10, 11, 12 or 13 of this chapter, as amended by Act No. 56 of the Public Acts of 1949, had such sections as amended been in force at the date of the previous sentence imposed upon said prisoner: Provided, That any sentence so imposed shall be deemed to have begun as of the date of the previous sentence, and the rights of such prisoner under the laws shall be governed by the lesser sentence as then imposed.

HISTORY: Add. 1951, p. 192, Act 159, Eff. Sep. 28.

Original section 14 of Chapter IX, Act 175 of 1927, provided penalties for attempts to commit offenses, and was repealed by Act 328 of 1931.

Sec. 15.

HISTORY: CL 1929, 17343;—Rep. 1931, p. 754, Act 328, Eff. Sept. 18. This section as originally enacted superseded Sec. 22 of R.S. 1846, Ch. 161, being CL 1857, 5958;—CL 1871, 7524;—How. 9434;—CL 1897, 11795;—CL 1915, 15622.

This section provided penalties for offenses indictable at common law. For present law, see Compilers' § 750.505.

769.16 Clerk of court and sheriff; duty in executing sentence; fine or imprisonment in county jail; transcript.

Sec. 16. When any person convicted of an offense shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff of the county or some officer in court, a transcript from the minutes of the court, of the conviction and sentence duly certified by such clerk, which shall be sufficient authority for the sheriff to execute such sentence, and he shall execute the same accordingly.

HISTORY: CL 1929, 17344;—CL 1948, 769.16. This section re-enacts Sec. 7 of R.S. 1846, Ch. 168, being CL 1857, 6106;—CL 1871, 7990;—How. 9606;—CL 1897, 11976;—CL 1915, 15849.

769.17 Clerk of court and sheriff; duty in executing sentence; imprisonment in state prison; warrant, abstract of conviction.

Sec. 17. When any convict shall be sentenced to imprisonment in the state prison, the clerk of the court before whom such conviction was had, shall make out a warrant, under the seal of the court, directed to the sheriff of the county, requiring him to cause such convict, without needless delay, to be removed from the county jail to the state prison, which warrant shall be delivered to such sheriff and be obeyed by him

and shall be accompanied by a certified abstract from the minutes of the court, of such conviction and sentence as aforesaid.

HISTORY: CL 1929, 17345;—CL 1948, 769.17. This section re-enacts Sec. 8 of R.S. 1846, Ch. 168, being CL 1857, 6107;—CL 1871, 7991;—How. 9607;—CL 1897, 11977;—CL 1915, 15850.

DUTY OF SHERIFF: Removal of person to state prison, see Compilers' § 800.46 et seq.

769.18 Record after sentence of imprisonment; duty of clerk; contents, forwarding, fee.

Sec. 18. Whenever a person shall be convicted of crime and sentenced to imprisonment pursuant to the provisions of this act, or for life, the clerk of the court shall make and forward to the warden or superintendent of the institution to which the convict is sentenced, and also to the governor, a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney and sheriff, and the names and post-office addresses of the jurors and witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. One copy of the said record shall be delivered to the warden or superintendent at the time the prisoner is received into the institution, and 1 copy shall be forwarded to the governor within 10 days thereafter. In each case in which he shall perform the duties required by this act, the clerk of the court shall be entitled to such compensation as shall be certified to be just by the presiding judge at the trial not to exceed 3 dollars for any 1 case, which shall be paid by the county in which the trial is had, as a part of the expenses of such trial.

HISTORY: Am. 1929, p. 503, Act 188, Imd. Eff. May 20;—CL 1929, 17346;—CL 1948, 769.18. This section as originally enacted, re-enacted Sec. 4 of Act 184 of 1905, being CL 1915, 15862, changing "act" to "chapter".

COPY OF SENTENCE: Delivery by officer to warden, see Compilers' § 800.50.

CITED IN OTHER SECTIONS: The above section is cited in § 725.4.

769.19 Death penalty; hard labor until inflicted.

Sec. 19. When any person shall be convicted of any crime punishable with death and sentenced to suffer such punishment, he shall at the same time be sentenced to hard labor in the state prison until such punishment of death shall be inflicted.

HISTORY: CL 1929, 17347;—CL 1948, 769.19. This section re-enacts Sec. 9 of R.S. 1846, Ch. 168, being CL 1857, 6106;—CL 1871, 7992;—How. 9608;—CL 1897, 11978;—CL 1915, 15851.

769.20 Death penalty; time of execution; records of proceedings certified; warrant.

Sec. 20. And no person, so sentenced and imprisoned shall be executed in pursuance of such sentence within 1 year from the day such sentence of death was passed, nor until the whole record of the proceedings shall be certified by the clerk of the court in which the conviction was had, under the seal thereof to the governor of this state nor until a warrant shall be issued by the governor, under the great seal of the state, directed to the sheriff of the county in which the state prison may be situated, commanding the said sentence of death to be carried into execution.

HISTORY: CL 1929, 17348;—CL 1948, 769.20. This section re-enacts Sec. 10 of R.S. 1846, Ch. 168, being CL 1857, 6109;—CL 1871, 7993;—How. 9609;—CL 1897, 11979;—CL 1915, 15852.

769.21 Death penalty; method, place.

Sec. 21. The punishment of death shall, in every case, be inflicted by hanging the convict by the neck until he is dead; and the sentence shall at the time directed by the warrant, be executed within the walls of the state prison, or within the enclosed yard thereof.

HISTORY: CL 1929, 17349;—CL 1948, 769.21. This section re-enacts Sec. 11 of R.S. 1846, Ch. 168, being CL 1857, 6110;—CL 1871, 7994;—How. 9610;—CL 1897, 11980;—CL 1915, 15853.

769.22 Death penalty; execution; persons present.

Sec. 22. The sheriff of the county shall be present at the place of execution, unless prevented by sickness or other casualty, and also 2 of his deputies, designated by him; and he shall request the presence of the prosecuting attorney, and 12 respectable citizens, including a surgeon or physician, and shall permit the counsel of the prisoner and such ministers of the gospel as the criminal shall desire, and his relations, to be present, also such officers of the prison, deputies, constables, and military guard, as he may see fit, but no others.

HISTORY: CL 1929, 17350;—CL 1948, 769.22. This section re-enacts Sec. 12 of R.S. 1846, Ch. 168, being CL 1857, 6111;—CL 1871, 7995.—How. 9611;—CL 1897, 11961;—CL 1915, 15854.

769.23 Death penalty; return of warrant, file.

Sec. 23. Whenever a sheriff shall inflict the punishment of death upon any convict in obedience to a warrant from the governor, he shall make return thereof under his hand, with his doings thereon, to the office of the secretary of state, as soon as may be; and shall also transmit to the clerk of the court in which the conviction was had, an attested copy of the warrant and return thereon; and the clerk shall place the same on file, with the indictment, and subjoin to the record of the sentence, a brief abstract of the sheriff's return on the warrant.

HISTORY: CL 1929, 17351;—CL 1948, 769.23. This section re-enacts Sec. 13 of R.S. 1846, Ch. 168, being CL 1857, 6112;—CL 1871, 7996.—How. 9612;—CL 1897, 11962;—CL 1915, 15855.

769.24 Excessive sentence; validity.

Sec. 24. Whenever, in any criminal case, the defendant shall be adjudged guilty and a punishment by fine or imprisonment shall be imposed in excess of that allowed by law, the judgment shall not for that reason alone be judged altogether void, nor be wholly reversed and annulled by any court of review, but the same shall be valid and effectual to the extent of the lawful penalty, and shall only be reversed or annulled on writ of error or otherwise, in respect to the unlawful excess.

HISTORY: CL 1929, 17352;—CL 1948, 769.24. This section supersedes Act 170 of 1867, being CL 1871, 7998;—How. 9614;—CL 1897, 11964;—CL 1915, 15857.

769.25 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section authorized imprisonment in reformatory at Ionia or Detroit house of correction instead of state prison of any male person convicted for first time of any offense other than rape, murder or treason.

769.26 Error in pleading or procedure; effect.

Sec. 26. No judgment or verdict shall be set aside or reversed or a new trial be granted by any court of this state in any criminal case, on the ground of misdirection of the jury, or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless in the opinion of the court, after an examination of the entire cause, it shall affirmatively appear that the error complained of has resulted in a miscarriage of justice.

HISTORY: CL 1929, 17354;—CL 1948, 769.26. This section supersedes part of Act 89 of 1915, being CL 1915, 14565, which however, was not expressly repealed, probably because it covered civil as well as criminal cases. But since said Act 89 is covered in respect to civil cases by Compilers' § 650.28 it would not seem to be superseded in entirety and therefore does not appear in the present compilation.

769.27 Change of sentence by judge; notice to prosecuting attorney; opposition to change, procedure.

Sec. 27. In the event that any sentence imposed under and by virtue of the provisions of this act shall be changed in any respect by the sentencing judge, it shall be the duty of the clerk of the court of said judge to give written notice of the change to the prosecuting attorney. In the event that the prosecuting attorney desires to oppose the change, he shall file an application, within 5 days after receiving such notice, and in such a case shall be entitled to be heard in open court upon the merits of the change.

HISTORY: Add. 1935, p. 223, Act 144, Eff. Sept. 21;—CL 1948, 769.27.

769.28 Commitment or sentence for maximum of one year; place.

Sec. 28. Notwithstanding any provision of law to the contrary, in case of the commitment or sentence of any persons convicted of crime or contempt of court to imprisonment for a maximum of 1 year or less, such commitment or sentence shall be made to the county jail of the county in which such person was convicted or to the Detroit house of correction, and not to a state penal institution: Provided, That in counties in which the board of county supervisors, or the board of county auditors, if there be a board of county auditors, has an agreement for the housing of prisoners in a house of correction operated by any municipality therein, all such persons covered thereby shall be sentenced to the house of correction.

HISTORY: Add. 1953, p. 119, Act 119, Imd. Eff. May 25;—Am. 1954, p. 39, Act 32, Imd. Eff. Mar. 31;—Am. 1955, p. 304, Act 202, Imd. Eff. Jun. 17.

CHAPTER X.

NEW TRIALS, WRITS OF ERROR AND BILLS OF EXCEPTIONS.

770.1	New trial; reasons for granting.	770.9	Writ of error; admission to bail after granting application.
770.2	New trial; time of motion.	770.10	Bill of exceptions; settlement, time and manner.
770.3	Writs of error; issuance.	770.11	Bill of exception; time of settlement, extension.
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770.1 New trial; reasons for granting.

Sec. 1. The court in which the trial of any indictment shall be had may grant a new trial to the defendant, for any cause for which by law a new trial may be granted, or when it shall appear to the court that justice has not been done, and on such terms or conditions as the court shall direct.

HISTORY: CL 1929, 17355;—CL 1948, 770.1. This section supersedes Sec. 1 of R.S. 1846, Ch. 166, being CL 1857, 6062;—CL 1871, 7963;—How. 9576;—CL 1897, 11963;—CL 1915, 15836.

770.2 New trial; time of motion.

Sec. 2. Motions for new trials shall be made within 30 days after verdict, and not afterwards.

HISTORY: CL 1929, 17356;—CL 1948, 770.2.

770.3 Writs of error; issuance.

Sec. 3. Writs of error in criminal cases shall issue only in the discretion of the supreme court or any justice thereof, on proper application therefor.

HISTORY: CL 1929, 17357;—CL 1948, 770.3. This section supersedes part of Sec. 1 and Secs. 6 and 7 of R.S. 1846, Ch. 138, being CL 1857, 5332, 5337 and 5338;—CL 1871, 7119, 7124 and 7125;—How. 8678, 8683 and 8684;—CL 1897, 10484, 10489 and 10490;—CL 1915, 14587, 14588 and 14589, which, however, were not expressly repealed by this act. Sec. 1 refers to civil as well as criminal cases and since it has been superseded in respect to civil cases by Compilers' § 650.1 it would now seem to be superseded in entirety, and therefore Sec. 1 as well as Secs. 6 and 7 do not appear in the present compilation.

770.4 Writs of error; statement, time; notice of statement.

Sec. 4. Any person desiring to secure a writ of error under the provisions of this act shall, within 20 days after judgment, or within 10 days after denial of a motion for new trial, prepare a concise statement of what is involved in the case and the errors relied upon, and shall notice the same upon the prosecuting attorney for settlement before the trial judge, so that such statement may be amended, settled and signed by the trial judge within 30 days after judgment or denial of motion for a new trial.

HISTORY: CL 1929, 17358;—CL 1948, 770.4. This section supersedes, with additions, Sec. 2 of Act 159 of 1917. See Sec. 2 of Ch. 166, R.S. 1846, being CL 1857, 6093;—CL 1871, 7964;—How. 9577;—Am. 1885, p. 77, Act 79, Eff. Sept. 19;—CL 1897, 11964;—CL 1915, 15837.

770.5 Writ of error; noticing and securing settlement, extension of time.

Sec. 5. The time for noticing and securing the settlement of such statement may, upon good cause shown, be extended by the trial court, upon proper application therefor and notice to the prosecuting attorney. The order granting such extension shall be returned to the supreme court together with the application for the writ of error.

HISTORY: CL 1929, 17359;—CL 1948, 770.5.

CIVIL CASES: See Compilers' § 600.232 and GCR 806.

770.6 Writ of error; presentation of statement to supreme court.

Sec. 6. Such statement when settled and signed shall be presented to the supreme court or any justice thereof within 10 days after the same is so settled and signed, and shall be the basis of the application to the supreme court for a writ of error.

HISTORY: CL 1929, 17360;—CL 1948, 770.6.

770.7 Writ of error; notice of court's decision.

Sec. 7. Notice of the decision of the supreme court on such application for a writ of error shall forthwith be transmitted by the clerk of the supreme court to the prosecuting attorney and to the attorney for the defendant.

HISTORY: CL 1929, 17361;—CL 1948, 770.7.

770.8 Writ of error; admission to bail prior to court decision.

Sec. 8. During the time between judgment and the decision of the supreme court or any justice thereof on the application for a writ of error under this act, the trial judge may, in his discretion, admit the defendant to bail, if the offense charged is bailable.

HISTORY: CL 1929, 17362;—CL 1948, 770.8. This section supersedes Sec. 3 of Act 159 of 1917.

770.9 Writ of error; admission to bail after granting application.

Sec. 9. Upon granting application for a writ of error the appellant may, in the discretion of the supreme court or any justice thereof, be admitted to bail, if the offense charged be bailable.

HISTORY: CL 1929, 17363;—CL 1948, 770.9. This section supersedes Sec. 3 of Act 159 of 1917; and part of Sec. 8 of R.S. 1846, Ch. 135, being CL 1857, 5339;—CL 1871, 7126;—How. 8685;—CL 1897, 10491;—CL 1915, 14590, which, however, was not expressly repealed by this act. See Secs. 5-7 of R.S. 1846, Ch. 166, being CL 1857, 6066-6068;—CL 1871, 7967-7969;—How. 9580-9582;—CL 1897, 11967-11969;—CL 1915, 15840-15842.

BAIL: In case writ of error is taken by state, see Compilers' § 765.7.

770.10 Bill of exceptions; settlement, time and manner.

Sec. 10. Bills of exceptions in criminal cases shall be settled only within the time and in the manner hereinafter provided.

HISTORY: CL 1929, 17364;—CL 1948, 770.10.

770.11 Bill of exception; time of settlement, extension.

Sec. 11. If the application for such writ of error is granted, the appellant shall have not less than 20 days thereafter in which to settle a bill of exceptions. Further time for settlement of a bill of exceptions may be granted by the trial judge in the same manner as is now provided in civil cases; such time, however, shall not exceed in all 3 months from the date of the order granting application for a writ of error by the supreme court: Provided, Upon proper application before expiration of the time and for good cause shown, the supreme court or any justice thereof may extend such time not to exceed 1 year from the date of judgment.

HISTORY: CL 1929, 17365;—CL 1948, 770.11.

CIVIL CASES: See GCR 517.

770.12 Writ of error in criminal cases; right of prosecution.

Sec. 12. A writ of error may be taken by and on behalf of the people of the state of Michigan from any court of record in said state direct to the supreme court thereof, in all criminal cases, in the following instances, to wit:

(a) From a decision or judgment quashing or setting aside any indictment or information, or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which such indictment or information is founded;

(b) From a decision arresting a judgment of conviction or directing a judgment of acquittal for insufficiency of the indictment, where such decision is based upon the invalidity or construction of the statute upon which such indictment or information is founded;

(c) From the decision or judgment sustaining a special plea in bar, when the defendant has not been put in jeopardy, or from any other order of the court relative to admission of evidence or proceedings had or made at any time before the defendant is put in jeopardy.

The right of the defendant to bail upon issuance of a writ of error under the provisions of this section shall be governed by the provisions of chapter 5 of this act.

HISTORY: CL 1929, 17366;—Am. 1941, p. 173, Act 132, Eff. Jan 10, 1942;—CL 1948, 770.12. This section as originally enacted superseded part of Sec. 1 of Act 159 of 1917.

NOTE: For the provisions of Ch. V. of this act, above referred to, see Compilers' § 765.7.

770.13 Writ of error in criminal cases; issuance, time and manner.

Sec. 13. Writs of error granted by the supreme court under the provisions of this act shall be issued after the settlement of the bill of exceptions, and in the same manner as is now provided in civil cases.

HISTORY: CL 1929, 17367;—CL 1948, 770.13.

CIVIL CASES: See Compilers' § 800.232 and GCR 806.

770.14 Rules of practice; court to adopt.

Sec. 14. As soon as practicable after the passage of this act the supreme court shall adopt such rules of practice as may be necessary to carry out the provisions of said act.

HISTORY: CL 1929, 17368;—CL 1948, 770.14.

770.15 Repeal.

Sec. 15. All acts and parts of acts relative to exceptions before sentence in criminal cases, and all other provisions of law inconsistent with the provisions of this chapter, are hereby expressly repealed.

HISTORY: CL 1929, 17369;—CL 1948, 770.15.

CHAPTER XI.

PROBATION.

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771.1 Probation; conditions precedent.

Sec. 1. In all prosecutions for crimes or misdemeanors, except murder, treason, and robbery while armed, where the defendant has been found guilty upon verdict or plea, and where it appears to the satisfaction of the court that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant shall suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer. In any case in which the court may place the defendant on probation, it may delay the imposing of sentence of the defendant for a period of not to exceed 1 year for the purpose of giving the defendant an opportunity to prove to the court his eligibility for probation or such other leniency as may be compatible with the ends of justice and the rehabilitation of the defendant. When the sentencing is delayed, the court shall make an order setting forth the reason for the delay, which order shall be entered upon the records of the court. The delay in passing sentence shall not deprive the court of jurisdiction to sentence the defendant at any time during the extended period.

HISTORY: CL 1929, 17371;—Am. 1931, p. 502, Act 308, Eff. Sep. 18;—Am. 1945, p. 7, Act 5, Eff. Sep. 6;—CL 1948, 771.1;—Am. 1961, p. 265, Act 185, Eff. Sep. 8.

This section as originally enacted superseded, with additions, Sec. 1 of Act 105 of 1913, being CL 1915, 2029.

771.2 Probation; period, order.

Sec. 2. If respondent is convicted of an offense not a felony the period of probation shall not exceed 2 years, and if he is convicted of a felony, it shall not exceed 5 years. The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case fix and determine the period and conditions of probation and such order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

HISTORY: CL 1929, 17372;—CL 1948, 771.2. This section re-enacts Sec. 2 of Act 105 of 1913, being CL 1915, 2030;—As Am. 1925, p. 291, Act 203, Eff. Aug. 27.

771.3 Probation; conditions.

Sec. 3. The conditions of probation shall include the following:

Nonviolation of statute or ordinance.

(1) That the probationer shall not, during the term of his probation, violate any criminal law of the state of Michigan, or any ordinance of any municipality in said state;

Leaving of state.

(2) That he shall not, during the term of his probation, leave the state without the consent of the court granting his application for probation;

Report to probation officer.

(3) That he shall make a report to the probation officer, either in person or in writing, monthly, or as often as the latter may require.

Imprisonment in county jail; payment of fine.

As a condition of probation, the court may require the probationer to be imprisoned in the county jail or the house of correction for not more than 6 months, at such time or intervals, which may be consecutive or non-consecutive, within the probation period as the court in its discretion may determine, or that he shall pay immediately or within the period of his probation, a fine imposed at the time of being placed on probation, or both, in the discretion of the court; but the period of confinement shall not exceed the maximum period of imprisonment provided for the offense charged if such maximum period is less than 6 months.

Other conditions; restitution of injured party; costs.

The court may impose such other lawful conditions of probation, including restitution in whole or in part to the person or persons injured or defrauded, as the circumstances of the case may require or warrant, or as in its judgment may be meet and proper; and in case it requires the probationer to pay any costs it shall not be confined to or governed by the laws or rules governing the taxation of costs in ordinary criminal procedure, but may summarily tax and determine such costs without regard to the items ordinarily included in taxing costs in criminal cases and may include therein all such expenses, direct and indirect, as the public has been or may be put to in connection with the apprehension, examination, trial and probationary oversight of the probationer.

HISTORY: CL 1929, 17373;—Am. 1931, p. 502, Act 308, Eff. Sept. 18;—CL 1948, 771.3;—Am. 1957, p. 78, Act 72, Eff. Sep. 27.

This section as originally enacted re-enacted Sec. 3 of Act 105 of 1913, being CL 1915, 2031;—As Am. 1925, p. 291, Act 203, Eff. Aug. 27, changing "of" to "in" before "said state" in (1).

771.3a Probation; convicted person under twenty-two; probation camp, admission, escape, violation of department rules; transportation expense.

Sec. 3a. Any person under the age of 22 years who shall be convicted of a crime in this state for which a sentence in the state prison may be imposed may be required, under and pursuant to a probation order of the court, to spend such part of the probation period, not exceeding 1 year, as the court may direct, in such probation camp as may be made available to the court by the department of corrections, provided that admission to such camp will be made with the prior consent of the department of corrections. The department shall have custody of the person of such probationer for such period as the court may direct. Any probationer fleeing the custody of the department may be pursued and recaptured as if he had been regularly committed to a penal institution and had escaped therefrom. A violation by the probationer of the rules and regulations of the department shall constitute sufficient grounds for the revocation by the court of its probation order in such case and for the sentencing of the probationer for the offense for which he was originally convicted and placed on probation. Nothing herein contained shall be deemed to restrict or limit the jurisdiction of the court to

place any such person on probation in any other facility suitable and available to the court. The expense of transporting any such probationer to and from the probation camp shall be borne by the county from which he was committed to the department of corrections.

HISTORY: Add. 1955, p. 224, Act 154, Imd. Eff. Jun. 7;—Am. 1958, p. 114, Act 106, Eff. Sep. 13.

771.4 Probation; revocation or termination; procedure; sentence.

Sec. 4. It is the intent of the legislature that the granting of probation to one convicted shall be a matter of grace conferring no vested right to its continuance, if, during the period of probation it shall appear to the satisfaction of the sentencing court that the probationer is likely again to engage in an offensive or criminal course of conduct, or that the public good requires revocation or termination of probation previously granted. All probation orders, therefore, shall be revocable or terminable in any manner which the court which imposed probation shall deem applicable, either for any violation, or attempted violation of any condition of probation, or for any other type of antisocial conduct or action on the part of the probationer which shall satisfy such court that revocation is proper in the public interest. Hearings on such revocation shall be summary and informal and not subject to the rules of evidence or of pleadings applicable in criminal trials. The court may, in its probation order or by general rule, provide for the apprehension, detention and confinement of any probationer accused of violation of any of the conditions of probation or of conduct inconsistent with the public good. The method of hearing and presentation of charges accorded shall lie entirely within the discretion of the court which granted probation: Provided however, That the probationer shall be entitled to a written copy of the charges against him which constitute the claim that he violated his probation, and shall be entitled to a hearing thereon. Said court is hereby empowered to make such investigation and such disposition of probationer thereafter as such court may determine shall best serve the interests of the public. In case such probation order is terminated or revoked the court may proceed to sentence such probationer in the same manner and to the same penalty as it might have done if such probation order had never been made.

HISTORY: CL 1929, 17374;—Am. 1947, p. 375, Act 246, Imd. Eff. June 20;—CL 1948, 771.4. This section re-enacts Sec. 4 of Act 105 of 1913, being CL 1915, 2032;—As Am. 1925, p. 291, Act 203, Eff. Aug. 27, omitting words "in the" before third "hearing."

771.5 Probation; termination.

Sec. 5. Upon the termination of the probation period, the probation officer shall report the fact to the court and also the conduct of the probationer during the period of probation, and the court may thereupon discharge the probationer from further supervision and enter a judgment of suspended sentence, or extend the probation period, as the circumstances may require: Provided, That the maximum period *or probation herein limited shall not be exceeded.

HISTORY: CL 1929, 17375;—CL 1948, 771.5. This section re-enacts Sec. 5 of Act 105 of 1913, being CL 1915, 2033, inserting word "may" before "require".

*NOTE: It is evident that the word "or" should be "of".

771.6 Probation; record of discharge.

Sec. 6. When a probationer is discharged upon the expiration of the probation period, or upon its earlier termination by order of the court, entry of the discharge shall be made in the records of the court, and the probationer shall be entitled to a certified copy thereof.

HISTORY: CL 1929, 17376;—CL 1948, 771.6. This section re-enacts Sec. 6 of Act 105 of 1913, being CL 1915, 2034.

771.7 Probation officers; appointment; duties; recommendation; compensation; term.

Sec. 7. The circuit court of each of the several judicial circuits may recommend a chief probation officer, may also recommend assistant probation officers who may be appointed by the Michigan corrections commission, each of whom shall act as such

probation officer in the judicial circuit in which or the probation district to which he shall have been appointed, and who shall receive such compensation as the boards of supervisors of the several counties shall provide. In cities having a municipal court, recorder's court or police court, the judge or judges of said courts may recommend a chief probation officer and may also recommend assistant probation officers, each of whom may be appointed by the Michigan corrections commission, and shall act as such probation officer within the limits of the territorial jurisdiction of such courts, or in the probation district to which he shall have been appointed, and who shall receive such compensation as the board of supervisors of the several counties or the common councils of the several cities may provide. In cities where there are 2 or more courts each having different jurisdiction the judge of each court may recommend the probation officer or officers for his own court, and where there are 2 or more judges of any such court, they shall jointly recommend the probation officer or officers for their own court. In counties where the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427 of the Compiled Laws of 1948, are in force, the probation officers of the recorder's court and of the circuit court, after appointment, shall be subject to such rules as now apply or may be adopted respecting vacations and sick leave of classified employees; such probation officers shall neither be considered in the classified or unclassified civil service but shall be exempt from Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427 of the Compiled Laws of 1948, except for the purposes of this act. In counties adopting the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427 of the Compiled Laws of 1948, each probation officer of the recorder's and of the circuit courts shall be credited with an accumulated sick leave reserve in the same manner as the classified employees of the county, based on the date of original appointment subsequent to December 1, 1937, if there is no break in service; probation officers with a break in service shall be credited with accumulated sick leave reserve from date of appointment following their last break in service. The term of office of probation officers presently serving or appointed in accordance with the provisions of this section shall be until removed for cause by the appointing judges after a hearing.

HISTORY: CL 1929, 17377;—Am. 1937, p. 440, Act 256, Imd. Eff. July 22;—Am. 1939, p. 467, Act 252, Eff. Sept. 29;—CL 1948, 771.7;—Am. 1958, p. 93, Act 85, Eff. Sep. 13;—Am. 1959, p. 385, Act 252, Eff. Mar. 19, 1960;—Am. 1966, p. 380, Act 266, Eff. Mar. 10, 1967.

This section as originally enacted re-enacted Sec. 7 of Act 105 of 1913, being CL 1915, 2035;—As Am. 1921, p. 304, Act 143, Eff. Aug. 15;—As Am. 1925, p. 690, Act 362, Eff. Aug. 27, changing word "boards" to "board" before second "of supervisors."

771.8 Probation officers; notice of appointment.

Sec. 8. Notice of the appointment of any chief probation officer or of any assistant probation officer shall be given in writing to the court recommending such appointment within 30 days after such appointment shall be made.

HISTORY: CL 1929, 17378;—Am. 1931, p. 502, Act 308, Eff. Sept. 18;—Am. 1937, p. 440, Act 256, Imd. Eff. July 22;—CL 1948, 771.8. This section as originally enacted superseded Sec. 8 of Act 105 of 1913, being CL 1915, 2036.

771.9 Probation officers; oath of office.

Sec. 9. Before entering upon the duties of his office, each probation officer shall take and subscribe the constitutional oath of office, which oath shall be filed in the office of the secretary of state.

HISTORY: CL 1929, 17379;—CL 1948, 771.9. This section re-enacts Sec. 9 of Act 105 of 1913, being CL 1915, 2037.

771.10 Probation officers; removal, certificate, hearing.

Sec. 10. The Michigan corrections commission shall have the power to remove such officer or officers for incompetency, misconduct or failure to carry out the orders of the court, or neglect of any duty. Such removal may be made upon the certification of the judge or judges of the court under whom such probation officer acts, which certificate shall set forth that a full hearing has been had before said judge or judges and as a

result thereof the court has determined that such probation officer is incompetent or has been guilty of misconduct, neglect of duty or refusal to carry out the order of the court. The Michigan corrections commission shall remove such officer or officers appointed by it upon the recommendation of the judge or judges of courts of cities having a population in excess of 250,000 inhabitants upon, and only upon, the filing of such certificate above mentioned.

HISTORY: CL 1929, 17380;—Am. 1931, p. 503, Act 308, Eff. Sept. 18;—Am. 1937, p. 440, Act 256, Imd. Eff. July 22;—Am. 1939, p. 468, Act 252, Eff. Sept. 29;—CL 1948, 771.10. This section as originally enacted superseded Sec. 10 of Act 105 of 1913, being CL 1915, 2038;—As Am. 1921, p. 305, Act 143, Eff. Aug. 18.

771.11 Probation officers; eligibility to certain offices.

Sec. 11. Probation officers in counties having a population of more than 50,000 shall not be members of a regular police force, but may be deputy sheriffs or constables.

HISTORY: CL 1929, 17381;—CL 1948, 771.11. This section re-enacts Sec. 11 of Act 105 of 1913, being CL 1915, 2039;—As Am. 1921, p. 305, Act 143, Eff. Aug. 18.

771.12 Probation officers; payment of salary and expenses; time, source, method.

Sec. 12. The salary and necessary expenses of the chief probation officer and each assistant probation officer shall be paid monthly out of the treasury or treasuries of the county or counties composing the circuit within which such probation officer or officers shall act, where provision has been made by the board of supervisors of such county or counties for their payment; if such probation officer is appointed by a criminal court of record of general jurisdiction of any city, out of the treasury of the county in which said city is located, where provision for their payment has been made by the board of supervisors of the county in which said city is located; if said probation officer is appointed by a municipal or police court, out of the treasury of the city in which such municipal or police court is located, where provision for payment has been made by the commission or common council of such city. Said salary and expense shall be paid by the city or county treasurer upon an order of the clerk of the court, properly audited by the officer or board of the city or county in whom the power or duty of auditing accounts is vested.

HISTORY: CL 1929, 17382;—CL 1948, 771.12. This section supersedes Sec. 12 of Act 105 of 1913, being CL 1915, 2040.

771.13 Probation officers; acceptance of compensation or gratuity, misdemeanor.

Sec. 13. Any probation officer receiving compensation from any public funds under the provisions of this act, who shall receive any compensation, gift or gratuity whatever from any person under probation or from any person, firm or corporation for doing or refraining from doing any official act in any way connected with his work as probation officer, or in any way connected with any proceeding then pending or about to be instituted in any court with which said probation officer has to do, shall be deemed guilty of a misdemeanor and may be punished accordingly.

HISTORY: CL 1929, 17383;—CL 1948, 771.13. This section re-enacts Sec. 13 of Act 105 of 1913, being CL 1915, 2041.

PENALTY: For punishment of a misdemeanor where no penalty is otherwise prescribed see Compilers' § 750.504.

771.14 Probation officers; investigation prior to sentence; report, copy filed with department.

Sec. 14. Before sentencing any person charged with a felony, and, if directed by the court, in any other case where any person is charged with a misdemeanor within the jurisdiction of the court, the probation officer shall inquire into the antecedents, character and circumstances of such person or persons, and shall report thereon in writing to such court or magistrate. If such person is committed to a state penal institution or the Detroit house of correction, a copy of such pre-sentence investigation report and if a psychopathic or psychiatric examination of such person has been made for the court, a copy of the report thereon shall accompany the commitment papers; also, if such

person is sentenced by fine or imprisonment or placed on probation or other disposition of his case made by the court, 2 copies each of such pre-sentence investigation report, including any psychopathic or psychiatric examination report made in his case, shall be filed with the state department of corrections. Every probation officer shall preserve complete and accurate records of cases investigated by him and of all cases placed in his care by the court and of any other duties performed by him. He shall take charge of and watch over all persons placed on probation under such regulations as may be prescribed by the court and the assistant director of corrections in charge of probation, and shall give to such probationer full instructions as to the terms of his release upon probation.

HISTORY: CL 1929, 17384;—Am. 1931, p. 503, Act 308, Eff. Sept. 18;—Am. 1937, p. 440, Act 256, Imd. Eff. July 22;—Am. 1939, p. 555, Act 286, Eff. Sept. 29;—CL 1948, 771.14. This section as originally enacted re-enacts Sec. 14 of Act 105 of 1913, being CL 1915, 2042.

771.15 Probation officers; eligibility to certain offices.

Sec. 15. Any probation officer may act as parole officer for any penal or reformatory institution in this state when so requested by the authorities thereof, or may act as county agent when regularly appointed as such, and may act as probation officer for the several probate courts of the state in juvenile cases, when so appointed, and may act as "friend of the court" as defined in Act No. 412 of the Public Acts of 1919, when so appointed.

HISTORY: CL 1929, 17385;—CL 1948, 771.15. This section re-enacts Sec. 15 of Act 105 of 1913, being CL 1915, 2043;—As Am. 1921, p. 305, Act 143, Eff. Aug. 18;—As Am. 1925, p. 80, Act 50, Eff. Aug. 27.

NOTE: Act 412 of 1919, above referred to, is Compilers' §§ 552.251 to 552.254.

Sec. 16.

HISTORY: CL 1929, 17386;—Rep. 1931, p. 504, Act 308, Eff. Sept. 18. This section as originally enacted superseded part of Sec. 17 of Act 105 of 1913, being CL 1915, 2045.

This section provided for supervision of records and reports by commissioner of public welfare.

771.17 Effect of chapter on former act.

Sec. 17. Nothing in this chapter shall be construed as limiting or repealing Act No. 6 of the Public Acts of the Extra Session of 1907, and amendments thereto.

HISTORY: CL 1929, 17387;—CL 1948, 771.17. This section supersedes part of Sec. 17 of Act 105 of 1913, being CL 1915, 2045.

NOTE: Act 6 of 1907, Ex. Ses., above referred to, has been repealed and superseded by Compilers' § 712A.1 et seq.

771.18 Probation officers; supervision by assistant director; authority.

Sec. 18. The assistant director shall exercise general supervision over the work of the probation officers throughout the state, and shall have the power and authority to prescribe the form of all records and reports from probation officers; to require detailed reports from probation officers throughout the state; to examine and study or cause to be examined and studied the whole question of probation in Michigan and elsewhere; to provide for such organization and cooperation of the probation officers in the several courts as may seem advisable. The assistant director shall include in his printed reports a report of the probation work of the courts of the state for the period covered by such printed report.

HISTORY: Add. 1931, p. 503, Act 308, Eff. Sept. 18;—Am. 1937, p. 441, Act 256, Imd. Eff. July 22;—Am. 1939, p. 555, Act 286, Eff. Sept. 29;—CL 1948, 771.18.

Sec. 19.

HISTORY: Add. 1931, p. 503, Act 308, Eff. Sept. 18;—Rep. 1937, p. 441, Act 256, Imd. Eff. July 22.

This section provided for a probation council.

771.20 Probation officer; reports to assistant director; record.

Sec. 20. Every probation officer or the chief probation officer of a court having more than 1 probation officer, shall transmit to the assistant director, in such form and at such times as he shall require, detailed reports regarding the work of probation in the court; and the assistant director shall keep, for the information of the courts and probation officers, suitable record thereof. Police officials shall cooperate with the assistant director and the probation officers in obtaining and reporting information concerning persons on probation. The information so obtained and recorded shall be ac-

cessible at all times to the courts and officials of the courts and to all sheriffs, chiefs, or commissioners of police, and village marshals.

HISTORY: Add. 1931, p. 503, Act 306, Eff. Sept. 18;—Am. 1937, p. 441, Act 256, Imd. Eff. July 22;—Am. 1939, p. 556, Act 286, Eff. Sept. 29;—CL 1948, 771.20.

771.21 Probation officer; authority of courts to require records.

Sec. 21. The 2 next preceding sections shall not affect the authority of the courts to require the keeping by their probation officers of probation records in addition to those necessary to conform to the forms of records and reports prescribed by the assistant director.

HISTORY: Add. 1931, p. 504, Act 306, Eff. Sept. 18;—Am. 1937, p. 441, Act 256, Imd. Eff. July 22;—Am. 1939, p. 556, Act 286, Eff. Sept. 29;—CL 1948, 771.21.

771.22 Assistant director; right to information from other departments.

Sec. 22. All departments, boards, commissions, officials or employees of the state, or any political subdivisions thereof, shall give and furnish to the assistant director and to his agent or agents, any assistance requested by them, in the performance of their duties as far as is compatible with his or its other duties; free access shall be given to all and any books, records, files and documents in his or its custody, relating directly or indirectly to matters within the scope of the powers and duties of the assistant director.

HISTORY: Add. 1931, p. 504, Act 306, Eff. Sept. 18;—Am. 1937, p. 441, Act 256, Imd. Eff. July 22;—Am. 1939, p. 556, Act 286, Eff. Sept. 29;—CL 1948, 771.22.

771.23 Assistant director; visits to judicial circuits.

Sec. 23. The assistant director or his representative may visit each judicial circuit as often as he may deem necessary for the purpose of inspecting the probation work in such circuit and conferring with the judge or judges and the probation officer or officers thereof.

HISTORY: Add. 1931, p. 504, Act 306, Eff. Sept. 18;—Am. 1937, p. 441, Act 256, Imd. Eff. July 22;—Am. 1939, p. 556, Act 286, Eff. Sept. 29;—CL 1948, 771.23.

771.24 Probation officers; annual conference; expenses.

Sec. 24. There shall be held an annual conference of the probation officers of the state at such time and place as shall be designated by the assistant director in a written notice thereof given at least a month in advance of the date selected. Such conference shall consider legislation and any and all matters pertaining to the subject of probation, to the end that a uniform system of conduct, duties and procedure be established. Each probation officer shall be paid from the county treasury his actual and necessary expenses in the attendance at the conference.

HISTORY: Add. 1931, p. 504, Act 306, Eff. Sept. 18;—Am. 1937, p. 442, Act 256, Imd. Eff. July 22;—Am. 1939, p. 556, Act 286, Eff. Sept. 29;—CL 1948, 771.24.

CHAPTER XII. PROCEEDINGS TO PREVENT CRIME.

772.1	Preservation of public peace; laws, power to execute.	772.9	Appeal to circuit court; right.
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772.1 Preservation of public peace; laws, power to execute.

Sec. 1. The justices of the supreme court, the several circuit judges, judges of courts of record having jurisdiction of criminal causes, circuit court commissioners, all mayors and recorders of cities, and all justices of the peace, shall have power to cause all the laws made for the preservation of the public peace to be kept and in the execution of this power may require persons to give security to keep the peace in the manner provided in this chapter.

HISTORY: CL 1929, 17388;—CL 1948, 772.1. This section supersedes, with additions, Sec. 1 of R.S. 1846, Ch. 162, being CL 1857, 5959;—As Am. 1858, p. 13, Act 4, Eff. May 6;—CL 1871, 7825;—How. 9435;—CL 1897, 11800;—CL 1915, 15627.

772.2 Complaints; examination.

Sec. 2. Whenever complaint shall be made in writing and on oath to any such magistrate that any person has threatened to commit any offense against the person or property of another, it shall be the duty of such magistrate to examine such complainant and any witnesses who may be produced, on oath, to reduce such examination to writing and to cause the same to be subscribed by the parties so examined.

HISTORY: CL 1929, 17389;—CL 1948, 772.2. This section re-enacts Sec. 2 of R.S. 1846, Ch. 162, being CL 1857, 5960;—CL 1871, 7826;—How. 9436;—CL 1897, 11801;—CL 1915, 15628.

772.3 Warrant; issuance.

Sec. 3. If it shall appear from such examination, that there is just reason to fear the commission of any such offense, such magistrate shall issue a warrant under his hand, directed to the sheriff or any constable of the county, reciting the substance of the complaint and commanding him forthwith to apprehend the person so complained of, and bring him before such magistrate.

HISTORY: CL 1929, 17390;—CL 1948, 772.3. This section re-enacts Sec. 3 of R.S. 1846, Ch. 162, being CL 1857, 5961;—CL 1871, 7827;—How. 9437;—CL 1897, 11802;—CL 1915, 15629.

772.4 Trial; recognizance to keep peace.

Sec. 4. When the party complained of is brought before the magistrate, he may demand that the truth of the accusation shall be determined either by a trial before such magistrate, or a jury; and the trial thereof, and the selection of a jury shall be as in criminal cases, which justices of the peace are authorized to try; and if the magistrate or jury upon such trial shall find the accused guilty, the magistrate may require the accused to enter into a recognizance, with sufficient sureties, to be approved by such magistrate, in such sum as he shall direct, to keep the peace towards all the people of this state, and especially towards the person requiring such sureties, for such term as he may order not exceeding 2 years; and it shall be competent for the magistrate or

the jury to find and return a special verdict that the complaint and accusation are groundless or malicious, and if they shall so find, it shall be the duty of the magistrate to enter such finding or verdict upon his docket.

HISTORY: CL 1929, 17391;—CL 1948, 772.4. This section supersedes part of Sec. 4 of R.S. 1846, Ch. 162, being CL 1857, 5962.—As Am. 1867, p. 20, Act 17, Eff. June 27;—CL 1871, 7828;—How. 9438;—CL 1897, 11803;—CL 1915, 15630.

CONDUCT OF TRIAL: For the selection of a jury and other trial procedure "in criminal cases which justices of the peace are authorized to try," see Compilers' § 774.1 et seq.

772.5 Compliance with order of magistrate; discharge of accused.

Sec. 5. Upon complying with the order of the magistrate, the party complained of shall be discharged.

HISTORY: CL 1929, 17392;—CL 1948, 772.5. This section re-enacts Sec. 5 of R.S. 1846, Ch. 162, being CL 1857, 5963;—CL 1871, 7829;—How. 9439;—CL 1897, 11804;—CL 1915, 15631.

772.6 Non-compliance with order of magistrate; commitment of accused.

Sec. 6. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment with the sum and the time for which such security was required.

HISTORY: CL 1929, 17393;—CL 1948, 772.6. This section re-enacts Sec. 6 of R.S. 1846, Ch. 162, being CL 1857, 5964;—CL 1871, 7830;—How. 9440;—CL 1897, 11805;—CL 1915, 15632.

772.7 Discharged of accused; complainant, payment of cost.

Sec. 7. If upon examination it shall not appear that there is just cause to fear that any such offense will be committed by the party complained of, he shall forthwith be discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of the prosecution, who shall thereupon be answerable to the magistrate and the officers for their fees, as for his own debt, and execution may issue therefor.

HISTORY: CL 1929, 17394;—CL 1948, 772.7. This section re-enacts, with additions, Sec. 7 of R.S. 1846, Ch. 162, being CL 1857, 5965;—CL 1871, 7831;—How. 9441;—CL 1897, 11806;—CL 1915, 15633; and supersedes part of Sec. 4 of R.S. 1846, Ch. 162, being CL 1857, 5962;—As Am. 1867, p. 20, Act 17, Eff. June 27;—CL 1871, 7828;—How. 9438;—CL 1897, 11803;—CL 1915, 15630.

772.8 Payment of costs when no order made; bond to keep peace.

Sec. 8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security to keep the peace, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid or he is otherwise legally discharged.

HISTORY: CL 1929, 17395;—CL 1948, 772.8. This section re-enacts Sec. 8 of R.S. 1846, Ch. 162, being CL 1857, 5966;—CL 1871, 7832;—How. 9442;—CL 1897, 11807;—CL 1915, 15634.

772.9 Appeal to circuit court; right.

Sec. 9. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid may, on giving the recognizance to keep the peace required by such order, appeal to the circuit court for the same county.

HISTORY: CL 1929, 17396;—CL 1948, 772.9. This section re-enacts Sec. 9 of R.S. 1846, Ch. 162, being CL 1857, 5967;—CL 1871, 7833;—How. 9443;—CL 1897, 11808;—CL 1915, 15635.

772.10 Appeal to circuit court; disposal of case.

Sec. 10. The court before which such appeal is prosecuted may affirm the order of the justice or discharge the appellant or may require the appellant to enter into a new recognizance with sufficient sureties, in such sum and for such time, not exceeding 2 years, as the court shall think proper and may also make such order in relation to the costs of the prosecution as may be deemed just.

HISTORY: CL 1929, 17397;—CL 1948, 772.10. This section supersedes Sec. 11 of R.S. 1846, Ch. 162, being CL 1857, 5969;—CL 1871, 7835;—How. 9445;—CL 1897, 11809;—CL 1915, 15636.

772.11 Appeal to circuit court; effect of failure to prosecute.

Sec. 11. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the justice, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant, a condition to that effect to be incorporated in all recognizances given under section 8 of this chapter.

HISTORY: CL 1929, 17396;—CL 1948, 772.11. This section re-enacts, with additions, Sec. 12 of R.S. 1846, Ch. 162, being CL 1857, 5970;—CL 1871, 7836;—How. 9446;—CL 1897, 11810;—CL 1915, 15637.

772.12 Discharge of person committed upon giving recognizance.

Sec. 12. Any person committed for not finding sureties, or refusing to recognize, as required by the court or magistrate, may be discharged by any judge, circuit court commissioner or justice of the peace on giving such security as was required.

HISTORY: CL 1929, 17399;—CL 1948, 772.12. This section re-enacts Sec. 13 of R.S. 1846, Ch. 162, being CL 1857, 5971;—CL 1871, 7837;—How. 9447;—CL 1897, 11811;—CL 1915, 15638.

772.13 Recognizance; transmission to circuit court clerk, filing.

Sec. 13. Every recognizance taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the clerk of the circuit court for the county, within 20 days after the taking thereof, and shall be filed by such clerk.

HISTORY: CL 1929, 17400;—CL 1948, 772.13. This section re-enacts part of Sec. 14 of R.S. 1846, Ch. 162, being CL 1857, 5972;—CL 1871, 7838;—How. 9448;—CL 1897, 11812;—CL 1915, 15639.

772.14 Remission of part of penalty.

Sec. 14. Whenever upon a suit brought on any recognizance entered into in pursuance of this chapter, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

HISTORY: CL 1929, 17401;—CL 1948, 772.14. This section re-enacts Sec. 17 of R.S. 1846, Ch. 162, being CL 1857, 5975;—CL 1871, 7841;—How. 9451;—CL 1897, 11815;—CL 1915, 15642.

772.15 Surrender of principal by surety; effect.

Sec. 15. Any surety in a recognizance to keep the peace, shall have the same authority and right to take and surrender his principal as in other criminal cases, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender (except as to costs on any appeal taken by the principal in the recognizance) which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace or circuit court commissioner for the residue of the term, and shall thereupon be discharged.

HISTORY: CL 1929, 17402;—CL 1948, 772.15. This section re-enacts Sec. 18 of R.S. 1846, Ch. 162, being CL 1857, 5976;—CL 1871, 7842;—How. 9452;—CL 1897, 11816;—CL 1915, 15643, inserting portion in parenthesis.

CHAPTER XIII.

PROCEEDINGS FOR THE DISCOVERY OF CRIME.

773.1	Inquest by justice of the peace; certain death cases.	773.12	Inquest by coroner; powers.
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		773.23	Effect on prior acts.

773.1 Inquest by justice of the peace; certain death cases.

Sec. 1. Justices of the peace shall, subject to the provisions of this chapter, take inquests upon the view of the dead bodies of such persons as shall have come to their death suddenly, or by violence, and of such persons as shall have died in prison.

HISTORY: CL 1929, 17403;—CL 1948, 773.1. This section re-enacts Sec. 1 of R.S. 1846, Ch. 167, being CL 1857, 6099;—CL 1871, 7970;—How. 9583;—As Am. 1885, p. 44, Act 48, Eff. Sept. 19;—CL 1897, 11818;—CL 1915, 15645.

773.2 Inquest by justice of the peace; petition and summons for jury.

Sec. 2. As soon as any justice of the peace shall have notice of the dead body of any person found or lying within the county, who is supposed to have come to his death in any manner described in the preceding section and the petition of not less than 5 citizens, none of whom shall be a constable or deputy sheriff of the township, city or village, in which the dead body may be lying, shall have been filed with said justice praying that an inquest be had in such case or on the written request of the prosecuting attorney of the county or the attorney general, he shall forthwith summon 6 good and lawful men, electors of the county to appear before him, at such place as he shall appoint within said county.

HISTORY: CL 1929, 17404;—CL 1948, 773.2. This section supersedes Sec. 2 of R.S. 1846, Ch. 167, being CL 1857, 6090;—CL 1871, 7971;—How. 9584;—As Am. 1885, p. 44, Act 48, Eff. Sept. 19;—CL 1897, 11819;—CL 1915, 15646.

773.3 Inquest by justice of the peace; jurors, oath.

Sec. 3. When the jurors thus summoned have appeared, the justice of the peace shall call over their names and there, in view of the dead body, shall administer to them an oath or affirmation in substance as follows: "You do solemnly swear (or affirm as the case may be), that you will diligently inquire in behalf of the people of this state, when, in what manner and by what means, the person whose body lies here dead, came to his death and that you will make a true inquest thereof according to your knowledge and such evidence as shall be laid before you."

HISTORY: CL 1929, 17405;—CL 1948, 773.3. This section re-enacts Sec. 3 of R.S. 1846, Ch. 167, being CL 1857, 6091;—CL 1871, 7972;—How. 9585;—As Am. 1885, p. 45, Act 48, Eff. Sept. 19;—CL 1897, 11820;—CL 1915, 15647.

773.4 Inquest by justice of the peace; issuance of subpoena for witness or surgeon; chemist employed, compensation.

Sec. 4. The justice of the peace may issue subpoenas for witnesses returnable forthwith or at such time and place as he shall therein direct; and the attendance of the persons served with such subpoenas may be enforced in the same manner and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the people of this state, to attend a justice's court: Provided, That in all such cases it shall be lawful for the magistrate holding any such inquest, to require by subpoena the attendance of a competent physician or surgeon for the purpose of making a post-mortem examination and of testifying as to the result of the same; and he may also employ a chemist in cases affording reasonable ground of suspicion that death has been produced by poison and the amount of compensation for the attendance and services of such physician, surgeon or chemist shall be audited and allowed by the board of supervisors of the proper county, or board of county auditors in counties having such board.

HISTORY: CL 1929, 17406;—CL 1948, 773.4. This section supersedes, with additions, Sec. 4 of R.S. 1846, Ch. 167, being CL 1857, 6092;—CL 1871, 7973;—How. 9586;—CL 1897, 11821;—CL 1915, 15648.

773.5 Inquest by justice of the peace; witnesses, oath.

Sec. 5. An oath or affirmation to the following effect shall be administered to each witness by the justice of the peace: "You do solemnly swear (or affirm) that the evidence you shall give at this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth and nothing but the truth."

HISTORY: CL 1929, 17407;—CL 1948, 773.5. This section re-enacts Sec. 5 of R.S. 1846, Ch. 167, being CL 1857, 6093;—CL 1871, 7974;—How. 9587;—CL 1897, 11822;—CL 1915, 15649.

773.6 Inquest by justice of the peace; supposed murder or manslaughter cases, reduction of testimony in writing.

Sec. 6. In all cases where any murder or manslaughter is supposed to have been committed, the testimony of all witnesses examined before the inquest, shall be reduced to writing by the justice of the peace, or some other person by his direction and subscribed by the witnesses.

HISTORY: CL 1929, 17408;—CL 1948, 773.6. This section re-enacts Sec. 6 of R.S. 1846, Ch. 167, being CL 1857, 6094;—CL 1871, 7975;—How. 9588;—CL 1897, 11823;—CL 1915, 15650.

773.7 Inquest by justice of the peace; inquisition of jury; certificate, contents.

Sec. 7. The jury, upon the inspection of the dead body, and after hearing the testimony of the witnesses and making all needful inquiries, shall draw up and deliver to the justice of the peace their inquisition under their hands, in which they shall find and certify when, in what manner and by what means the deceased came to his death, and his name, if known, together with all the material circumstances attending his death; and if it appear that he came to his death by unlawful means, the jurors shall forthwith state who if known was guilty, either as principal or accessory, or was in any manner the cause of his death.

HISTORY: CL 1929, 17409;—CL 1948, 773.7. This section re-enacts Sec. 7 of R.S. 1846, Ch. 167, being CL 1857, 6095;—CL 1871, 7976;—How. 9589;—CL 1897, 11824;—CL 1915, 15651, changing position of "if known" inserting same after word "who", changing "were" to "was".

773.8 Inquest by justice of the peace; form of inquisition.

Sec. 8. Such inquisition to be called a coroner's inquest, may be in substance in the following form:

County of, ss.

An inquisition taken at, in said county, on the day of, before, one of the justices of the peace of the said county, upon the view of the body of (or a person), there lying dead, by the oaths of the jurors whose names are hereto subscribed, who being sworn to inquire on behalf of

the people of this state, when, in what manner and by what means the said (or person) came to his death, upon their oaths, say (then insert when, where, in what manner, and by what means, persons, weapons or instruments he was killed or came to his death.) In testimony whereof the said justice of the peace and the jurors of this inquest, have hereunto set their hands the day and year aforesaid.

HISTORY: CL 1929, 17410;—CL 1948, 773.8. This section re-enacts Sec. 8 of R.S. 1846, Ch. 167, being CL 1857, 6096;—CL 1871, 7977;—How. 9590;—CL 1897, 11825;—CL 1915, 15652, omitting word "do" before "say".

773.9 Inquest by justice of the peace; written evidence and examination returned to circuit court, certain cases.

Sec. 9. If the jury find that any murder, manslaughter or assault had been committed upon the deceased, the justice of the peace shall forthwith return to the circuit court of said county the inquisition, written evidence and examinations by him taken.

HISTORY: CL 1929, 17411;—CL 1948, 773.9. This section supersedes part of Sec. 9 of R.S. 1846, Ch. 167, being CL 1857, 6097;—CL 1871, 7978;—How. 9591;—CL 1897, 11826;—CL 1915, 15653.

773.10 Inquest by justice of the peace; issuance of warrant for accused.

Sec. 10. If any person charged by the inquest with having committed any such offense shall not be in custody, the justice of the peace shall have power to issue process for his apprehension, and such warrant shall be made returnable before him or any other magistrate or court having cognizance of the case, who shall proceed thereon in the manner that is required of magistrates in like cases.

HISTORY: CL 1929, 17412;—CL 1948, 773.10. This section re-enacts Sec. 10 of R.S. 1846, Ch. 167, being CL 1857, 6098;—CL 1871, 7979;—How. 9592;—CL 1897, 11827;—CL 1915, 15654.

773.11 Inquest by justice of the peace; disposal of body, expenses and fees.

Sec. 11. When any justice of the peace shall take an inquest upon the dead body of a stranger, or being called for that purpose shall not think it necessary on view of such body that an inquest should be taken, he shall then notify the county department of social welfare, who shall cause the body to be decently buried as that of an indigent person. All other expenses and fees shall be paid from the general fund of the county in which the inquisition was taken. When an inquest is held on the body of any person who dies in any prison or public reformatory of this state, the expense of such inquest shall be audited and paid by the institution, as other charges against the institution are audited and paid.

HISTORY: CL 1929, 17413;—CL 1948, 773.11;—Am. 1965, p. 602, Act 315, Eff. Mar. 31, 1966.

This section as originally enacted superseded Sec. 11 of R.S. 1846, Ch. 163, being CL 1857, 1691;—CL 1871, 7980;—How. 9593;—as Am. 1885, p. 105, Act 103, Eff. Sep. 19;—CL 1897, 11828;—CL 1915, 15655.

773.12 Inquest by coroner; powers.

Sec. 12. Any coroner shall have power to hold inquests anywhere within the county for which he shall be elected, and all provisions of law relating to the holding of inquests and the disinterment of dead bodies for the purpose of holding inquests thereon by justices of the peace, are hereby made applicable to inquests so held by coroners; and all powers by the general laws of this state conferred upon justices of the peace relative to such inquests are hereby conferred upon such coroners. All powers conferred upon peace officers by the general laws of this state are hereby conferred upon such coroners.

HISTORY: CL 1929, 17414;—CL 1948, 773.12. This section re-enacts Act 139 of 1881, being How. 9597;—CL 1897, 11832;—CL 1915, 15659, omitting first word, "that", adding last sentence; and supersedes, with additions, Sec. 2 of Act 88 of 1861, being CL 1871, 7982;—How. 9595;—CL 1897, 11830;—CL 1915, 15657.

773.13 Inquest by coroner; surgeon, chemist; employment, compensation.

Sec. 13. Any coroner or justice of the peace holding such inquest, shall have power to summon the attendance of a competent surgeon, whenever he shall deem such attendance necessary, and a chemist may be employed in cases affording reasonable ground of suspicion that death has been produced by poison. Any chemist or surgeon

so employed shall, upon the certificate of the coroner acting in the case, receive such compensation for his or their services as shall be allowed by the county auditors of counties having a board of auditors or the supervisors of other counties, as is otherwise provided by law.

HISTORY: CL 1929, 17415;—CL 1948, 773.13. This section supersedes Sec. 3 of Act 88 of 1861, being CL 1871, 7983;—How. 9596;—CL 1897, 11831;—CL 1915, 15658.

773.14 Inquest in incorporated city; coroner's jury.

Sec. 14. It shall not be competent for justices of the peace, within the incorporated cities of this state in which a county coroner resides, to hold inquests on the view of dead bodies unless both of the coroners of the county in which they are situate shall be absent, or incapacitated to act from illness or otherwise; but such inquests, within said city, shall be held by one of the coroners elected for the county in which such cities are severally situate, whenever in the judgment of such coroner, an inquest shall be necessary and that the coroners' juries shall consist of 6 persons only.

HISTORY: CL 1929, 17416;—CL 1948, 773.14. This section re-enacts Sec. 1 of Act 88 of 1861, being CL 1871, 7981;—How. 9594;—CL 1897, 11829;—CL 1915, 15656, omitting first word "that".

773.15 Inquest by justice of the peace; body once buried; complaint, examination, disinterment, subsequent procedure.

Sec. 15. Whenever complaint in writing and upon oath shall be made to any justice of the peace that any person has died and that such person was buried in the county where such justice resides, and specifying in what township or city said person was buried, and containing a further statement that the complainant knows or has good reason to believe that the said deceased person came to his or her death by means of poison or violence, or in consequence of any criminal act committed by any person known or unknown, it shall be the duty of such justice to examine the complainant and such witnesses as may be produced by him on oath and reduce the same to writing and if such justice shall be satisfied from such examination that there is just cause to believe that the deceased person named or described in such complaint came to his or her death by means of poison or violence, or in consequence of any criminal act, and that a post-mortem examination of the body of such deceased person is necessary or will materially aid in the prosecution of any person charged or who may be charged with any criminal act resulting in the death of such deceased person, it shall be the duty of such justice of the peace to issue an order under his hand, directed to the sheriff of the county, commanding such sheriff, in the name of the people of the state of Michigan, forthwith to proceed with his undersheriff, or 1 of his deputies, to the place where such body was buried, and to disinter and remove the body to some suitable and convenient place in the township or city where such body was buried for the purpose of holding an inquest over the same; and said justice shall also proceed at once to summon a jury of inquest in the same manner as is in this act provided and as soon as the sheriff shall have removed such body to a suitable place as above provided, the justice as well as the jury so summoned, shall proceed in the same manner and shall have and exercise the same powers and duties as prescribed in this act.

HISTORY: CL 1929, 17417;—CL 1948, 773.15. This section supersedes Sec. 1 of Act 57 of 1873, being How. 9598;—CL 1897, 11833;—CL 1915, 15660, omitting first word "that".

773.16 Inquest by justice of the peace; body once buried; reinterment.

Sec. 16. As soon as the inquest shall have been completed, as provided for in the preceding section, the sheriff shall at once cause the body of the deceased person to be reinterred in the same place from whence he removed the same.

HISTORY: CL 1929, 17418;—CL 1948, 773.16. This section re-enacts Sec. 2 of Act 57 of 1873, being How. 9599;—CL 1897, 11834;—CL 1915, 15661.

773.17 Property of value found on unknown decedent; delivery to county clerk.

Sec. 17. Whenever any money or valuable property shall be found upon the body of an unknown deceased person within this state, it shall be the duty of the coroner or justice holding the inquest over said body, or of any person who shall come into possession of said money or valuable property, to deliver all of said money or valuable property so found to the county clerk of the county where said body shall be found or be at the time of death, within 10 days after said money or property shall have come into his possession.

HISTORY: CL 1929, 17419;—CL 1948, 773.17. This section re-enacts Sec. 1 of Act 84 of 1883, being How. 9599a;—CL 1897, 11835;—CL 1915, 15662, omitting first word, "that", changing word "his" to "their" before "possession".

UNCLAIMED PROPERTY: Disposition of unclaimed property in certain cases, see Compilers' § 434.101 et seq. Disposition of escheated estates, see Compilers' § 567.11 et seq.

773.18 Property of value found on unknown decedent; deposit with county treasurer; ultimate disposition, time.

Sec. 18. It shall be the duty of said county clerk to deposit the same with the county treasurer, who shall safely keep said money or property for the period of 2 years from the time of receiving the same, unless the same shall be called for by the heirs or proper representatives of the deceased person, in which case the said money or valuable property shall be delivered to them, but if at the expiration of said 2 years no demand for the same shall have been made, said county treasurer shall sell the same in such manner and after such notice as is required by law for constable sales, and shall within 10 days thereafter pay into the state treasury all the proceeds to be credited to the general fund of the state.

HISTORY: CL 1929, 17420;—CL 1948, 773.18. This section supersedes Sec. 2 of Act 84 of 1883, being How. 9599b;—CL 1897, 11836;—CL 1915, 15663.

ESCHEATS: For provisions relative to disposition of escheated estates in general, see Act 238 of 1897, being Compilers' § 567.11 et seq.

773.19 Certain kinds of deaths; notice to coroner, right to remove body.

Sec. 19. It shall be the duty of any physician and of any person in charge of any hospital or institution, or of any person who shall have first knowledge of the death of any person who shall have died suddenly, accidentally, violently or as the result of any suspicious circumstances or without medical attendance up to and including at least 36 hours prior to the hour of death, or in any case of death due to what is commonly known as an abortion, whether self-induced or otherwise, to immediately notify the coroner of the death. It shall be unlawful for any undertaker, embalmer or other person to remove any body from the place where such death occurred, or to prepare same for burial or shipment, without first notifying the coroner and receiving permission to remove the body.

HISTORY: CL 1929, 17421;—CL 1948, 773.19. This section supersedes Sec. 1 of Act 248 of 1921.

DEATH WITHOUT MEDICAL ATTENDANCE: As to notice, see Compilers' § 328.8.

773.20 Property found on decedent; delivery to coroner, record, disposal.

Sec. 20. All moneys or effects that shall be upon the person of the deceased at the time of death or prior to the death, shall be turned over to the coroner whose duty it shall be to make a record of the sums and a listing of other effects in the property book and retain the same in the coroner's office until the coroner shall be able to deliver such property and effects to the personal representatives of the deceased or dispose of the same as otherwise provided by law.

HISTORY: CL 1929, 17422;—CL 1948, 773.20. This section re-enacts Sec. 2 of Act 248 of 1921, omitting word "either" after first "deceased".

ESCHEATS: For provisions relative to disposition of escheated estates in general, see Act 238 of 1897, being Compilers' § 567.11 et seq.

773.21 Coroner's inquest upon order of prosecutor; jury.

Sec. 21. Where, in the discretion of the prosecuting attorney, an inquest is deemed necessary, the coroner upon the written order of the prosecuting attorney, shall sum-

mon 6 men all of whom shall be citizens of the United States, residents of the county, and shall administer the oath as provided for by this chapter except that the jurors need not view the body of the deceased.

HISTORY: CL 1929, 17423;—CL 1948, 773.21. This section supersedes Sec. 3 of Act 248 of 1921.

773.22 Violation of chapter; misdemeanor, penalty.

Sec. 22. Any persons who shall fail to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not to exceed 100 dollars or to be imprisoned in the county jail for a period not to exceed 90 days or both.

HISTORY: CL 1929, 17424;—CL 1948, 773.22. This section supersedes Sec. 3 of Act 84 of 1883, being How. 9599c;—CL 1897, 11837;—CL 1915, 15664; and re-enacts Sec. 6 of Act 248 of 1921, changing word "act" to "chapter", "sixty" to "ninety" before "days".

773.23 Effect on prior acts.

Sec. 23. Nothing herein contained shall be construed to repeal any of the provisions of Act 345 of the Public Acts of 1919, or any acts amendatory or supplementary thereto.

HISTORY: CL 1929, 17425;—CL 1948, 773.23.

NOTE: Act 345 of 1919, above referred to, is Compilers' § 52.111 et seq.

CHAPTER XIV.

JURISDICTION AND PROCEDURE OF JUSTICES' COURTS IN CRIMINAL CASES.

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774.1 Justice of the peace; powers, jurisdiction; effect of excessive penalty.

Sec. 1. Any justice of the peace shall have power to hold a court subject to the provisions hereinafter contained, to hear and determine charges for all offenses arising within his county punishable by fine not exceeding \$100.00, or punishable by imprisonment in the county jail not exceeding 3 months, or punishable by both said fine and

imprisonment; and any justice of the peace is empowered and authorized to perform all official acts and duties and to exercise jurisdiction in criminal causes in any township or city situate in the county within which the justice of the peace was elected and qualified, with the same rights and powers as though performed and exercised within the city or township in which such justice of the peace was elected and qualified: Provided, That whenever in any criminal case, tried before any justice of the peace, the defendant shall be adjudged guilty and punishment by fine or imprisonment shall be imposed in excess of that allowed by law, the judgment shall not for that reason alone be adjudged altogether void nor be wholly reversed and annulled, but the same shall be valid and effectual to the extent of the lawful penalty and shall be reversed and annulled only in respect to the unlawful excess: Provided further, That for all offenses arising under the provisions of section 724 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.724 of the Compiled Laws of 1948, any justice of the peace shall have power to impose the several fines therein provided.

HISTORY: Am. 1929, p. 53, Act 24, Imd. Eff. April 2;—CL 1929, 17426;—CL 1948, 774.1;—Am. 1952, p. 15, Act 14, Imd. Eff. Feb. 25.

This section as originally enacted superseded with additions, part of Sec. 1 of R.S. 1846, Ch. 94, being CL 1857, 3924;—CL 1871, 5525—How. 7092;—CL 1897, 1019;—As Am. 1899, p. 295, Act 189, Eff. Sept. 23;—CL 1915, 15769; and re-enacted, in part, Sec. 1 of Act 124 of 1925.

774.2 Docket entry; contents.

Sec. 2. (1) Every justice of the peace shall keep a loose-leaf docket made up of printed docket sheets numbered consecutively by the printer, in which he shall enter all completed criminal cases, which shall contain the following information:

- (a) Name and address of the defendant.
- (b) Operator or chauffeur license and vehicle registration or vessel number, if available for motor vehicle or vessel violations.
- (c) Date and place of offense, and offense.
- (d) Date of complaint and name of complainant.
- (e) Date and warrant returned and by whom, or if voluntary appearance, the date of said voluntary appearance.
- (f) Plea of defendant.
- (g) If trial, the date, and whether or not by court or jury, and the verdict.
- (h) Sentence of the court and the date thereof.
- (i) Date of all adjournments and the date adjourned to.
- (j) Name of prosecuting attorney or his assistant, and name of attorney who appeared for the defendant in the case, if any.
- (k) Names of witnesses sworn for the people and the defendant.
- (l) If jury, the names of the jurors.
- (m) Date of appeal and date return was made in circuit court, if any.

Copies, filing.

(2) Dockets shall be in such form that exact carbon copies can be made, and a true copy of the docket shall be filed on or before the last day of the month following the month in which the case was completed, with each of the following:

- (a) The prosecuting attorney of the county.
- (b) The board of auditors, or the board of supervisors of the county if no board of auditors exists.
- (c) The secretary of state and the county clerk for all motor vehicle or traffic cases involving moving violations and the director of the department of conservation for all violations involving a vessel. The county clerk, secretary of state and the director of the department of conservation shall receive only copies of dockets where the defendant was convicted. The copy filed with the county clerk shall be a certificate of conviction, and the copy filed with the secretary of state or the director of the department

of conservation shall be an abstract of court and record of conviction. The copy for the secretary of state or the director of the department of conservation need contain only the information required by the secretary of state or the director of the department of conservation and the form shall be approved by the secretary of state except that in cases of violations involving a vessel the form shall be approved by the director of the department of conservation.

Examination, probable cause.

(3) The copies of the docket shall be filed in all cases regardless of the disposition of the case. If examination is held by the justice instead of a trial, the docket shall also contain information pertaining to whether or not probable cause was determined by the justice and the date the return on examination was filed in circuit court. The justice of the peace may enter any other information in the docket that he deems necessary.

HISTORY: CL 1929, 17427;—CL 1948, 774.2;—Am. 1957, p. 367, Act 274, Eff. Sep. 27;—Am. 1965, p. 612, Act 324, Eff. Mar. 31, 1966;—Am. 1967, p. 588, Act 287, Imd. Eff. Aug. 1.

This section as originally enacted re-enacted Sec. 1 of Act 212 of 1879, being How. 7134;—CL 1897, 1059;—CL 1915, 15809, omitting first word, "that", changing "him" to "them" after "before".

774.2a Docket; binders, index.

Sec. 2a. (1) A suitable cover or binder shall be used to preserve the docket sheets, which shall not exceed 1,000 loose leaf docket sheets for each cover or binder.

(2) An alphabetical index containing the names of all defendants and the number of each case as it appears in the docket shall be maintained by each justice of the peace.

(3) All forms and dockets necessary for the operation of the justice of the peace courts shall be furnished by the county without charge to the justice.

HISTORY: Add. 1957, p. 368, Act 274, Eff. Sep. 27.

774.2b Criminal cases; file, contents.

Sec. 2b. Every justice of the peace shall have a file for each criminal case. The file shall be in a suitable envelope, jacket or folder, and shall contain the complaint, the warrant when returned, and any other papers filed in the case.

HISTORY: Add. 1957, p. 368, Act 274, Eff. Sep. 27.

774.3 Dockets, files, indexes; public records, inspection, time; delivery of completed dockets, destruction of files.

Sec. 3. The dockets, files and indexes shall be public records and subject to inspection and examination during court hours. When a justice of the peace does not maintain regular hours or where the hours are less than 4 hours during the day, the dockets, files and indexes shall be available for inspection and examination for at least 4 hours each day, Monday through Friday, except legal holidays. Completed dockets shall be delivered to the county clerk along with the indexes when the justice deems it advisable, but not before 1 year and not later than 4 years from the date of the last case in the docket. Files may be destroyed by the justice of the peace when he deems it advisable any time after 6 years from the date the case was completed.

HISTORY: CL 1929, 17428;—CL 1948, 774.3;—Am. 1957, p. 368, Act 274, Eff. Sep. 27.

This section as originally enacted re-enacted Sec. 2 of Act 212 of 1879, being How. 7135;—CL 1897, 1060;—CL 1915, 15610.

774.4 Complaint; authority of clerk; warrant, issuance, request.

Sec. 4. Upon complaint made to any justice of the peace, by any constable or other person that any offense cognizable by a justice of the peace has been committed within the county, he shall examine the complainant on oath and witnesses produced by him. He shall reduce the complaint to writing and cause the same to be subscribed by the complainant, and if it shall appear that such offense has been committed, the justice shall issue his warrant reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to arrest the accused and bring him before such justice or some other justice of the same county, to be dealt with according to

law. In the same warrant he may require the officer to summon such witnesses as shall be named therein, to appear and give evidence at the trial. Any justice of the peace who is by law provided with a clerk may issue warrants for offenses cognizable by the justice based upon a complaint taken and signed before the clerk or any deputy clerk of the court. A clerk or deputy clerk has the same power and authority to take complaints for offenses cognizable by the justice as is possessed by such justice, and upon such a complaint being presented to the justice he may in his discretion take the testimony of other witnesses or further testimony of the complaining witness; and the procedure thereafter shall be the same as in other cases.

A justice of the peace shall not issue warrants in criminal cases except where warrants are requested by (a) a sheriff or his deputy, a village marshal, an officer of the police department of an incorporated city or village or an officer of the Michigan state police for traffic or motor vehicle violations, or (b) agents of the state highway department, a county road commission or of the public service commission for violations of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948; Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.20 of the Compiled Laws of 1948; or Act No. 181 of the Public Acts of 1963, being sections 480.11 to 480.19 of the Compiled Laws of 1948, the enforcement of which has been delegated to them, until an order in writing allowing the same is filed with such justice and signed by the prosecuting attorney of the county or unless security for costs shall have been filed with the justice.

HISTORY: Am. 1929, p. 756, Act 290, Eff. Aug. 28;—CL 1929, 17429;—Am. 1931, p. 273, Act 173, Imd. Eff. May 27;—Am. 1939, p. 358, Act 186, Eff. Sept. 29;—CL 1948, 774.4;—Am. 1958, p. 149, Act 136, Eff. Sep. 13;—Am. 1965, p. 581, Act 307, Imd. Eff. Jul. 22.

This section as originally enacted superseded Sec. 2 of R.S. 1846, Ch. 94, being CL 1857, 3925;—CL 1871, 5526;—How. 7093;—CL 1897, 1020;—CL 1915, 15770.

774.5 Charge read to accused; arraignment; entry of plea.

Sec. 5. The charge made against the accused, as stated in the warrant of arrest, shall be distinctly read to him at the time of his arraignment and he shall be required to plead thereto, which plea the court shall enter in its minutes; if the accused refuse to plead, the court shall enter the fact with a plea of not guilty in behalf of such accused in its minutes.

HISTORY: CL 1929, 17430;—CL 1948, 774.5. This section re-enacts Sec. 5 of R.S. 1846, Ch. 94, being CL 1857, 3928;—CL 1871, 5529;—How. 7096;—CL 1897, 1023;—CL 1915, 15773, inserting "at the time of his arraignment" after "him".

774.6 Plea of not guilty; waiver of jury; trial.

Sec. 6. If the plea of the accused be not guilty, and he waive trial by jury the said court shall proceed to try such issue and to determine the same according to the evidence which may be produced against and in behalf of such accused.

HISTORY: CL 1929, 17431;—CL 1948, 774.6. This section supersedes Sec. 7 of R.S. 1846, Ch. 94, being CL 1857, 3929;—CL 1871, 5530;—How. 7097;—CL 1897, 1024;—CL 1915, 15774.

WAIVER OF JURY: For a grant of this right even in cases not cognizable by a justice of the peace, see Compilers' § 763.3.

774.7 Plea of guilty; judgment rendered.

Sec. 7. If the accused shall plead guilty to such charge the court shall thereupon render judgment thereon.

HISTORY: CL 1929, 17432;—CL 1948, 774.7. This section supersedes Sec. 7 of R.S. 1846, Ch. 94, being CL 1857, 3930;—CL 1871, 5531;—How. 7098;—CL 1897, 1025;—CL 1915, 15775.

774.8 Plea of not guilty; trial; time, continuance.

Sec. 8. On the return of the warrant with the accused, if he shall plead not guilty or refuse to plead to the charge in the warrant, the said justice shall proceed to hear, try and determine the cause within 10 days after the return of the same, unless the absence of witnesses from the county without the fault or connivance of the party seeking such continuance shall render such continuance necessary, or unless the sickness of witnesses or of the accused shall render a continuance of such cause necessary; in which case it shall and may be competent for the justice to adjourn or continue the

same for such time as may be necessary to secure the ends of justice: Provided, That in case of the absence of witnesses the party seeking to obtain a continuance for that cause shall further show to the satisfaction of the court that he has used due diligence to obtain the testimony of such witness. Such showing shall be the same as is required in civil cases.

HISTORY: CL 1929, 17433;—CL 1948, 774.8. This section supersedes, with additions, Sec. 3 of R.S. 1846, Ch. 94, being CL 1857, 3926;—As Am. 1867, p. 154, Act 117, Eff. June 27;—CL 1871, 5527;—How. 7094;—CL 1897, 1021;—CL 1915, 15771.

774.9 Subpoena issued for witnesses; power to administer oath.

Sec. 9. Any justice of the peace may issue subpoenas to compel the attendance of witnesses and may administer all necessary oaths.

HISTORY: CL 1929, 17434;—CL 1948, 774.9. This section supersedes Sec. 24 of R.S. 1846, Ch. 94, being CL 1857, 3947;—CL 1871, 5548;—How. 7116;—CL 1897, 1042;—CL 1915, 15792.

CIVIL CASES: See Compilers' § 600.7001.

774.10 Juror or witness failure to appear or testify; liability.

Sec. 10. In case any person summoned to appear before any court held by a justice of the peace pursuant to the provisions of this chapter, as a juror or witness shall fail to appear, or if any witness appearing shall refuse to be sworn or to testify, he shall be liable to the same penalties and may be proceeded against in the same manner as provided by law in respect to jurors and witnesses in justices' courts in civil proceedings.

HISTORY: CL 1929, 17435;—CL 1948, 774.10. This section re-enacts Sec. 25 of R.S. 1846, Ch. 94, being CL 1857, 3948;—CL 1871, 5549;—How. 7117;—CL 1897, 1043;—CL 1915, 15793.

WITNESS: See Compilers' §§ 600.7005 to 600.7017 and 600.7821 to 600.7831.

JUROR: See Compilers' § 670.18.

774.11 Disposition of accused before trial; bail, commitment.

Sec. 11. From the time of the return of the warrant until the time of the trial the accused may give bail with 1 or more sufficient sureties for his appearance at the time fixed for the trial, or in the event of failure so to do, may be committed to jail for safe keeping by warrant of said justice, or left in custody of the arresting officer.

HISTORY: CL 1929, 17436;—CL 1948, 774.11. This section re-enacts Sec. 4 of R.S. 1846, Ch. 94, being CL 1857, 3927;—CL 1871, 5528;—How. 7095;—CL 1897, 1022;—CL 1915, 15772.

774.12 Jurors; list; striking out names by complainant or accused; number; qualifications.

Sec. 12. After the joining of issue, and before the court shall proceed to an investigation of the merits of the cause, and the accused shall not have waived his right to a trial by jury, thereupon the court shall direct the sheriff, or any constable of the county, to make a list in writing of the names of 18 inhabitants of the county, qualified to serve as jurors in the courts of record in this state, from which list the complainant and accused may each strike out 6 names: Provided, That no such officer shall make out said list if he be complainant in said cause or in any wise interested, nor shall the jury consist of less than 6 persons.

HISTORY: CL 1929, 17437;—CL 1948, 774.12. This section re-enacts Sec. 8 of R.S. 1846, Ch. 94, being CL 1857, 3931;—As Am. 1861, p. 79, Act 76, Eff. June 15;—CL 1871, 5532;—How. 7099;—As Am. 1885, p. 211, Act 155, Eff. Sept. 19;—CL 1897, 1026;—CL 1915, 15776.

774.13 Jurors; striking out names by others; venire, issuance.

Sec. 13. In case the complainant or the accused shall neglect to strike out such names, the court shall direct some suitable disinterested person to strike out the names for either or both the parties so neglecting; and upon such names being struck out, the justice shall issue a venire directed to the sheriff, or any constable of the county, requiring him to summon the 6 persons whose names shall remain upon such list to appear before such court, at the time and place to be named therein, to make a jury for the trial of such offense.

HISTORY: CL 1929, 17438;—CL 1948, 774.13. This section re-enacts Sec. 9 of R.S. 1846, Ch. 94, being CL 1857, 3932;—As Am. 1861, p. 79, Act 76, Eff. June 15;—CL 1871, 5533;—How. 7100;—CL 1897, 1027;—CL 1915, 15777.

774.14 Jurors; summons; certified list; return of venire.

Sec. 14. The officer to whom such venire shall be delivered shall summon such jurors personally, and shall make a list of the persons summoned, which he shall certify and annex to the venire, and return the same with such venire to the court within the time therein specified.

HISTORY: CL 1929, 17439;—CL 1948, 774.14. This section re-enacts Sec. 10 of R.S. 1846, Ch. 94, being CL 1857, 3933;—CL 1871, 5534;—How. 7101;—CL 1897, 1028;—CL 1915, 15778.

774.15 Jurors; supplying deficiency in number.

Sec. 15. If any of the jurors named in such venire shall fail to attend in pursuance thereof, or if there shall be any legal objection to any that shall appear, the court shall supply the deficiency by directing the sheriff or any constable who may be present and disinterested, to summon any of the bystanders or others who may be competent and against whom no cause of challenge shall appear, to act as jurors in the cause.

HISTORY: CL 1929, 17440;—CL 1948, 774.15. This section re-enacts Sec. 11 of R.S. 1846, Ch. 94, being CL 1857, 3934;—CL 1871, 5535;—How. 7102;—CL 1897, 1029;—CL 1915, 15779.

774.16 Juror; former service as ground for challenge; time.

Sec. 16. It shall be a good cause of challenge to any juror in any justice or police court in any city, township or village in this state, in addition to the other causes of challenge allowed by law, that such person has served as a juror in any justice or police court in any such city, township or village in this state 2 times within 1 year previous to such challenge.

HISTORY: CL 1929, 17441;—CL 1948, 774.16. This section re-enacts part of Sec. 4 of Act 129 of 1867, as Add. 1869, p. 106, Act 62, Eff. July 5, being CL 1871, 6046;—How. 7594a;—CL 1897, 349;—As Am. 1907, p. 446, Act 316, Eff. Sept. 28;—CL 1915, 14593, being Compilers' § 725.254. Said section was not expressly repealed by this act.

CIVIL CASES: For similar provisions, see Compilers' § 600.7039.

774.17 Juror; peremptory challenges.

Sec. 17. In all criminal cases the attorney appearing for the people may challenge 5 jurors peremptorily and the defendant may challenge 5 jurors peremptorily; and the attorney appearing for the people may challenge 5 talesmen peremptorily and the defendant may challenge 5 talesmen peremptorily.

HISTORY: CL 1929, 17442;—CL 1948, 774.17. This section supersedes part of Sec. 4 of R.S. 1846, Ch. 165, being CL 1857, 6071;—CL 1871, 7950;—How. 9562;—CL 1897, 11945;—CL 1915, 15818; and part of Sec. 56 of R.S. 1846, Ch. 103, being CL 1857, 4400;—CL 1871, 6027;—As Am. 1883, p. 159, Act 147, Eff. Sept. 8;—How. 7607;—CL 1897, 10238;—CL 1915, 14594; and part of Act 104 of 1885, being How. 6937a;—CL 1897, 820;—CL 1915, 14595, neither Sec. 4 or Act 104 was expressly repealed by this act, probably because they covered civil as well as criminal cases. Said Sec. 4 and Act 104 have never been expressly repealed, but since they have been superseded in respect to civil cases by Compilers' §§ 618.40 and 670.19, they would now seem to have been superseded in entirety and therefore do not appear in the present compilation.

PEREMPTORY CHALLENGE: See notes to Compilers' § 768.12.

774.18 New jury; grounds for selection; procedure.

Sec. 18. If the officer to whom the venire shall have been delivered shall fail to return the same as thereby required, or if the jury shall fail to agree and shall be discharged by the court, a new jury shall be selected and summoned in the same manner and the same proceedings shall thereupon be had, as herein prescribed in respect to the first jury, unless the accused shall consent to be tried by the court, in which case the court shall proceed to the trial of the issue, as if no jury had been demanded.

HISTORY: CL 1929, 17443;—CL 1948, 774.18. This section re-enacts Sec. 12 of R.S. 1846, Ch. 94, being CL 1857, 3935;—CL 1871, 5536;—How. 7103;—CL 1897, 1030;—CL 1915, 15780.

774.19 Jurors; form of oath.

Sec. 19. To each juror shall administer the following oath or affirmation: "You do solemnly swear (or, "You do solemnly and sincerely declare and affirm", as the case may be) that you will well and truly try this cause between the people of the state of Michigan and, the accused, and a true verdict give according to law and the evidence given you in court, unless discharged by the court, so help you God."

HISTORY: CL 1929, 17444;—CL 1948, 774.19. This section re-enacts Sec. 13 of R.S. 1846, Ch. 94, being CL 1857, 3936;—CL 1871, 5537;—How. 7104;—CL 1897, 1031;—CL 1915, 15781, omitting words "such justice" after "juror", adding words "so help you God" after "court".

774.20 Jurors; duties, officer in charge.

Sec. 20. After the jury shall have been sworn they shall sit together and hear the proofs and allegations in the case, which shall be delivered in public and in the presence of the accused; and after hearing such proofs and allegations, the jury shall be kept together in some convenient place, until they agree on a verdict, or are discharged by the court, and a sheriff or constable shall be sworn to take charge of the jury, in like manner as upon trials in justices' courts in civil proceedings.

HISTORY: CL 1929, 17445;—CL 1948, 774.20. This section re-enacts Sec. 14 of R.S. 1846, Ch. 94, being CL 1857, 3937;—CL 1871, 5538;—How. 7105;—CL 1897, 1032;—CL 1915, 15782.

774.21 Jurors; delivery of verdict, fees, certificate.

Sec. 21. When the jurors have agreed on their verdict they shall deliver the same to the court, publicly, who shall enter it in the minutes of its proceedings, and the jurors shall each be entitled to the same fees as are or may be provided by law for jurors sworn in civil cases before justices of the peace, and a certificate thereof from the justice in whose court such jurors served, countersigned by the prosecuting attorney of the county, given to each of said jurors, shall authorize the county clerk of the county to draw an order upon the county treasurer for the payment of the fees of such juror, which order shall be paid in like manner as jurors' fees in courts of record are paid.

HISTORY: CL 1929, 17446;—CL 1948, 774.21. This section re-enacts Sec. 15 of R.S. 1846, Ch. 94, being CL 1857, 3938;—CL 1871, 5539;—As Am. 1877, p. 180, Act 169, Eff. Aug. 21;—How. 7106;—As Am. 1887, p. 190, Act 183, Eff. Sept. 28;—CL 1897, 1033;—CL 1915, 15783, omitting words "of county" after "treasurer".

FEES: Amount in civil cases, see Compilers' §§ 600.7005 and 600.7605.

774.22 Judgment upon conviction; cost of prosecution; conditional sentence.

Sec. 22. Whenever the accused shall be tried and found guilty, either by the court or by a jury, or shall be convicted of the charge made against him upon a plea of guilty, the court shall render judgment thereon and inflict such punishment, either by a fine or imprisonment or both as the nature of the case may require, together with such costs of prosecution and such other reasonable costs and expenses, direct and indirect, as the public has been put to in connection with said offense not to exceed \$15.00 in criminal cases, as the justice of the peace shall order; but such punishment shall in no case exceed the limit fixed by law for the offense charged, and in rendering such judgment and inflicting such punishment the court may award against such offender a conditional sentence and order him to pay a fine with or without the costs of prosecution, within a limited time of not more than 6 months, to be expressed in the sentence, and in default thereof to suffer such imprisonment as is provided by law and awarded by the court in all cases where the offender shall be convicted of an offense punishable at the discretion of the court, either by fine or imprisonment or both.

HISTORY: CL 1929, 17447;—Am. 1941, p. 579, Act 335, Eff. Jan. 10, 1942;—CL 1948, 774.22;—Am. 1958, p. 157, Act 143, Eff. Sep. 13.

This section as originally enacted superseded Sec. 16 of R.S. 1846, Ch. 94, being CL 1857, 3939;—As Am. 1861, p. 79, Act 76, Eff. June 15;—CL 1871, 5540;—As Am. 1881, p. 4, Act 6, Imd. Eff. Feb. 3;—How. 7107;—CL 1897, 1034;—CL 1915, 15784.

774.22a Persons convicted of disorderly conduct involving sex offenses; justice of the peace; courts' duties, procedure; state institution.

Sec. 22a. In any trial before a justice of the peace, when a person who has been convicted of any disorderly conduct involving a sex offense or has pleaded guilty thereto, shall, though not insane, appear to be a sex degenerate, or a sex pervert, or appear to be suffering from a mental disorder with marked sex deviation and with tendencies dangerous to public safety, the trial court shall certify the cause to the circuit court of the county in which the offense was committed for further proceedings, and the said court shall thereupon proceed in accordance with the provisions of sections 1-a and 1-b of chapter 9 of this act. In the event such person shall not be adjudged to be a sex degenerate or a sex pervert or to be suffering from a mental disorder with marked sex deviation and with tendencies dangerous to the public safety, or it shall later be found

upon application and hearing that such person has ceased to be a menace to the public safety because of such tendencies and mental condition, such person shall be remanded by the circuit court to the justice of the peace for sentence and/or further detention in accordance with his previous conviction, allowance to be made in the latter case for any time spent in confinement in a state hospital or other institution to which such person may previously have been committed hereunder.

HISTORY: Add. 1935, p. 141, Act 87, Imd. Eff. May 27;—Am. 1937, p. 308, Act 198, Imd. Eff. July 14;—CL 1948, 774.22a.

NOTE: Secs. 1a-1b, Ch. 9 of this act, above referred to, have been repealed.

774.22b Sex degenerates in penal institutions; petition, procedure.

Sec. 22b. If any such person shall have been sentenced and committed after conviction before a justice of the peace to any jail or penal institution, and prior to the expiration of such sentence or the discharge, pardon or parole of such person, he shall appear, though not insane, to be a sex degenerate or sex pervert, or appear to be suffering from a mental disorder with marked sex deviation, with tendencies dangerous to public safety, upon petition of the sheriff, warden, or other officer in charge of such jail or other penal institution, setting forth the facts relative to said conviction and said prisoner, the circuit court of the county where such person may be confined shall institute and conduct an examination, investigation and hearing and shall otherwise proceed in the manner provided in section 1-b of chapter 9 of this act.

HISTORY: Add. 1937, p. 309, Act 198, Imd. Eff. July 14;—CL 1948, 774.22b.

NOTE: Sec. 1b, Ch. 9, above referred to, see note under Sec. 22a.

774.22c Psychiatrists and expenses of confinement; reference.

Sec. 22c. The provisions of sections 1-c and 1-d of chapter 9, relative to psychiatrists and expenses of confinement shall be applicable to proceedings taken under this chapter.

HISTORY: Add. 1937, p. 309, Act 198, Imd. Eff. July 14;—CL 1948, 774.22c.

NOTE: Secs. 1c and 1d, Ch. 9, above referred to, are Compilers' §§ 769.1c-769.1d.

774.23 Acquittal; discharge; complainant, payment of cost, time.

Sec. 23. Whenever the accused shall be acquitted, he shall be immediately discharged; and if the court before whom the trial is had shall certify in its minutes that the complaint was wilful and malicious and without probable cause, it shall be the duty of the complainant to pay all the costs that shall have accrued to the court and the sheriff or constable and jury in the proceedings had upon such complaint, or to give satisfactory security by bond to the people of the state, with 1 or more sureties to pay the same in 30 days after the said trial.

HISTORY: CL 1929, 17448;—CL 1948, 774.23. This section supersedes Sec. 17 of R.S. 1846, Ch. 94, being CL 1857, 3940;—CL 1871, 5541;—How. 7108;—CL 1897, 1035;—CL 1915, 15785.

774.24 Complainant failure to pay costs; judgment, execution.

Sec. 24. If the complainant shall refuse or neglect to pay such cost or to give such security, the court may forthwith enter judgment against him for the amount of such costs and forthwith issue execution thereon, in the same manner and with the like effect as in case of an execution issued by a justice of the peace on a judgment in an action for a trespass or other wrong; and such moneys when collected shall be paid over to such court and be applied to the payment of the costs for which the judgment was rendered.

HISTORY: CL 1929, 17449;—CL 1948, 774.24. This section re-enacts Sec. 19 of R.S. 1846, Ch. 94, being CL 1857, 3942;—CL 1871, 5543;—How. 7110;—CL 1897, 1037;—CL 1915, 15787.

EXECUTION: See Compilers' § 600.7201.

774.25 Judgment; execution, warrant.

Sec. 25. The judgment of every such court shall be executed by the sheriff or any constable of the county where the conviction shall be had, by virtue of a warrant un-

der the hand of the justice who held the court, to be directed to such officers and specifying the particulars of such judgment.

HISTORY: CL 1929, 17450;—CL 1948, 774.25. This section re-enacts Sec. 20 of R.S. 1846, Ch. 94, being CL 1857, 3943;—CL 1871, 5544;—How. 7111;—CL 1897, 1038;—CL 1915, 15788.

774.26 Fines; payment before commitment, disposition.

Sec. 26. All fines and costs imposed by any such court, if paid before the accused is committed, shall be received by the magistrate who constituted the court before which the accused was convicted, and by such magistrate paid over to the county treasurer, on or before the last day of the month following receipt thereof, the county treasurer to reimburse said court for his lawful fees within 15 days after auditing pursuant to law, and such fines shall be distributed according to law.

HISTORY: CL 1929, 17451;—Am. 1937, p. 264, Act 168, Eff. Oct. 29;—CL 1948, 774.26;—Am. 1954, p. 99, Act 79, Eff. Aug. 13;—Am. 1957, p. 354, Act 268, Eff. Sep. 27.

This section as originally enacted, re-enacted Sec. 21 of R.S. 1846, Ch. 94, being CL 1857, 3944;—CL 1871, 5545;—How. 7112;—CL 1897, 1039;—CL 1915, 15789.

DISPOSITION OF FINES: Compilers' §§ 397.32 and 600.4845 and 600.4851.

774.26a Fines; forms furnished by county treasurer, contents.

Sec. 26a. The county treasurers shall provide all justices of the peace within their respective counties with blank forms which have been approved by the auditor general. The forms shall provide space for recording the following information with respect to all sums of money which the justices shall receive in criminal cases on account of any forfeiture of bail bond, recognizance, fine, penalty, or taxation of costs: (1) receipt number, (2) docket number, (3) nature of offense, (4) amount of the fine, (5) amount of justice fees, (6) officers' fees, (7) other receipts such as forfeited bond, (8) total receipts, (9) disposition of the case, (10) name of defendant, (11) the name of the justice, and (12) the name of the township or city in which he is elected. Each justice shall complete the forms and shall furnish 1 copy to the county treasurer, 1 to the county clerk or controller or board of auditors in counties having a controller or board of auditors and he shall retain 1 completed form.

HISTORY: Add. 1957, p. 354, Act 268, Eff. Sep. 27.

774.26b Fines; receipt forms, use, contents.

Sec. 26b. The county treasurer shall also provide to each justice of the peace blank serially numbered receipt forms in triplicate to be used whenever the justice receives any moneys on account of any cash bail bond, fine, penalty, or taxation of costs. The receipt forms shall provide space for recording the following information: (1) the name of the defendant and payor, (2) the name of the justice, (3) the docket number, (4) the date, (5) the amount of any fine received, (6) the amount of costs received, (7) amount and nature of any other sum received, and (8) total amount received. One copy of the receipt form shall be for the payor, 1 for the justice and 1 for the county treasurer. The justice shall retain his copies as long as he serves and shall deliver them to his successor as provided in section 3 of this chapter.

HISTORY: Add. 1957, p. 354, Act 268, Eff. Sep. 27.

774.26c Fines; criminal case receipts; separate bank account, deposits, withdrawals.

Sec. 26c. Every justice of the peace shall maintain a separate bank account for criminal case receipts at a bank of his selection. All criminal case receipts shall be deposited in this account daily if such receipts exceed \$500.00 or whenever such receipts exceed \$500.00. Withdrawals from this account shall be made only by check and only for the purposes of making deposits with the county treasurer, making refunds or

transfers of cash bail bonds, making payments for restitution or for making refunds to defendants in case of an error: Provided, however, That a bank account need not be maintained where receipts are less than \$500.00 per month.

HISTORY: Add. 1957, p. 355, Act 266, Eff. Sep. 27.

774.26d Violation of sections; misdemeanor.

Sec. 26d. Any person who fails to comply with sections 26, 26a, 26b and 26c of this chapter shall be guilty of a misdemeanor.

HISTORY: Add. 1957, p. 355, Act 266, Eff. Sep. 27.

774.27 Fines and costs; payment after commitment; sheriff; disposition.

Sec. 27. If the accused be committed, payment of any fine or costs imposed on him shall be made to the sheriff of the county who shall, within 30 days after the receipt thereof, pay over the same to the county treasurer for the purpose aforesaid.

HISTORY: CL 1929, 17452;—CL 1948, 774.27. This section re-enacts Sec. 22 of R.S. 1846, Ch. 94, being CL 1857, 3945;—CL 1871, 5546.—How. 7113;—CL 1897, 1040;—CL 1915, 15790, adding words "or costs" after "fine".

774.28 Fines and costs; failure to pay over receipts; civil suit; misdemeanor, penalty; failure of justice to keep record, penalty.

Sec. 28. If any person who shall have received any such fine or costs or any part thereof, shall neglect to pay over the same pursuant to the foregoing provisions, it shall be the duty of the county treasurer immediately to commence a suit therefor, in the name of the people of the state of Michigan, and to prosecute the same diligently to effect. Any person neglecting to pay over such fine to the county treasurer within 60 days after receiving the same, shall be deemed guilty of a misdemeanor and on conviction thereof shall pay a fine of not less than 50 nor more than 100 dollars or be imprisoned in the county jail of such county not less than 30 nor more than 90 days, or both, in the discretion of the court: Provided, That all justices of the peace shall keep an exact record of all proceedings had before them, and failing to do so, shall be liable to the same penalties as above.

HISTORY: CL 1929, 17453;—CL 1948, 774.28. This section re-enacts Sec. 23 of R.S. 1846, Ch. 94, being CL 1857, 3946;—As Am. 1869, p. 124, Act 76, Eff. July 5;—CL 1871, 5547;—How. 7114;—CL 1897, 1041;—CL 1915, 15791, adding words "or costs" after "fine", changing "for the period of" to "within" after second "treasurer".

774.29, 774.30 Repealed. 1957, p. 369, Act 274, Eff. Sep. 27.

Sections provided for certificate of conviction and its contents, and for filing thereof in office of clerk of county in which conviction occurred within 20 days after conviction.

774.31 Certificate of conviction; status as evidence.

Sec. 31. Every certificate of conviction made and filed under the foregoing provisions, or a duly certified copy thereof, shall be evidence in all courts and places of the facts therein contained.

HISTORY: CL 1929, 17456;—CL 1948, 774.31. This section re-enacts Sec. 28 of R.S. 1846, Ch. 94, being CL 1857, 3951;—CL 1871, 5552.—How. 7120;—CL 1897, 1046;—CL 1915, 15796.

CERTIFICATE OF JUSTICE: Use of certificate made by justice of another state as evidence, see Compilers' § 600.2112. Docket entries or transcripts as evidence, see Compilers' § 600.2120.

774.32, 774.33 Repealed. 1957, p. 369, Act 274, Eff. Sep. 27.

Sections provided for report to prosecuting attorney within ten days after final disposition of case to which state had been a party or wherein county might be liable and set penalty for failure of justice of peace to report within 20 days.

774.34 Appeal to circuit court; recognizance, discharge of defendant, procedure, return.

Sec. 34. The person charged with and convicted by any justice of the peace of any offense, may appeal to the circuit court even though the sentence may have been suspended or the fine and costs have been paid. The person shall enter into a recognizance to the people of the state in a sum not less than \$50.00 nor more than \$500.00 within 10 days after the rendition of the judgment, with 1 or more sureties, conditioned to appear before the court on the first day of the next term thereof to prosecute his appeal to effect and to abide the orders and judgment of the court. The justice

from whose judgment an appeal is taken shall thereupon discharge the person so convicted or order his discharge, shall make a special return of the proceedings had before him and shall file the complaint, warrant and the return together with the recognizance and the testimony taken by him in the circuit court on or before the first day of the circuit court next held for the county. If there are any objections to the complaint, warrant or other proceedings and the decision of the justice thereon which would not be allowed to be made on the trial of the appeal, the same may be set forth specifically in such recognizance. Such justice shall in addition to his return as required by this section, make a full and complete return as to all matters specifically mentioned in such recognizance, and the same shall be deemed issues of law for the determination of such circuit court.

HISTORY: CL 1929, 17459;—CL 1948, 774.34;—Am. 1958, p. 35, Act 32, Eff. Sep. 13;—Am. 1959, p. 313, Act 212, Eff. Mar. 19, 1960.

This section supersedes part of Sec. 18 of R.S. 1846, Ch. 94, as Am. 1848, p. 5, Act 6, Imd. Eff. Jan. 21;—Rep. 1849, p. 344, Act 258, Imd. Eff. April 2;—re-enacted 1855, p. 352, Act 154, Eff. May 15, being CL 1857, 3941;—As Am. 1861, p. 80, Act 76, Eff. June 15;—CL 1871, 5542;—How. 7109;—CL 1897, 1036;—As Am. 1909, p. 28, Act 23, Eff. Sept. 1;—CL 1915, 15786.

774.35 Writ of certiorari; persons to allow, time of application, affidavit.

Sec. 35. A writ of certiorari to remove into the circuit court of the proper county a conviction had before a justice of the peace, may be allowed by the circuit judge or the circuit court commissioner on the application of the party convicted. The party desiring such certiorari or someone in his behalf, shall apply for the same within 20 days after such conviction shall have been had and shall make an affidavit specifying the alleged error or errors complained of.

HISTORY: CL 1929, 17460;—CL 1948, 774.35. This section supersedes Sec. 1 of Act 258 of 1849, being CL 1857, 3952;—CL 1871, 5553;—How. 7121;—CL 1897, 1047;—CL 1915, 15797.

774.36 Writ of certiorari; indorsement of allowance on affidavit.

Sec. 36. If the person to whom application for such certiorari be made, shall be satisfied that error has been committed in the proceedings or judgment, he shall indorse upon the affidavit his allowance thereof.

HISTORY: CL 1929, 17461;—CL 1948, 774.36. This section re-enacts Sec. 2 of Act 258 of 1849, being CL 1857, 3953;—CL 1871, 5554;—How. 7122;—CL 1897, 1048;—CL 1915, 15798, omitting word "any" before "error".

774.37 Writ of certiorari; service on justice, return by justice.

Sec. 37. The writ of certiorari and affidavit shall be served upon the justice before whom such conviction was had within 10 days after said allowance, and the justice shall make a return to all the matters specified in such affidavit and shall cause such writ, affidavit and return to be filed in the office of the county clerk of the county within 10 days after the service of such writ.

HISTORY: CL 1929, 17462;—CL 1948, 774.37. This section re-enacts Sec. 3 of Act 258 of 1849, being CL 1857, 3954;—CL 1871, 5555;—How. 7123;—As Am. 1891, p. 12, Act 12, Imd. Eff. March 12;—CL 1897, 1049;—CL 1915, 15799.

774.38 Writ of certiorari; suspension of sentence, release of prisoner, deposit of recognizance.

Sec. 38. After the service of the writ of certiorari as provided in the preceding section, if the party convicted shall enter into recognizance with surety or sureties satisfactory to such justice or to the person allowing the certiorari, conditioned that he will appear at the next term of the circuit court to be held in and for said county and abide the order and determination of the court, the justice shall order that the sentence be suspended; and if the defendant shall have been committed to jail on such sentence, the justice shall order the jailer to set such prisoner at liberty, who is hereby required to comply with such order. The person receiving such recognizance shall within 20 days thereafter, cause the same to be deposited with the county clerk.

HISTORY: CL 1929, 17463;—CL 1948, 774.38. This section re-enacts Sec. 4 of Act 258 of 1849, being CL 1857, 3955;—CL 1871, 5556;—How. 7124;—CL 1897, 1050;—CL 1915, 15800.

774.39 Writ of certiorari; power to compel return.

Sec. 39. The circuit court shall have power to compel a return or an amended or further return to all writs of certiorari issued under the provisions of this act.

HISTORY: CL 1929, 17464;—CL 1948, 774.39. This section re-enacts Sec. 5 of Act 258 of 1849, being CL 1857, 3956;—CL 1871, 5557;—How. 7125;—CL 1897, 1051;—CL 1915, 15801.

774.40 Writ of certiorari; appearance of defendant or assignment of error; hearing, judgment.

Sec. 40. It shall not be necessary for the defendant to appear in the said circuit court upon the prosecution of such certiorari unless the court otherwise direct; nor shall any assignment or rejoinder in error be necessary but the said court shall proceed to hear the parties and give judgment on the return made to such writ of certiorari as the right of the matter may appear.

HISTORY: CL 1929, 17465;—CL 1948, 774.40. This section re-enacts Sec. 6 of Act 258 of 1849, being CL 1857, 3957;—CL 1871, 5558;—How. 7126;—CL 1897, 1052;—CL 1915, 15802.

774.41 Writ of certiorari; notice of argument to prosecutor, time.

Sec. 41. At least 4 days' notice of argument upon any such matter shall be given to the prosecuting attorney of the county where the offense was committed, before the time at which a hearing is intended to be had.

HISTORY: CL 1929, 17466;—CL 1948, 774.41. This section supersedes Sec. 7 of Act 258 of 1849, being CL 1857, 3958;—CL 1871, 5559;—How. 7127;—CL 1897, 1053;—CL 1915, 15803.

774.42 Writ of certiorari; recognizance; continuance, change of security, default.

Sec. 42. The circuit court in which the person recognized shall be bound to appear, shall have power to continue such recognizance or to require a new recognizance with further or other security until a decision shall be had in such case; and in default thereof, the same court may commit the party so convicted to close confinement.

HISTORY: CL 1929, 17467;—CL 1948, 774.42. This section re-enacts Sec. 8 of Act 258 of 1849, being CL 1857, 3959;—CL 1871, 5560;—How. 7128;—CL 1897, 1054;—CL 1915, 15804, omitting word "so" before "recognized", changing "said" to "same" before "court".

774.43 Writ of certiorari; judgment; discharge of defendant, execution of sentence.

Sec. 43. If the conviction and judgment of the justice be reversed, the circuit court shall discharge the defendant; but if the judgment of such justice be affirmed, the said circuit court shall order that such sentence be executed; and if the defendant shall have been let out of prison as hereinbefore provided, he shall be remanded back to such prison for the length of time that remained unexpired of his sentence at the period he was so let out of prison.

HISTORY: CL 1929, 17468;—CL 1948, 774.43. This section re-enacts Sec. 9 of Act 258 of 1849, being CL 1857, 3960;—CL 1871, 5561;—How. 7129;—CL 1897, 1055;—CL 1915, 15805.

774.44 Writ of certiorari; effect of delay in bringing on cause for argument, order to quash.

Sec. 44. If at any time it shall appear to the said circuit court that the person prosecuting such certiorari has unreasonably delayed bringing on such cause for argument, the court may enter an order to quash such certiorari, and may also direct the sentence of the justice to be carried into effect.

HISTORY: CL 1929, 17469;—CL 1948, 774.44. This section re-enacts Sec. 10 of Act 258 of 1849, being CL 1857, 3961;—CL 1871, 5562;—How. 7130;—CL 1897, 1056;—CL 1915, 15806.

774.45 Writ of certiorari; fee for making return.

Sec. 45. The following fees shall be allowed and paid under the provisions of this chapter for the services herein named: For making return to writ of certiorari, 2 dollars.

HISTORY: CL 1929, 17470;—CL 1948, 774.45. This section re-enacts Sec. 11 of Act 258 of 1849, being CL 1857, 3962;—CL 1871, 5563;—How. 7131;—CL 1897, 1057;—CL 1915, 15807, changing "act" to "chapter".

774.46 Process in criminal cases; issuance.

Sec. 46. Justices of the peace shall have power to issue such writs and process as may be necessary in criminal cases to carry into effect their orders and sentences: Provided, however, That the provisions of this section shall not be construed to eliminate the requirements of the statutes relative to the approval of the prosecuting attorney prerequisite to the issuance of a warrant in criminal cases.

HISTORY: Add. 1941, p. 298, Act 199, Eff. Jan. 10, 1942;—CL 1948, 774.46.

774.47 Jurisdiction of justices of city in case warrant issued by another justice.

Sec. 47. In any city having more than 1 justice of the peace, or other judicial officer having the criminal jurisdiction of a justice of the peace, whenever a warrant shall be issued for the arrest of any person charged with any offense against the laws of the state, or for the violation of a city ordinance, any justice or other judicial officer of said city shall have jurisdiction to arraign, set bail, adjourn, try, take testimony in, conduct a preliminary examination, dismiss, hold for trial in circuit court, and to do any act or acts in connection with the trial and disposition of any such case brought before any such justices of the peace: Provided, however, That this shall apply only to the court or courts of justices of the peace in cities where said justices are paid a salary in lieu of fees.

HISTORY: Add. 1941, p. 462, Act 264, Eff. Jan. 10, 1942;—CL 1948, 774.47.

774.48 Files, indexes, dockets; delivery to successor in office; audit of records, time, certificate, fraud.

Sec. 48. Every justice of the peace shall deliver to his successor in office all files, indexes and dockets. Upon the death of any justice of the peace, or when for any other reason his office becomes vacant, and also at the end of each term, the board of auditors of the county or the board of supervisors of the county shall cause the records of the justice of the peace to be audited immediately. The audit shall be completed within 30 days from the date of vacancy or end of the term. Where a justice of the peace has been reelected to office, the audit shall be completed within 6 months from the date of expiration of office of his previous term. The audit report shall set forth the amount due the justice of the peace, his executor or administrator, as well as the amount due the county for fines and costs collected by the justice. The board of auditors or board of supervisors shall issue to the justice of the peace, his executor or administrator, a certificate stating that all amounts required to be paid to the county during his term of office have been so paid, if the audit so determines. This certificate shall be of no effect if it is later determined that there was fraud, embezzlement or other criminal concealment or acts involved in the funds collected by the justice of the peace.

HISTORY: Add. 1957, p. 368, Act 274, Eff. Sep. 27.

CHAPTER XV.

FEES.

775.1	Fees; allowances.	775.13a	Expert witnesses; payment of sum in excess of ordinary witness fee.
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775.13	Witness fees; mileage. Peace officers, witness fees.		

775.1 Fees; allowances.

Sec. 1. For the following services hereafter performed, in the cases authorized by law, the officers hereinafter named shall be allowed, respectively, the fees in this chapter directed.

HISTORY: CL 1929, 17471;—CL 1948, 775.1. This section re-enacts Sec. 1 of R.S. 1846, Ch. 169, being CL 1857, 5678;—CL 1871, 7477;—How. 9052;—CL 1897, 12003;—CL 1915, 15896.

775.2 Fees; services of justice of the peace.

Sec. 2. A justice of the peace shall be allowed for taking a complaint on oath, 60 cents; a warrant, 60 cents; for entering any cause upon the docket, 60 cents; a bond or recognizance, 60 cents; for approving the same, 25 cents; issuing a subpoena, not exceeding 10 in any 1 case, 25 cents; for certifying cause to other magistrates or court, 40 cents; for commitment or mittimus, 60 cents; for an adjournment, 25 cents; for making and filing return on appeal, or where a party is bound over to the circuit court, or any other court having concurrent jurisdiction, \$2.00; for making and filing report in a criminal case to the prosecuting attorney, 40 cents; for making and filing a copy of the docket to the board of auditors or the board of supervisors of the county, 60 cents; for making and filing a copy of the abstract of court record to the secretary of state for all motor vehicle or traffic cases involving moving violations, 60 cents; for notifying county agent for the care of juvenile offenders of the pendency of the case against any juvenile offender, 40 cents; for each arraignment and receiving a plea of guilty, in case such plea is entered, \$1.50; for each arraignment where the plea of not guilty is entered, or where examination is waived or demanded, \$1.50; for holding examinations, including the taking of testimony and swearing of witnesses, and for the trial of any cause which shall include the swearing of all witnesses, the constable and jury, if one be called, also the judgment and record of any exceptions or motions made during the trial, \$10.00 per day for each day and \$5.00 for each half day while actually engaged in such examination or trial, or while engaged in hearing any motion relative to such trial or examination, or final disposition of any cause, but such per diem shall not be al-

lowed until such examination or trial shall have been actually begun, and no justices of the peace shall receive any other fee or compensation for any services rendered in any criminal case than such as are hereinbefore provided.

HISTORY: Am. 1929, p. 54, Act 24, Imd. Eff. April 2;—CL 1929, 17472;—Am. 1931, p. 508, Act 309, Eff. Sept. 18;—CL 1948, 775.2;—Am. 1949, p. 177, Act 169, Eff. Sep. 23;—Am. 1960, p. 39, Act 49, Eff. Aug. 17;—Am. 1967, p. 34, Act 24, Imd. Eff. Jun. 2.

This section as originally enacted superseded Sec. 2 of R.S. 1846, Ch. 169, being CL 1857, 5679;—CL 1871, 7478;—As Am. 1881, p. 400, Act 286, Eff. Sept. 10;—How. 9053;—As Am. 1897, p. 79, Act 70, Eff. Aug. 30;—CL 1897, 12004;—CL 1915, 15897.

775.3 Fees; services of constables; additional compensations.

Sec. 3. A constable shall be allowed for serving a warrant or other process for the arrest of any person, issued by any magistrate or court, 50 cents; for traveling to make such service, going only, 15 cents per mile, and where an arrest has been made, 15 cents per mile return travel from the place of arrest to the place of return; for taking a prisoner to jail or to the house of correction, 15 cents per mile, going only; for serving a mittimus, 15 cents; serving a subpoena, 15 cents for each witness, and 15 cents per mile for the distance actually and necessarily traveled in going to make such service; for summoning a jury, 1 dollar; for attending the same, 1 dollar; for attending any court by order of the magistrate or officer before whom a trial or examination is being held, when not in charge of a jury, 2 dollars per day for each day and 1 dollar for each half day so actually attending. The board of supervisors of each county may allow such further compensation for the services of process and the expenses and trouble attending the same as they shall deem reasonable. For other services in criminal cases, for which no compensation is especially provided by law, such sum as the board of supervisors shall allow.

HISTORY: CL 1929, 17473;—Am. 1931, p. 508, Act 309, Eff. Sept. 18;—CL 1948, 775.3. This section as originally enacted superseded Sec. 3 of R.S. 1846, Ch. 169, being CL 1857, 5680;—CL 1871, 7479;—As Am. 1881, p. 400, Act 286, Eff. Sept. 10;—How. 9054;—CL 1897, 12005;—CL 1915, 15898.

CIVIL CASES: Fees, see Compilers' § 600.7611.

SHERIFF'S FEES: For allowance of constable's fees to sheriff, see Compilers' §§ 51.221, 600.2558 and 775.4.

775.4 Fees; services of sheriff; additional compensations.

Sec. 4. A sheriff shall be allowed for every person committed to jail, 35 cents; for every person discharged from jail, 35 cents; for taking a prisoner before a court for examination or to jail, 15 cents; for serving a subpoena, issued from a court of record, 15 cents for each witness and 10 cents for each copy of the same, and 15 cents a mile on the distance actually and necessarily traveled in going to make such service; for serving a warrant or performing any other duty which may be performed by a constable, the same fees as are allowed by law to a constable for such service. For other services not herein specially provided for, such sums as may be allowed by the board of supervisors.

HISTORY: CL 1929, 17474;—Am. 1931, p. 509, Act 309, Eff. Sept. 18;—CL 1948, 775.4. This section as originally enacted re-enacted Sec. 5 of R.S. 1846, Ch. 169, being CL 1857, 5682;—CL 1871, 7481;—As Am. 1881, p. 401, Act 286, Eff. Sept. 10;—How. 9055;—CL 1897, 12006;—CL 1915, 15899, changing word "ten" to "fifteen" before "cents a mile".

CIVIL CASES: Fees, see Compilers' §§ 600.2555 and 600.2558.

SHERIFF'S SALARY: See Act 237 of 1919, being Compilers' § 45.61 et seq.

CONSTABLE'S FEES: See Compilers' §§ 600.7611 and 775.3. For allowance to sheriff of constable's fees, see also Compilers' §§ 51.221 and 600.2558.

775.5 Fees; services of circuit court commissioner.

Sec. 5. For services rendered by circuit court commissioners in cases of prosecutions for felonies, or for requiring sureties of the peace, such circuit court commissioners shall be entitled to the same fees as are by law provided for similar services when performed in civil cases by a justice of the peace.

HISTORY: CL 1929, 17475;—CL 1948, 775.5. This section supersedes Act 214 of 1879, being How. 9056;—CL 1897, 12007;—CL 1915, 15900.

CIVIL CASES: Fees of circuit court commissioner, see Compilers' § 600.2573, of justice, see Compilers' § 600.7601.

775.6 Fees; to be county charges.

Sec. 6. The fees hereinbefore in this chapter allowed for services, except those which are otherwise provided for by law, shall be county charges, and shall be audited

by the board of supervisors of the county in which the services are rendered, and shall be paid in the same manner as other contingent charges of the county.

HISTORY: CL 1929, 17476;—CL 1948, 775.6. This section re-enacts Sec. 6 of R.S. 1846, Ch. 169, being CL 1857, 5683;—CL 1871, 7482;—How. 9057;—CL 1897, 12008;—CL 1915, 15901.

775.7 Expenses of certain witnesses for people; order directing payment.

Sec. 7. Whenever any person shall attend any court of record as a witness in behalf of the people of this state, upon request of the public prosecutor, or upon subpoena, or by virtue of a recognizance for that purpose, and it shall appear that such person has come from any other state or territory of the United States, or from any foreign country or that such person is poor, the court may, by an order to be entered on its minutes, direct the county treasurer of the county in which the court may be sitting, to pay such witness such sum of money as shall seem reasonable for his expenses; and no fees shall be allowed or paid to witnesses on the part of the people in any criminal proceeding or prosecution except as is provided in this section and act.

HISTORY: CL 1929, 17477;—CL 1948, 775.7. This section supersedes Sec. 7 of R.S. 1846, Ch. 169, being CL 1857, 5684;—CL 1871, 7483;—How. 9058;—CL 1897, 12009;—CL 1915, 15902.

PEOPLE'S WITNESS: Fees, see Compilers' § 775.13.

775.8 Expenses of certain witnesses for people; certified copy of order.

Sec. 8. The clerk of the court by which such order shall be made, shall immediately make out and deliver a certified copy thereof to the person in whose favor the same is made, without any fee for such service.

HISTORY: CL 1929, 17478;—CL 1948, 775.8. This section re-enacts Sec. 8 of R.S. 1846, Ch. 169, being CL 1857, 5685;—CL 1871, 7484;—How. 9059;—CL 1897, 12010;—CL 1915, 15903.

775.9 Expenses of certain witnesses for people; payment by county treasurer.

Sec. 9. Upon the production of such certified copy to the county treasurer, or as soon thereafter as he shall have sufficient moneys in his hands, he shall pay to the person authorized to receive the same, or to his order, the sum of money so directed to be paid, which shall be allowed to the treasurer in his accounts.

HISTORY: CL 1929, 17479;—CL 1948, 775.9. This section re-enacts Sec. 9 of R.S. 1846, Ch. 169, being CL 1857, 5686;—CL 1871, 7485;—How. 9060;—CL 1897, 12011;—CL 1915, 15904.

775.10 Fees; prohibited as in civil cases.

Sec. 10. The provisions of law prohibiting the taking of any fees for services in civil cases, other than such as are allowed by law, shall apply to the taking of fees in criminal cases beyond the amount allowed by law for such services.

HISTORY: CL 1929, 17480;—CL 1948, 775.10. This section re-enacts Sec. 10 of R.S. 1846, Ch. 169, being CL 1857, 5687;—CL 1871, 7486;—How. 9061;—CL 1897, 12012;—CL 1915, 15905.

CIVIL CASES: What fees prohibited, see Compilers' § 600.2513 et seq.

775.11 Fees; services of prosecutor.

Sec. 11. In all criminal prosecutions where an indictment shall be found and judgment for costs against the defendant shall be rendered, there shall be taxed for the use of the county the following fees for the services of the prosecuting attorney, to-wit: For drawing an indictment, 2 dollars; for trying the cause, 4 dollars; for arguing each motion in arrest of judgment, or for a new trial, 2 dollars; for services where exceptions are taken by defendant, 2 dollars; for every discharge of the prosecution on the acknowledgment of satisfaction in such cases as are authorized by law, 2 dollars.

HISTORY: CL 1929, 17481;—CL 1948, 775.11. This section re-enacts Sec. 11 of R.S. 1846, Ch. 169, being CL 1857, 5688;—CL 1871, 7487;—How. 9062;—CL 1897, 12013;—CL 1915, 15906, omitting word "the" before "defendant".

775.12 Prosecution at instance of private person; cost; security, payment, execution.

Sec. 12. In all prosecutions for any crime or misdemeanor, when the prosecution is at the instance of a private person, and not of some public officer or of the grand jury, such person shall give security for costs and if the defendant or prisoner be discharged

on examination by such magistrate, or acquitted on trial, or a nolle prosequi be entered on the indictment by order of the court before which it may be pending, the complainant shall pay all costs which shall have accrued to the court, sheriff, constable and jury, and upon proceedings had upon such complaint, execution shall issue for the collection of such costs as in civil cases, as well against the surety as against the complainant, unless the magistrate or court before whom the complaint is made or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

HISTORY: CL 1929, 17482;—CL 1948, 775.12. This section re-enacts Sec. 1 of Act 77 of 1849, being CL 1857, 5689;—CL 1871, 7456,—How. 9063;—CL 1897, 12014;—CL 1915, 15907, omitting first word, "that", changing "prosecutor" to "complainant".
CIVIL CASES: See GCR 109.

775.13 Witness fees; mileage.

Sec. 13. Whenever any person shall attend any court as a witness in behalf of the people of this state upon request of the public prosecutor, or upon a subpoena, or by virtue of any recognizance for that purpose, he shall be entitled to the following fees: For attending in a court of record, \$12.00 for each day and \$6.00 for each half day; for attending in a justice court or upon an examination, \$10.00 for each day and \$5.00 for each half day; and for traveling, at the rate of 10 cents per mile in going to and returning from the place of attendance, to be estimated from the residence of such witness if within the state; if without the state, from the boundary line which witness passed in going to attend the court.

Peace officers, witness fees.

No peace officer shall receive any fee as a witness in behalf of the people of this state if he is on duty at the time he shall attend court, nor shall he receive compensation in going to the place of attendance unless he shall travel thereto at his own expense.

HISTORY: CL 1929, 17483;—CL 1948, 775.13;—Am. 1952, p. 124, Act 106, Eff. Sep. 18;—Am. 1955, p. 109, Act 67, Imd. Eff. May 24,—Am. 1963, p. 185, Act 132, Eff. Sep. 6;—Am. 1966, p. 32, Act 17, Eff. Jan. 1, 1967.

This section supersedes Sec. 2 of Act 77 of 1849, being CL 1857, 5690;—CL 1871, 7489;—As Am. 1875, p. 225, Act 192, Eff. Aug. 3;—How. 9064;—CL 1897, 12015;—CL 1915, 15906;—As Am. 1923, p. 401, Act 253, Eff. Aug. 30.

775.13a Expert witnesses; payment of sum in excess of ordinary witness fee.

Sec. 13a. Whenever any person shall attend any court, including justice or municipal court, as a witness in a criminal case upon request of the public prosecutor, city attorney, or defendant by virtue of any recognizance or subpoena for that purpose, whether at the trial of the case or any other proceedings in the case, to testify as an expert witness, he may be paid as compensation for his services a sum in excess of the ordinary witness fees provided by law. The sum to be awarded shall be determined by the judge before whom the witness appears.

HISTORY: Add. 1966, p. 171, Act 148, Eff. Mar. 10, 1967.

775.14 Expert witnesses; proof of attendance and travel, certificate, payment of fees.

Sec. 14. In courts of record such witness shall prove his attendance and travel in open court before the clerk, and in justice courts before the justice, on the day of trial, or upon an examination, and a certificate thereof from the justice, countersigned by the prosecuting attorney of the county, shall authorize the county clerk to draw an order upon the county treasurer for the payment of the fees of such witnesses attending such justice court as aforesaid, which order shall be paid by the said county treasurer in like manner as witness fees in courts of record are paid, and an order therefor from

the clerk of such court of record shall authorize the county treasurer to pay the fees of witnesses attending such court of record as aforesaid in the same manner as the fees of jurors attending such courts are paid.

HISTORY: CL 1929, 17484;—CL 1948, 775.14. This section re-enacts Sec. 3 of Act 77 of 1849, being CL 1857, 5689;—CL 1871, 7486;—How. 9065;—As Am. 1887, p. 187, Act 180, Eff. Sept. 28;—CL 1897, 12016;—CL 1915, 15909.

775.15 Accused unable to procure witness; subpoena, fee.

Sec. 15. If any person accused of any crime or misdemeanor, and about to be tried therefor in any court of record in this state, shall make it appear to the satisfaction of the judge presiding over the court wherein such trial is to be had, by his own oath, or otherwise, that there is a material witness in his favor within the jurisdiction of the court, without whose testimony he cannot safely proceed to a trial, giving the name and place of residence of such witness, and that such accused person is poor and has not and cannot obtain the means to procure the attendance of such witness at the place of trial, the judge in his discretion may, at a time when the prosecuting officer of the county is present, make an order that a subpoena be issued from such court for such witness in his favor, and that it be served by the proper officer of the court. And it shall be the duty of such officer to serve such subpoena, and of the witness or witnesses named therein to attend the trial, and the officer serving such subpoena shall be paid therefor, and the witness therein named shall be paid for attending such trial, in the same manner as if such witness or witnesses had been subpoenaed in behalf of the people.

HISTORY: CL 1929, 17485;—CL 1948, 775.15. This section re-enacts Act 226 of 1849, being CL 1857, 5693;—CL 1871, 7492;—As Am. 1877, p. 16, Act 24, Eff. Aug. 21;—How. 9067;—CL 1897, 12017;—CL 1915, 15911.

775.16 Accused unable to procure counsel; examination, defense, payment by county.

Sec. 16. Whenever any person charged with having committed any felony or misdemeanor not cognizable by a justice of the peace or magistrate and who appears before such justice of the peace or magistrate without counsel, and who shall not have waived examination upon the charge upon which he appears, such person shall be advised of his right to have counsel appointed for such examination, and if such person states that he is unable to procure counsel, the justice or magistrate shall notify the presiding judge of the circuit court in the jurisdiction of which the offense is alleged to have occurred, and upon proper showing the presiding judge shall appoint some attorney to conduct the accused's examination before a justice court or examining magistrate and to conduct the defense, and the attorney so appointed shall be entitled to receive from the county treasurer on the certificate of the presiding judge that such services have been duly rendered, such an amount as the presiding judge shall in his discretion deem reasonable compensation for the services performed.

HISTORY: CL 1929, 17486;—CL 1948, 775.16;—Am. 1957, p. 313, Act 256, Eff. Sep. 27;—Am. 1963, p. 185, Act 132, Eff. Sep. 6.

This section re-enacts, except proviso, Sec. 1 of Act 109 of 1857, being CL 1857, 5675;—CL 1871, 7471;—How. 9046;—As Am. 1893, p. 121, Act 96, Eff. Aug. 28;—CL 1897, 12018;—As Am. 1911, p. 32, Act 23, Eff. Aug. 1;—CL 1915, 15912.

775.17 Accused unable to procure counsel; attorney, duty; enlarged compensation.

Sec. 17. An attorney shall not, in such case, be compelled to follow a case into another county or into the supreme court, but if he does so, may recover an enlarged compensation to be fixed by the court.

HISTORY: CL 1929, 17487;—CL 1948, 775.17. This section supersedes Sec. 2 of Act 109 of 1857, being CL 1857, 5676;—CL 1871, 7472;—How. 9047;—CL 1897, 12019;—CL 1915, 15913.

775.18 Accused unable to procure counsel; number of attorneys; affidavit.

Sec. 18. Only 1 attorney in any 1 case shall receive the compensation above contemplated, nor shall he be entitled to this compensation until he files his affidavit in the office of the county clerk, in which such trial or proceedings may be had, that he has

not, directly or indirectly, received any compensation for such services from any other source.

HISTORY: CL 1929, 17488;—CL 1948, 775.18. This section re-enacts Sec. 3 of Act 109 of 1857, being CL 1857, 5677;—CL 1871, 7473;—How. 9048;—CL 1897, 12020;—CL 1915, 15914.

775.19 Compensation of interpreter; amount, payment.

Sec. 19. Whenever any person shall attend any court as an interpreter for the purpose of interpreting the testimony of any witness given in behalf of the people of this state, or for the purpose of translating or interpreting any writing or document introduced or used in any court in behalf of the people of this state, either upon request of the prosecuting attorney or by and with the consent of the presiding judge or justice of the peace, he shall receive such compensation as shall be ordered by said presiding judge or justice of the peace. The compensation for such interpreter in the justice court shall not exceed the sum of \$25.00 for each day and the sum of \$15.00 for each half day actually employed. The certificate of the clerk of a court of record or of a justice of the peace stating the amount ordered to be paid as hereinbefore provided, shall authorize the county treasurer to pay the amount therein stated.

HISTORY: CL 1929, 17489;—CL 1948, 775.19;—Am. 1955, p. 26, Act 27, Imd. Eff. Apr. 13;—Am. 1957, p. 17, Act 11, Eff. Sep. 27. This section re-enacts Act 134 of 1915, being CL 1915, 15915, omitting first word, "that".

775.19a Compensation of interpreter; appointment for defendant, compensation.

Sec. 19a. If any person is accused of any crime or misdemeanor and is about to be examined or tried before any justice of the peace, magistrate or judge of a court of record and it appears to the magistrate or judge that such person is incapable of adequately understanding the charge or presenting his defense thereto because of a lack of ability to understand or speak the English language or inability adequately to communicate by reason of being deaf and/or mute, or that such person suffers from a speech defect or other physical defect which handicaps such person in maintaining his rights in such cause, the justice of the peace, magistrate or judge shall appoint a qualified person to act as an interpreter. The interpreter so appointed shall be compensated for his services in the same amount and manner as is provided for interpreters in section 19 of this chapter.

HISTORY: Add. 1955, p. 27, Act 27, Imd. Eff. Apr. 13.

775.20 Expenses of prosecution for malfeasance in state office; payment.

Sec. 20. The expenses of all prosecutions against persons holding or who may have held any state office, for malfeasance in office, shall be paid from the general fund, by the state treasurer, and the board of state auditors are hereby authorized and empowered to allow all just and legal claims for such prosecutions, and this section shall be deemed to apply to the expenses of any prosecutions already commenced, as well as to any which may occur in the future.

HISTORY: CL 1929, 17490;—CL 1948, 775.20. This section re-enacts Act 223 of 1861, being CL 1871, 376;—How. 342;—CL 1897, 12021. —As Am. 1909, p. 444, Act 280, Eff. Sept. 1;—CL 1915, 15916, changing "act" to "section".

775.21 Proceeding instituted by attorney general; costs, payment by state.

Sec. 21. Whenever the attorney general shall institute criminal proceedings in any county in this state, all costs incurred in such proceedings, except the pay of circuit judges, prosecuting attorneys, and circuit court stenographers, may be paid by the state with the approval of the state administrative board.

HISTORY: CL 1929, 17491;—CL 1948, 775.21. This section re-enacts Act 271 of 1923.

CHAPTER XVI.
MISCELLANEOUS PROVISIONS.

776.1-776.5 Repealed.

- 776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.
- 776.7 Extradition; demand for certain persons by another state; warrant to sheriff, examination, attorney general's report.
- 776.8 Extradition; warrant to agent; issuance, contents.
- 776.9 Extradition; persons liable to; complaint, warrant.
- 776.10 Extradition; examination, recognizance.
- 776.11 Extradition; failure or inability to recognize, commitment, default.
- 776.12 Extradition; discharge, delivery to authorized person, new recognizance or commitment.

- 776.13 Extradition; complainant to support prisoner and cost, liability; failure to pay, effect.
- 776.14 Prosecuting attorney; right to defend person charged with crime in county.
- 776.15 Prosecuting attorney; right to defend accused in case transferred from another county; county liable for assistance in prosecution.
- 776.18 Assistant; right of prosecutor to procure; compensation, qualification.
- 776.19 Reward for criminal or escaped prisoner; authority to offer and pay.
- 776.20 Firearms violations; burden of establishing exception.

776.1-776.5 Repealed. 1966, p. 216, Act 189, Eff. Mar. 10, 1967.

Sections related to issuance and contents of search warrants and to custody and disposal of seized property.

776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.

Sec. 6. The governor of this state may in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other state or territory, or from the executive authority of any foreign government, any fugitive from justice or any person charged with treason; and the accounts of the agents appointed for that purpose shall, unless otherwise directed by the governor, be audited by the auditor general and paid out of the state treasury.

HISTORY: CL 1929, 17496;—CL 1948, 776.6. This section re-enacts Sec. 6 of R.S. 1846, Ch. 170, as Am. 1853, p. 1, Act 1, Imd. Eff. Jan. 10, being CL 1857, 6119;—CL 1871, 8004;—How. 9620;—CL 1897, 11991;—CL 1915, 15884.

UNIFORM ACT: See Compilers' § 780.1 et seq.

776.7 Extradition; demand for certain persons by another state; warrant to sheriff, examination, attorney general's report.

Sec. 7. Whenever a demand shall be made upon the governor of this state by the governor of any other state or territory in any case authorized by the constitution and laws of the United States for the delivery over of any person charged in such state or territory with treason, felony or any other crime and there shall be produced with such demand a copy of the indictment found or information filed, or affidavit or complaint made before a magistrate of the state or territory demanding, charging the person so demanded with having committed treason, felony, or other crime within such state or territory, duly certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, with due proof of the fleeing, it shall be the duty of the governor of this state to issue an order or warrant to the sheriff of the county in which such person so charged may be found, commanding him to forthwith arrest such alleged fugitive and to deliver him to the duly authorized agent appointed by the executive authority making such demand to receive him and remove him to the proper place for prosecution. But the sheriff, while the alleged fugitive is in his custody and before delivering him up to the agent of the demanding state, shall afford him every facility to enable him to have a judicial examination if he desires it, by habeas corpus or otherwise, to ascertain whether the demand and arrest have been made conformably to the requirements of law so that such person if he ought not to be delivered may be duly discharged, and the attorney general when required by the governor shall forthwith investigate the grounds of demand and report to the governor all

material facts, which may come to his knowledge, as to the situation and circumstances of the person so demanded, and especially whether he is held in custody or is under recognizance to answer for any offense against the laws of this state, or of the United States or by virtue of any civil process, and also whether such demand was made conformably to law, so that such person ought not to be delivered up.

HISTORY: CL 1929, 17497;—CL 1948, 776.7. This section supersedes Sec. 7 of R.S. 1846, Ch. 170, being CL 1857, 6120;—CL 1871, 9005;—As Am. 1879, p. 211, Act 235, Eff. Aug. 30;—How. 9621;—CL 1897, 11992;—CL 1915, 15885.

776.8 Extradition; warrant to agent; issuance, contents.

Sec. 8. If the governor shall be satisfied that the demand is conformable to law, and ought to be complied with, he shall issue his warrant, under the seal of the state, authorizing the agents who make such demand, either forthwith or at such time as shall be designated in the warrant, to take and transport such person to the line of this state, at the expense of such agents, and shall also by such warrant require the civil officers within this state to afford all needful assistance in the execution thereof.

HISTORY: CL 1929, 17498;—CL 1948, 776.8. This section re-enacts Sec. 8 of R.S. 1846, Ch. 170, being CL 1857, 6121;—CL 1871, 9006;—How. 9622;—CL 1897, 11993;—CL 1915, 15886.

776.9 Extradition; persons liable to; complaint, warrant.

Sec. 9. Whenever any person shall be found within this state charged with any offense committed in any other state or territory and liable by the constitution and laws of the United States to be delivered over upon the demand of the governor of such other state or territory, any court or magistrate authorized to issue warrants in criminal cases, may upon complaint on oath setting forth the offense, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same or some other court or magistrate, within this state, to answer to such complaint as in other cases.

HISTORY: CL 1929, 17499;—CL 1948, 776.9. This section re-enacts Sec. 9 of R.S. 1846, Ch. 170, being CL 1857, 6122;—CL 1871, 9007;—How. 9623;—CL 1897, 11994;—CL 1915, 15887.

776.10 Extradition; examination, recognizance.

Sec. 10. If, upon the examination of the person charged, it shall appear to the court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall if not charged with a capital crime, or with murder in the first degree, be required to recognize, with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the governor, and to abide the order of such court or magistrate in the premises.

HISTORY: CL 1929, 17500;—CL 1948, 776.10. This section re-enacts Sec. 10 of R.S. 1846, Ch. 170, being CL 1857, 6123;—CL 1871, 9008;—How. 9624;—CL 1897, 11995;—CL 1915, 15888.

776.11 Extradition; failure or inability to recognize, commitment, default.

Sec. 11. If such person shall not recognize, or if he shall be charged with a capital crime, or with the crime of murder in the first degree, he shall be committed to prison and there detained until such day in like manner as if the offense charged had been committed within this state; and if the person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted and the same proceedings shall be had as in the case of other recognizances entered into before such court or magistrate.

HISTORY: CL 1929, 17501;—CL 1948, 776.11. This section re-enacts Sec. 11 of R.S. 1846, Ch. 170, being CL 1857, 6124;—CL 1871, 9009;—How. 9625;—CL 1897, 11996;—CL 1915, 15889.

776.12 Extradition; discharge, delivery to authorized person, new recognizance or commitment.

Sec. 12. If the person so recognized or committed, shall appear before the court or magistrate upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the governor to receive him, or unless

the court or magistrate shall see cause to commit him, or to require him to recognize anew for his appearance at some other day; and if, when ordered, he shall not so recognize, he shall be committed and detained as before: Provided, That whether the person so charged shall be recognized, committed or discharged, any person authorized by the warrant of the governor may, at all times, take him into custody and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

HISTORY: CL 1929, 17502;—CL 1948, 776.12. This section re-enacts Sec. 12 of R.S. 1846, Ch. 170, being CL 1857, 6125;—CL 1871, 8010;—How. 9626;—CL 1897, 11997;—CL 1915, 15890.

776.13 Extradition; complainant to support prisoner and cost, liability; failure to pay, effect.

Sec. 13. The complainant in any such case shall be answerable for all the actual costs and charges and for the support in prison of any person so committed, to be paid weekly or otherwise as may be ordered by the court or magistrate; and if the charge for his support in prison shall not be so paid, the jailer may on the failure of the complainant discharge such person from his imprisonment.

HISTORY: CL 1929, 17503;—CL 1948, 776.13. This section re-enacts Sec. 13 of R.S. 1846, Ch. 170, being CL 1857, 6126;—CL 1871, 8011;—How. 9627;—CL 1897, 11998;—CL 1915, 15891.

776.14 Prosecuting attorney; right to defend person charged with crime in county.

Sec. 14. It shall be unlawful for any prosecuting attorney of this state to defend or assist in the defense of any person charged with crime within the county of which he is prosecuting attorney.

HISTORY: CL 1929, 17504;—CL 1948, 776.14. This section re-enacts Sec. 1 of Act 23 of 1897, being CL 1897, 2565;—CL 1915, 2414, omitting first word, "that", which, however, was not expressly repealed by this act.

PROSECUTING ATTORNEY: For general provisions relative to, see Compilers' § 49.11 et seq.

ASSISTANT PROSECUTING ATTORNEY: Disqualifications and disabilities, see Compilers' § 49.42.

DIVORCE SUIT: Right of prosecutor to serve as counsel where court has ordered his appearance to contest suit, see Compilers' § 552.45.

776.15 Prosecuting attorney; right to defend accused in case transferred from another county; county liable for assistance in prosecution.

Sec. 15. When any criminal cases commenced by the people of the state of Michigan within any county of this state shall be transferred to another county for trial for any reason whatsoever, the prosecuting attorney of the county to which said cause is transferred shall be prohibited from defending or assisting in the defense of the cause so transferred; and in case the prosecuting attorney of the county to which said cause is transferred shall be employed to assist in the prosecution of said cause, the county from which said cause was transferred shall pay such charges to such prosecuting attorney as the court may allow.

HISTORY: CL 1929, 17505;—CL 1948, 776.15. This section re-enacts Sec. 2 of Act 23 of 1897, being CL 1897, 2566;—CL 1915, 2415, changing "case" to "cases" in first sentence, which, however, was not expressly repealed by this act.

Secs. 16-17.

HISTORY: CL 1929, 17506-17507;—Rep. 1931, p. 742, 754, Act 328, Eff. Sept. 18.

For antecedents see history notes to CL 1929, 17506-17507.

These sections provided penalties for partner of prosecuting attorney defending accused. For present law, see Compilers' § 750.487.

776.18 Assistant; right of prosecutor to procure; compensation, qualification.

Sec. 18. The prosecuting attorney may, under the direction of the court, procure such assistance in the trial of any person charged with a felony as he may deem necessary for the trial thereof, and the prosecuting attorney may, under the direction of the court, in case of disability of the prosecuting attorney, appoint an assistant to perform his duties during the disability of the prosecuting attorney, and such assistant shall be allowed such reasonable compensation as the board of supervisors or the board of county auditors in counties having county auditors shall determine, for his services to be paid by the county treasurer upon presenting to said board the certificate of the

circuit judge of the county for which such services were performed, certifying to the services rendered by such assistant: Provided, That no person or attorney shall be employed or appointed as assistant who is interested as attorney or otherwise in any case involving the same facts or circumstances involved in the cases to be conducted or tried by said assistant, or who has received any compensation from any person or persons who are interested in such cases.

HISTORY: CL 1929, 17509;—CL 1948, 776.18. This section re-enacts Act 195 of 1879, being How. 560;—CL 1897, 2569;—As Am. 1915, p. 457, Act 258, Eff. Aug. 24;—CL 1915, 2418, omitting first word, "that", changing words "the crime of" to "a" before "felony", which, however, was not expressly repealed by this act.

ASSISTANT PROSECUTING ATTORNEY: See Compilers' § 49.41 et seq.

776.19 Reward for criminal or escaped prisoner; authority to offer and pay.

Sec. 19. The board of supervisors is hereby authorized to offer and pay out of the general fund of the county not to exceed 2,000 dollars as a reward for the arrest and conviction, or for information leading to the arrest and conviction of any person or persons having committed a crime within the county or having escaped from any penal institution therein: Provided, That the powers granted hereby may be exercised by the finance committee of the board of supervisors when said board of supervisors is not in session.

HISTORY: CL 1929, 17509;—CL 1948, 776.19. This section re-enacted Sec. 2 of Act 156 of 1851, being CL 1857, 336;—CL 1871, 468;—How. 474;—As Am. 1925, p. 380, Act 262, Eff. Aug. 27, changing amount of reward from 1 to 2 thousand and using word "when" instead of "where" in last line, which, however, was not expressly repealed by this act. Said Sec. 2 was amended by Act 310 of 1927 and is Compilers' § 46.2. This section as originally enacted contained special provisions relative to supervisors in villages of Detroit and Monroe which have long since been superseded by charter provisions.

776.20 Firearms violations; burden of establishing exception.

Sec. 20. In any prosecution for the violation of any acts of the state relative to use, licensing and possession of pistols or firearms, the burden of establishing any exception, excuse, proviso or exemption contained in any such act shall be upon the defendant but this does not shift the burden of proof for the violation.

HISTORY: Add. 1968, p. 510, Act 299, Eff. Nov. 15.

CHAPTER XVII.

REPEALS.

Sec. 1. (This was a repeal section.)

HISTORY: CL 1929, 17510.—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACTS REPEALED:

Chapter Number	Revised Statutes of Year	Compiled Law Sections (1915)	Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1915)
94	1846	15769-15796	84	1883		15662-15664
151	1846	15623-15626	108	1883	1	15811
161	1846	15603-15622	77	1887		15858
162	1846	15627-15643	132	1887		15586-15589
163	1846	15665-15696	12	1891	3	
164	1846	15702-15738	118	1893	64-65	1762-1763
165	1846	15815-15819, 15821-15829	124 176	1893 1893	19	1424 15833-15835
166	1846	15836-15842	138	1895		15700
167	1846	15645-15655	58	1903	2	15814
168	1846	15643-15655	91	1903		
169	1846	15896-15899, 15901-15906	184 238	1905 1905	1,2,3,4 19	15859-15862 1424
170	1846	15879-15896	4 260	1909 1909	1	15832 15916 15912
Public Act Number	Year of Act	Section Numbers	Compiled Law Sections (1915)			
98	1840		15699	23	1911	1
77	1849		15907-15909	105	1913	
226	1849		15911	134	1915	
258	1849		15797-15808	Public Act Number	Year of Act	Section Numbers
119	1850		15347-15349	35	1917	65
162	1850	3	15856	159	1917	
166	1851	3		196	1917	
77	1855		15739-15759	208	1917	
109	1857		15912-15914	250	1917	
138	1859		15760-15768	329	1917	
159	1859		15697-15698	332	1919	
228	1859		15701	385	1919	
88	1861		15656-15658	143	1921	10-11
195	1861		15894-15895	203	1921	2,3,4
209	1861		15831-15832	248	1921	
223	1861		15916	259	1921	3
147	1863		15760-15768	395	1921	2
170	1867		15857	399	1921	
57	1873		15660-15661	151	1923	54
117	1873		15820	253	1923	2
99	1875		15830	271	1923	
177	1875		15644	50	1925	15
24	1877		15911	124	1925	
82	1877		15699	139	1925	1
141	1879		15644	203	1925	
212	1879		15809-15810	302	1925	6,19
214	1879		15900	362	1925	7
139	1881		15659	17	1926 (Ex. Ses.)	
205	1881		15813-15814			

Sec. 2. (This was a severing clause section.)

HISTORY: CL 1915, 17511.—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 17512.—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

CHAPTER 780. CODE OF CRIMINAL PROCEDURE—SUPPLEMENTAL CHAPTER

UNIFORM CRIMINAL EXTRADITION ACT Act 144 of 1937

- 780.1 Uniform criminal extradition act; definitions.
- 780.2 Fugitives from justice; duty of governor.
- 780.3 Form of demand.
- 780.3a Extradition; persons not present in demanding state at time of commission of crime.
- 780.4 Investigation by governor.
- 780.5 Extradition; persons imprisoned or awaiting trial in another state or who have left demanding state under compulsion.
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- 780.7 Governor's warrant; execution, manner and place.
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- 780.12 Arrest prior to requisition.
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- 780.15 Bail; type of cases; condition of bond.
- 780.16 Extension of time of commitment; adjournment.
- 780.17 Forfeiture of bail.
- 780.18 Persons under criminal prosecution in state at time of requisition.
- 780.19 Guilt or innocence of accused when inquired into.
- 780.20 Governor's warrant; recall or issuance of another.
- 780.21 Fugitives from state; duty of governor.
- 780.22 Application for issuance of requisition; contents.
- 780.23 Costs and expenses.
- 780.24 Immunity from service of process in certain civil actions.
- 780.25 Written waiver of extradition proceedings.
- 780.26 Non-waiver by state.
- 780.27 No right of asylum.
- 780.28 Interpretation of act.
- 780.31 Uniform criminal extradition act; short title.

UNIFORM RENDITION OF ACCUSED PERSONS ACT Act 281 of 1968

- 780.41 Uniform rendition of accused persons act; short title.
- 780.42 Arrest of accused person illegally in state; warrant, procedure.
- 780.43 Hearing; right to counsel; waiver of hearing; condition of release.
- 780.44 Hearing; report of investigation; order authorizing return of accused.
- 780.45 Construction of act.

JURISDICTION OVER GREAT LAKES WATERS Act 191 of 1965

- 780.51 Municipalities; jurisdiction.
- 780.52 Construction of act.

BAIL FOR TRAFFIC OFFENSES OR MISDEMEANORS Act 257 of 1966

- 780.61 Bail for traffic offenses or misdemeanors; definitions.
- 780.62 Release upon own recognizance; failure to appear, misdemeanor; forfeiture.
- 780.63 Failure to appear; arrest.
- 780.64 Amount of bail.
- 780.65 Increase or reduction in amount of bail; notices; alteration of conditions of bond.
- 780.66 Bail deposit; moneys; minimum amount; procedure.
- 780.67 Bail bond in lieu of bail deposit; security required.
Bond secured by cash or stocks and bonds; schedule, contents.
Bond secured by real estate; schedule, contents.
False statements in schedule; penalty.
Certified copy of bond and schedule; filing; lien of state; indexing, recording; fee.
Performance of conditions of bond; return of deposit; discharge of lien.
Forfeiture of bail; notice; entry of judgment.
Execution judgment; procedure.
Use of security only once in 12-month period.
- 780.68 Bail taken by peace officer; release of offender; receipt; deposit with clerk of court.
- 780.69 Conditions of bail bonds before conviction.
- 780.70 Bail on new trial; increase or reduction pending on trial.
- 780.71 Notice of address change.
- 780.72 Persons prohibited from furnishing bail security.
- 780.73 Credit for incarceration on bailable offense; limitation.

UNIFORM FRESH PURSUIT ACT Act 189 of 1937

- 780.101 Uniform act on fresh pursuit; arrest by officer from other state.
- 780.102 Uniform act on fresh pursuit; procedure.
- 780.103 Section one construed.
- 780.104 State; construction of term.
- 780.105 Fresh pursuit; definition.
- 780.106 Certified copies of act; executive department of states.
- 780.108 Uniform act on fresh pursuit; short title.

UNIFORM RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS ACT

Act 161 of 1967

- 780.111 Uniform rendition of prisoners as witnesses in criminal proceedings act; short title.

- 780.112 Uniform rendition of prisoners as witnesses in criminal proceedings act; definitions.
- 780.113 Request of foreign court; certificate of state judge having jurisdiction over prisoner, contents; notice; hearing.
- 780.114 Orders directing witness to attend and testify; contents; production of witness.
- 780.115 Orders; contents; custodial safeguards; expenses; time effective.
- 780.116 Inapplicability of act.
- 780.117 Request for witnesses confined in foreign state; certificate; contents; foreign court having jurisdiction over prisoner, presentment of certificate.
- 780.118 Order of compliance with terms and conditions of foreign judge.
- 780.119 Immunity of witness; arrest or service of process.
- 780.120 Construction of act.
- DISPOSITION OF UNTRIED CHARGES AGAINST PENAL INSTITUTION INMATES
Act 177 of 1957
- 780.131 Charges against penal institution inmates; untried warrants, indictments, information, complaints; trial, time; request for disposition; statement with terms of commitment.
- 780.132 Request; notice to prisoners.
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- UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT
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- 780.151 Uniform reciprocal enforcement of support act; short title.
- 780.152 Purpose of act.
- 780.153 Definitions.
- 780.154 Remedies additional.
- 780.155 Duty of support.
- 780.156 Governor to demand surrender of person found in foreign state; extradition provisions applicable.
- 780.157 Relieved of extradition; order.
- 780.158 Duties of support enforceable; obligor presumed present while support sought.
- 780.159 Reimbursement of expenditures.
- 780.160 Jurisdiction; petition.
- 780.160a Prosecuting attorney to represent petitioner; private counsel.
- 780.161 Petition; verification, contents, information, filing.
- 780.161a Petition; minor obligee.
- 780.162 Petition; copy to court of responding state; forwarding and filing.
- 780.162a Obtaining body of respondent; process.
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- 780.163 Court acting as responding state; duties.
- 780.163a Inability to obtain jurisdiction; respondent, location in another county.
- 780.163b Conduct of proceedings; manner.
- 780.164 Order to furnish support.
- 780.165 Orders transmitted to court of initiating state.
- 780.166 Additional powers of court.
- Recognizance.
- Payment, report.
- Contempt, punishment; assignment of wages; employer's liability; employer; defined.
- 780.167 Court acting as responding state; clerk of court or friend of court, duties.
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- 780.171 Order of support; court acting as responding state; concurrent jurisdiction.
- 780.172 Jurisdiction not conferred.
- 780.173 Friend of court or county clerk fees; disposition.
- 780.174 Foreign state; declaration of reciprocity; revocation.
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- 780.221 Municipal court; definition.
- 780.222 Files and papers; period to be filed; destruction.
- 780.223 Files and papers in criminal cases; period to be filed, destruction.
- 780.224 Files and papers in civil action; destruction, docket entry.
- 780.225 Dockets and books of journal entry; not construed as files and papers.
- GRAND JURY, UNLAWFUL PHOTOGRAPHING
Act 196 of 1931
- 780.301 Grand jury proceeding and persons connected therewith; photographs prohibited.
- 780.302 Violation of act; misdemeanor, penalty.
- MARRIED WOMAN, COERCION OF HUSBAND
Act 85 of 1935
- 780.401 Presumption that married woman commits offenses under coercion of husband; prohibition.
- CRIMINAL SEXUAL PSYCHOPATHIC PERSONS
Act 165 of 1939
- 780.501-780.509 Repealed.
- RETURN OF PAROLE VIOLATORS
Act 177 of 1956
- 780.551-780.553 Repealed.
- Act 276 of 1957
- 780.561 Return of parole violators; deputization of employees of other state.
- 780.562 Parole violators; evidence of deputization.
- 780.563 Parole violators; contracts for expenses, terms.
- 780.564 Binding effect of act.
- 780.565 Repeal.

RELEASE OF MISDEMEANOR PRISONERS

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- 780.581 Arrest without warrant for misdemeanor; bond for release; detention.
- 780.582 Arrest with warrant for misdemeanor; bond.
- 780.583 Cash bond; form; forfeiture; bench warrant.
- 780.583a Release on own recognizance; interim bond receipt.
- 780.584 Officer taking deposit; report; embezzlement.
- 780.585 Magistrate; change of bond amounts.
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- 780.587 Traffic offenses not affected.
- 780.588 Repeal.

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Act 141 of 1961

- 780.601 Interstate agreement on detainers.
- 780.602 Appropriate court; definition.
- 780.603 Agreement on detainers; cooperation to enforce.
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- 780.607 Agreement on detainers; director of department of corrections.
- 780.608 Agreement on detainers; copies of act, distribution.

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- 780.621 Motion to set aside conviction; persons eligible, hearing, order.
- 780.622 Entry of order; effect.

SEARCH WARRANTS

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- 780.651 Search warrant; issuance by magistrate on affidavit; oath; grounds.
- 780.652 Search warrant; grounds for issuance.
- 780.653 Magistrate's finding of reasonable or probable cause; basis for affidavit, contents.
- 780.654 Search warrant; direction of warrant, contents.
- 780.655 Articles seized upon search; tabulation, filing; custody; restoration to owner; disposition of other property.
- 780.656 Service of warrant; officer's authorization to use force.
- 780.657 Executing search warrant; wilfully exceeding authority; penalty.
- 780.658 Unlawful procurement of search warrant; penalty.
- 780.659 Repeal.

IMMUNITY TO WITNESSES

Act 289 of 1968

- 780.701 Immunity to witnesses; application, contents; order.
- 780.702 Immunity order; copy to witness; extent of order; record of testimony.
- 780.703 Failure or refusal to testify; contempt.
- 780.704 False testimony; perjury, penalty.
- 780.705 Right to counsel.

Act 144, 1937, p. 218; Eff. Oct. 29.

AN ACT relative to and to make uniform the procedure on interstate extradition; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

780.1 Uniform criminal extradition act; definitions.

Sec. 1. Definitions. Where appearing in this act, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

HISTORY: CL 1948, 780.1. This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted (those marked * being modified versions) by the legislatures of the following states: California, Delaware, Florida, Hawaii, *Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Virginia, West Virginia and Wisconsin.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.
CODE OF CRIMINAL PROCEDURE: See Compilers' § 776.6 et seq.

780.2 Fugitives from justice; duty of governor.

Sec. 2. Fugitives from justice; duty of governor. Subject to the provisions of this act, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

HISTORY: CL 1948, 780.2.

780.3 Form of demand.

Sec. 3. Form of demand. No demand for extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing, accompanied by the following papers:

- (1) Governor's requisition under the seal of the state;
- (2) Prosecutor's application for requisition for the return of a person charged with crime, wherein shall be stated:
 - (a) The name of the person so charged;
 - (b) The nature of the crime;
 - (c) The approximate time, place and circumstances of its commission;
 - (d) That the accused was present in demanding state at the time of commission of alleged crime;
 - (e) That he thereafter fled from the state;
 - (f) The state in which he is believed to be, including the location of the accused therein, at the time the application is made; certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to the demanding state for trial, and that the proceeding is not instituted to enforce a private claim;
- (3) Verification by affidavit of said application, which shall be accompanied by certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, and the warrant issued thereupon, stating the offense with which the accused is charged, or of the judgment of conviction or of a sentence imposed in execution thereof, together with a statement by executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. Affidavits or documents as the prosecutor may deem proper may be submitted with such application;
- (4) Executive warrant, under the seal of the state, authorizing agent, therein named, to receive the person demanded;
- (5) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment or conviction or sentence must be authenticated by the executive authority making the demand.

HISTORY: CL 1948, 780.3.

780.3a Extradition; persons not present in demanding state at time of commission of crime.

Sec. 3a. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent shall apply to such

cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom, and the requirements contained in subdivisions (d) and (e) of section 3 of this act shall not apply to such cases.

HISTORY: Add. 1939, p. 137, Act 81, Eff. Sept. 29;—Am. 1947, p. 195, Act 143, Imd. Eff. May 29;—CL 1948, 780.3a.

780.4 Investigation by governor.

Sec. 4. Governor may investigate case. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

HISTORY: CL 1948, 780.4.

780.5 Extradition; persons imprisoned or awaiting trial in another state or who have left demanding state under compulsion.

Sec. 5. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 22 of this act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

HISTORY: CL 1948, 780.5.

780.6 Governor's warrant; issuance, recitals.

Sec. 6. Issue of governor's warrant of arrest; its recitals. If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

HISTORY: CL 1948, 780.6.

780.7 Governor's warrant; execution, manner and place.

Sec. 7. Manner and place of execution. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

HISTORY: CL 1948, 780.7.

780.8 Arresting officer; authority.

Sec. 8. Authority of arresting officer. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

HISTORY: CL 1948, 780.8.

780.9 Rights of accused persons; writ of habeas corpus, application.

Sec. 9. Rights of accused person; application for writ of habeas corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

HISTORY: CL 1948, 780.9.

780.10 Violation of section; misdemeanor, penalty.

Sec. 10. Penalty for non-compliance with preceding section. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined, not more than 1,000 dollars or be imprisoned not more than 6 months or both.

HISTORY: CL 1948, 780.10.

780.11 Confinement in jail; necessary circumstances.

Sec. 11. Confinement in jail when necessary. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping: Provided, however, That such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

HISTORY: CL 1948, 780.11.

780.12 Arrest prior to requisition.

Sec. 12. Arrest prior to requisition. Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 3a, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in

another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 3a, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

HISTORY: Am. 1939, p. 138, Act 81, Eff. Sept. 29;—CL 1948, 780.12.

780.13 Arrest without warrant.

Sec. 13. Arrest without a warrant. The arrest of a person may be lawfully made also by any peace officer without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

HISTORY: CL 1948, 780.13.

780.14 Commitment to await requisition; bail.

Sec. 14. Commitment to await requisition; bail. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 3a, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

HISTORY: Am. 1939, p. 138, Act 81, Eff. Sept. 29;—CL 1948, 780.14.

780.15 Bail; type of cases; condition of bond.

Sec. 15. Bail; in what cases; condition of bond. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

HISTORY: CL 1948, 780.15.

780.16 Extension of time of commitment; adjournment.

Sec. 16. Extension of time of commitment, adjournment. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in section 15, but within a period not to exceed 60 days after the date of such new bond.

HISTORY: CL 1948, 780.16.

780.17 Forfeiture of bail.

Sec. 17. Forfeiture of bail. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

HISTORY: CL 1948, 780.17.

780.18 Persons under criminal prosecution in state at time of requisition.

Sec. 18. Persons under criminal prosecution in this state at time of requisition. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

HISTORY: CL 1948, 780.18.

780.19 Guilt or innocence of accused when inquired into.

Sec. 19. Guilt or innocence of the accused, when inquired into. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

HISTORY: CL 1948, 780.19.

780.20 Governor's warrant; recall or issuance of another.

Sec. 20. Governor may recall warrant or issue alias. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

HISTORY: CL 1948, 780.20.

780.21 Fugitives from state; duty of governor.

Sec. 21. Fugitives from this state; duty of governor. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

HISTORY: CL 1948, 780.21.

780.22 Application for issuance of requisition; contents.

Sec. 22. Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or they shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and 1 of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

HISTORY: CL 1948, 780.22.

780.23 Costs and expenses.

Sec. 23. In all extradition cases the expenses therefor shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all other necessary and reasonable expenses in returning such prisoner.

HISTORY: Am. 1947, p. 376, Act 247, Imd. Eff. June 20;—CL 1948, 780.23.

780.24 Immunity from service of process in certain civil actions.

Sec. 24. Immunity from service of process in certain civil actions. A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

HISTORY: CL 1948, 780.24.

780.25 Written waiver of extradition proceedings.

Sec. 25. Written waiver of extradition proceedings. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state: Provided, however, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 9.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the offi-

cer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

HISTORY: CL 1948, 780.25.

780.26 Non-waiver by state.

Sec. 26. Non-waiver by this state. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

HISTORY: CL 1948, 780.26.

780.27 No right of asylum.

Sec. 27. No right of asylum. No immunity from other criminal prosecutions while in this state. After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

HISTORY: CL 1948, 780.27.

780.28 Interpretation of act.

Sec. 28. Interpretation. The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

HISTORY: CL 1948, 780.28.

Sec. 29. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 30. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

780.31 Uniform criminal extradition act; short title.

Sec. 31. This act may be cited as the "uniform criminal extradition act".

HISTORY: CL 1948, 780.31.

Act 281, 1968, p. 483; Eff. Nov. 15.

AN ACT to enact the uniform rendition of accused persons act.

The People of the State of Michigan enact:

780.41 Uniform rendition of accused persons act; short title.

Sec. 1. This act may be cited as the "uniform rendition of accused persons act".

HISTORY: New 1968, p. 483, Act 281, Eff. Nov. 15.

780.42 Arrest of accused person illegally in state; warrant, procedure.

Sec. 2. (1) If a person who has been charged with crime in another state and released from custody prior to final judgment, including the final disposition of any appeal, is alleged to have violated the terms and conditions of his release, and is present in this state, a designated agent of the court, judge or magistrate which authorized the release may request the issuance of a warrant for the arrest of the person and an order authorizing his return to the demanding court, judge or magistrate. Before the warrant is issued, the designated agent shall file, with a judicial officer of this state having au-

thority under the laws of this state to issue warrants for the arrest of persons charged with crime, the following documents:

(a) An affidavit stating the name and whereabouts of the person whose removal is sought, the crime with which the person was charged, the time and place of the crime charged, and the status of the proceedings against him.

(b) A certified copy of the order or other document specifying the terms and conditions under which the person was released from custody.

(c) A certified copy of an order of the demanding court, judge or magistrate stating the manner in which the terms and the conditions of the release have been violated and designating the affiant its agent for seeking removal of the person.

(2) Upon initially determining that the affiant is a designated agent of the demanding court, judge or magistrate, and that there is probable cause for believing that the person whose removal is sought has violated the terms or conditions of his release, the judicial officer shall issue a warrant to a law enforcement officer of this state for the person's arrest.

(3) The judicial officer shall notify the prosecuting attorney of his action and shall direct him to investigate the case to ascertain the validity of the affidavits and documents required by subsection (1) and the identity and authority of the affiant.

HISTORY: New 1968, p. 483, Act 281, Eff. Nov. 15.

780.43 Hearing; right to counsel; waiver of hearing; condition of release.

Sec. 3. (1) The person whose removal is sought shall be brought before the judicial officer immediately upon arrest pursuant to the warrant; whereupon the judicial officer shall set a time and place for hearing, and shall advise the person of his right to have the assistance of counsel, to confront the witnesses against him, and to produce evidence in his own behalf at the hearing.

(2) The person whose removal is sought may at this time in writing waive the hearing and agree to be returned to the demanding court, judge or magistrate. If a waiver is executed, the judicial officer shall issue an order pursuant to section 3.

(3) The judicial officer may impose conditions of release authorized by the laws of this state which will reasonably assure the appearance at the hearing of the person whose removal is sought.

HISTORY: New 1968, p. 483, Act 281, Eff. Nov. 15.

780.44 Hearing; report of investigation; order authorizing return of accused.

Sec. 4. The prosecuting attorney shall appear at the hearing and report to the judicial officer the results of his investigation. If the judicial officer finds that the affiant is a designated agent of the demanding court, judge or magistrate and that the person whose removal is sought was released from custody by the demanding court, judge or magistrate, and that the person has violated the terms or conditions of his release, the judicial officer shall issue an order authorizing the return of the person to the custody of the demanding court, judge or magistrate forthwith.

HISTORY: New 1968, p. 483, Act 281, Eff. Nov. 15.

780.45 Construction of act.

Sec. 5. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1968, p. 484, Act 281, Eff. Nov. 15.

Act 191, 1965, p. 305; Imd. Eff. Jul. 15.

AN ACT to grant cities and incorporated villages jurisdiction as to Great Lakes waters or connecting waters adjoining their boundaries.

The People of the State of Michigan enact:

780.51 Municipalities; jurisdiction.

Sec. 1. A city or incorporated village, having a boundary running to the shoreline of any of the Great Lakes or connecting waters, through its peace officers, with or without a pertinent ordinance, may exercise concurrent jurisdiction as to such waters to enforce any criminal law of this state applicable to the conduct of persons in, on or over such waters which extend 1/2 mile lakeward from such boundary, but not beyond any interstate or international boundary.

HISTORY: New 1965, p. 305, Act 191, Imd. Eff. Jul. 15.

780.52 Construction of act.

Sec. 2. This act shall not be construed as granting any authority to regulate or control the erection, maintenance or destruction of any structure in, on or over such waters as may be covered by state law, or to grant a power to alter any federal or state law, rule or regulation pertaining to navigation, hunting or fishing.

HISTORY: New 1965, p. 305, Act 191, Imd. Eff. Jul. 15.

Act 257, 1966, p. 346; Eff. Mar. 10, 1967.

AN ACT to provide for bail of persons arrested for or accused of criminal offenses involving traffic offenses or misdemeanors; by prescribing the conditions under which security is required; by prescribing the kind and amount of security required; by prescribing the conditions under which security may be forfeited and the manner of forfeiture; by prescribing penalties for violations; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

780.61 Bail for traffic offenses or misdemeanors; definitions.

Sec. 1. As used in this act:

(a) "Security" means that which is required to be pledged to insure the payment of bail.

(b) "Surety" means one who executes a bail bond and binds himself to pay the bail if the person in custody fails to comply with all conditions of the bail bond.

HISTORY: New 1966, p. 346, Act 257, Eff. Mar. 10, 1967.

780.62 Release upon own recognizance; failure to appear, misdemeanor; forfeiture.

Sec. 2. When from all the circumstances involving traffic offenses in violation of state law, township traffic ordinances or municipal traffic ordinances or any misdemeanor offense, the court is of the opinion that the accused will appear as required either before or after conviction the accused may be released on his own recognizance. A failure to appear as required by such recognizance is a misdemeanor and any obligated sum fixed in the recognizance shall be forfeited and collected in accordance with section 6.

This section shall be liberally construed to effectuate the purpose of relying upon criminal sanctions instead of financial loss to assure the appearance of the accused.

HISTORY: New 1966, p. 347, Act 257, Eff. Mar. 10, 1967.

780.63 Failure to appear; arrest.

Sec. 3. Upon failure to comply with any condition of a bail bond or recognizance the court having jurisdiction at the time of such failure, in addition to any other action

provided by law, may issue a warrant for the arrest of the person at liberty on bail or his own recognizance.

HISTORY: New 1966, p. 347, Act 257, Eff. Mar. 10, 1967.

780.64 Amount of bail.

Sec. 4. (1) The amount of bail shall be:

- (a) Sufficient to assure compliance with the conditions set forth in the bail bond.
- (b) Not oppressive.
- (c) Commensurate with the nature of the offense charged.
- (d) Considerate of the past criminal acts and conduct of the defendant.
- (e) Considerate of the financial ability of the accused.
- (f) Uniform whether the bail bond be executed by the person for whom bail has been set or by a surety.

(2) When a person is charged with an offense punishable by a fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(3) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

HISTORY: New 1966, p. 347, Act 257, Eff. Mar. 10, 1967;—Am. 1969, p. 399, Act 221, Imd. Eff. Aug. 6.

780.65 Increase or reduction in amount of bail; notices; alteration of conditions of bond.

Sec. 5. (1) Upon application by the state or a local unit of government or the defendant the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond.

(2) Reasonable notice of the application by the defendant shall be given to the state.

(3) Reasonable notice of the application by the state or local unit of government shall be given to the defendant, except as provided in subsection (4).

(4) Upon verified application by the state or local unit of government stating facts or circumstances constituting a breach or a threatened breach of any of the conditions of the bail bond the court may issue a warrant commanding any peace officer to bring the defendant without unnecessary delay before the court for a hearing on the matters set forth in the application. At the conclusion of the hearing the court may enter an order authorized by subsection (1).

HISTORY: New 1966, p. 347, Act 257, Eff. Mar. 10, 1967.

780.66 Bail deposit; moneys; minimum amount; procedure.

Sec. 6. (1) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail but at least \$10.00.

(2) Upon depositing this sum the person shall be released from custody subject to the conditions of the bail bond.

(3) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original bail in that court subject to the provisions of section 5.

(4) After conviction the court may order that the original bail stand as bail pending appeal or increase or reduce bail.

(5) After the entry of an order by the trial court allowing bail pending appeal either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing bail pending appeal.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause the clerk of the court shall return to

the accused 90% of the sum which had been deposited and shall retain as bail bond costs 10% of the amount deposited, except that, if the accused has not been convicted of the charge, the entire sum deposited shall be returned to the accused.

(7) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed forthwith by the court to the accused at his last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault, the court shall enter judgment for the state or local unit of government against the accused for the amount of the bail and costs of the court proceedings. The deposit made in accordance with subsection (1) shall be applied to the payment of costs. If any amount of the deposit remains after the payment of costs it shall be applied to payment of the judgment and transferred to the treasury of the unit of government wherein the court is located. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(8) After a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a deposit had been made in accordance with subsection (1) the balance of such deposit, after deduction of bail bond costs, shall be applied to the payment of the judgment.

HISTORY: New 1966, p. 347, Act 257, Eff. Mar. 10, 1967.

780.67 Bail bond in lieu of bail deposit; security required.

Sec. 7. (1) In lieu of the bail deposit provided for in section 6 any person for whom bail has been set may execute the bail bond with or without sureties which bond may be secured:

(a) By a deposit, with the clerk of the court, of an amount equal to the required bail, of cash, or stocks and bonds in which trustees are authorized to invest trust funds under the laws of this state; or

(b) By real estate situated in this state with unencumbered equity not exempt owned by the accused or sureties worth double the amount of bail set in the bond.

Bond secured by cash or stocks and bonds; schedule, contents.

(2) If the bail bond is secured by cash or stocks and bonds the accused or sureties shall file with the bond a sworn schedule which contains:

(a) A list of the stocks and bonds deposited describing each in sufficient detail that it may be identified.

(b) The market value of each stock and bond.

(c) The total market value of the stocks and bonds listed.

(d) A statement that the affiant is the sole owner of the stocks and bonds listed and they are not exempt from execution.

(e) A statement that such stocks and bonds have not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that such stocks and bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

Bond secured by real estate; schedule, contents.

(3) If the bail bond is secured by real estate the accused or sureties shall file with the bond a sworn schedule which contains:

(a) A legal description of the real estate.

(b) A description of any and all encumbrances on the real estate including the amount of each and the holder thereof.

- (c) The market value of the unencumbered equity owned by the affiant.
- (d) A statement that the affiant is the sole owner of such unencumbered equity and that it is not exempt from execution.
- (e) A statement that the real estate has not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.
- (f) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

False statements in schedule; penalty.

(4) The sworn schedule shall constitute a material part of the bail bond. The affiant commits perjury if in the sworn schedule he makes a false statement which he does not believe to be true. He shall be prosecuted and punished accordingly, or he may be punished for contempt.

Certified copy of bond and schedule; filing; lien of state; indexing, recording; fee.

(5) A certified copy of the bail bond and schedule of real estate shall be filed immediately by the court in the office of the register of deeds of the county in which the real estate is situated and the state shall have a lien on the real estate from the time copies are filed in the office of the register of deeds. The register of deeds shall enter, index and record the bail bonds and schedules without requiring any advance fee, which fee shall be taxed as costs in the proceeding and paid out of the costs when collected.

Performance of conditions of bond; return of deposit; discharge of lien.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from his obligations in the cause, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate the clerk of the court shall forthwith notify in writing the register of deeds and the lien of the bail bond on the real estate shall be discharged.

Forfeiture of bail; notice; entry of judgment.

(7) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed forthwith by the clerk of the court to the accused and his sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault, the court shall enter judgment for the state or local unit of government against the accused and his sureties for the amount of the bail and costs of the proceedings.

Execution judgment; procedure.

(8) When judgment is entered in favor of the state or local unit of government on any bail bond the attorney for the local unit of government, the prosecuting attorney or the attorney general shall have execution issued on the judgment forthwith and deliver same to the sheriff to be executed by levy on the cash, stocks or bonds deposited with the clerk of the court and the real estate described in the bail bond schedule. The cash shall be used to satisfy the judgment and costs and paid into the treasury of the unit of government wherein the court is located. The stocks, bonds and real estate shall be sold in the same manner as in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment shall be paid into the treasury of the unit of government wherein the court is located. The balance shall be returned to the owner. The real estate so sold may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions.

Use of security only once in 12-month period.

(9) No stocks, bonds or real estate may be used or accepted as bail bond security in this state more than once in any 12-month period.

HISTORY: New 1966, p. 348, Act 257, Eff. Mar. 10, 1967.

780.68 Bail taken by peace officer; release of offender; receipt; deposit with clerk of court.

Sec. 8. When bail has been set by a judicial officer for a particular offense or offender, any sheriff or other peace officer may take bail in accordance with the provisions of section 6 or 7 and release the offender to appear in accordance with the conditions of the bail bond, the notice to appear or the summons. The officer shall give a receipt to the offender for the bail so taken and within a reasonable time deposit such bail with the clerk of the court having jurisdiction of the offense.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

780.69 Conditions of bail bonds before conviction.

Sec. 9. (1) If a person is admitted to bail before conviction the conditions of the bail bond shall be that he will:

(a) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court.

(b) Submit himself to the orders and process of the court.

(c) Not depart this state without leave.

(2) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will:

(a) Duly prosecute his appeal.

(b) Appear at such time and place as the court may direct.

(c) Not depart this state without leave of the court.

(d) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

780.70 Bail on new trial; increase or reduction pending on trial.

Sec. 10. If the judgment of conviction is reversed and the cause remanded for a new trial the trial court may order that the bail stand pending such trial, or reduce or increase bail.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

780.71 Notice of address change.

Sec. 11. A person who has been admitted to bail shall give written notice to the clerk of the court before which the proceeding is pending of any change in his address within 24 hours after the change.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

780.72 Persons prohibited from furnishing bail security.

Sec. 12. No attorney-at-law practicing in this state and no official authorized to admit another to bail or to accept bail shall furnish any part of any security for bail in any criminal action or any proceeding nor shall any such person act as surety for any accused admitted to bail.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

780.73 Credit for incarceration on bailable offense; limitation.

Sec. 13. Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of \$5.00 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

HISTORY: New 1966, p. 350, Act 257, Eff. Mar. 10, 1967.

Act 189, 1937, p. 296; Imd. Eff. Jul. 14.

AN ACT to make uniform the law on fresh pursuit and authorizing this state to cooperate with other states therein.

The People of the State of Michigan enact:

780.101 Uniform act on fresh pursuit; arrest by officer from other state.

Sec. 1. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

HISTORY: CL 1948, 780.101.

780.102 Uniform act on fresh pursuit; procedure.

Sec. 2. If an arrest is made in this state by an officer of another state in accordance with the provisions of section 1 of this act, he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

HISTORY: CL 1948, 780.102.

780.103 Section one construed.

Sec. 3. Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

HISTORY: CL 1948, 780.103.

780.104 State; construction of term.

Sec. 4. For the purpose of this act the word "state" shall include the District of Columbia.

HISTORY: CL 1948, 780.104.

780.105 Fresh pursuit; definition.

Sec. 5. The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no fel-

ony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

HISTORY: CL 1948, 780.105.

780.106 Certified copies of act; executive department of states.

Sec. 6. Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state to certify a copy of this act to the executive department of each of the states of the United States.

HISTORY: CL 1948, 780.106.

Sec. 7. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

780.108 Uniform act on fresh pursuit; short title.

Sec. 8. This act may be cited as the "uniform act on fresh pursuit."

HISTORY: CL 1948, 780.108.

Act 161, 1967, p. 224; Imd. Eff. Jun. 30.

AN ACT to provide for the interstate use of prisoners as witnesses in criminal proceedings.

The People of the State of Michigan enact:

780.111 Uniform rendition of prisoners as witnesses in criminal proceedings act; short title.

Sec. 1. This act shall be known and may be cited as the "uniform rendition of prisoners as witnesses in criminal proceedings act".

HISTORY: New 1967, p. 224, Act 161, Imd. Eff. Jun. 30.

780.112 Uniform rendition of prisoners as witnesses in criminal proceedings act; definitions.

Sec. 2. As used in this act:

(a) "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

(b) "Penal institutions" includes a jail, prison, penitentiary, house of correction or other place of penal detention.

(c) "State" includes any state of the United States, the district of Columbia, the commonwealth of Puerto Rico, and any territory of the United States.

HISTORY: New 1967, p. 224, Act 161, Imd. Eff. Jun. 30.

780.113 Request of foreign court; certificate of state judge having jurisdiction over prisoner, contents; notice; hearing.

Sec. 3. A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdic-

tion over the person confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him at the hearing.

HISTORY: New 1967, p. 224, Act 161, Imd. Eff. Jun. 30.

780.114 Orders directing witness to attend and testify; contents; production of witness.

Sec. 4. If at the hearing the judge determines (1) that the witness may be material and necessary, (2) that his attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness, (3) that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order, and (4) that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass, the judge shall issue an order, with a copy of the certificate attached, (a) directing the witness to attend and testify, (b) directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and (c) prescribing such conditions as the judge shall determine.

HISTORY: New 1967, p. 225, Act 161, Imd. Eff. Jun. 30.

780.115 Orders; contents; custodial safeguards; expenses; time effective.

Sec. 5. The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

HISTORY: New 1967, p. 225, Act 161, Imd. Eff. Jun. 30.

780.116 Inapplicability of act.

Sec. 6. This act does not apply to any person in this state confined as insane or mentally ill or as a defective delinquent.

HISTORY: New 1967, p. 225, Act 161, Imd. Eff. Jun. 30.

780.117 Request for witnesses confined in foreign state; certificate; contents; foreign court having jurisdiction over prisoner, presentment of certificate.

Sec. 7. If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

HISTORY: New 1967, p. 225, Act 161, Imd. Eff. Jun. 30.

780.118 Order of compliance with terms and conditions of foreign judge.

Sec. 8. The judge of the court in this state may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

HISTORY: New 1967, p. 225, Act 161, Imd. Eff. Jun. 30.

780.119 Immunity of witness; arrest or service of process.

Sec. 9. If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or another state, he shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this state under the order.

HISTORY: New 1967, p. 226, Act 161, Imd. Eff. Jun. 30.

780.120 Construction of act.

Sec. 10. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1967, p. 226, Act 161, Imd. Eff. Jun. 30.

Act 177, 1957, p. 209; Eff. Sep. 27.

AN ACT to dispose of untried warrants, indictments, informations or complaints against inmates of penal institutions of this state.

The People of the State of Michigan enact:

780.131 Charges against penal institution inmates; untried warrants, indictments, information, complaints; trial, time; request for disposition; statement with terms of commitment.

Sec. 1. Whenever the department of corrections shall receive notice that there is pending in this state any untried warrant, indictment, information or complaint setting forth against any inmate of a penal institution of this state a criminal offense for which a prison sentence might be imposed upon conviction, such inmate shall be brought to trial within 180 days after the department of corrections shall cause to be delivered to the prosecuting attorney of the county in which such warrant, indictment, information or complaint is pending written notice of the place of imprisonment of such inmate and a request for final disposition of such warrant, indictment, information or complaint. The request shall be accompanied by a statement setting forth the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the parole board relating to the prisoner. The written notice and statement provided herein shall be delivered by certified mail.

HISTORY: New 1957, p. 209, Act 117, Eff. Sep. 27.

780.132 Request; notice to prisoners.

Sec. 2. The department of corrections shall notify each prisoner of any request forwarded under the provisions of section 1 of this act.

HISTORY: New 1957, p. 209, Act 177, Eff. Sep. 27.

780.133 Failure to prosecute; dismissal with prejudice.

Sec. 3. In the event that, within the time limitation set forth in section 1 of this act, action is not commenced on the matter for which request for disposition was made, no court of this state shall any longer have jurisdiction thereof, nor shall the untried war-

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rant, indictment, information or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

HISTORY: New 1957, p. 209, Act 177, Eff. Sep. 27.

Act 8, 1952, p. 7; Eff. Sep. 18.

AN ACT relative to the extradition of persons charged with failure to provide support for dependents and to provide for the enforcement by circuit courts in chancery of this state of the duty of such persons to support their dependents in accordance with the requirements of the laws of other states or any foreign state having reciprocal legislation, and to grant to such courts power to enforce such obligations by procedures including contempt; and to prescribe the procedure to be followed by such courts in case of proceedings to require enforcement of the duty to support residents of this state by those obligated to furnish such support through proceedings in courts of other states or any foreign state having reciprocal legislation; and to prescribe rules of evidence in such proceedings. Am. 1959, p. 268, Act 191, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

780.151 Uniform reciprocal enforcement of support act; short title.

Sec. 1. This act shall be known and may be cited as the “uniform reciprocal enforcement of support act.”

HISTORY: New 1952, p. 7, Act 8, Eff. Sep. 18.

CITED IN OTHER SECTIONS: Sections 780.151 to 780.173 are cited in §§ 400.76 and 722.728.

780.152 Purpose of act.

Sec. 2. The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

HISTORY: New 1952, p. 7, Act 8, Eff. Sep. 18.

780.153 Definitions.

Sec. 3. As used in this act, unless the context requires otherwise:

(1) “State” includes any state, territory or possession of the United States and the District of Columbia and any foreign state in which this or a substantially similar reciprocal law has been enacted.

(2) “Initiating state” means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(3) “Responding state” means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(4) “Court” means the chancery division of any of the circuit courts of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(5) “Law” includes both common and statute law.

(6) “Duty of support” includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial (legal) separation, separate maintenance or otherwise.

(7) “Obligor” means any person owing a duty of support.

(8) “Obligee” means any person to whom a duty of support is owed.

HISTORY: New 1952, p. 7, Act 8, Eff. Sep. 18;—Am. 1959, p. 268, Act 191, Eff. Mar. 19, 1960.

780.154 Remedies additional.

Sec. 4. The remedies herein provided are in addition to and not in substitution for any other remedies.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18.

780.155 Duty of support.

Sec. 5. The duty of support imposed by the laws of this state or by the laws of the state where the obligee was present when the failure to support commenced as provided in section 8 and the remedies provided for enforcement thereof, including any penalty imposed thereby, bind the obligor regardless of the presence or residence of the obligee.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18.

780.156 Governor to demand surrender of person found in foreign state; extradition provisions applicable.

Sec. 6. The governor of this state (1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state; and (2) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand, although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath, nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18.

780.157 Relieved of extradition; order.

Sec. 7. Any obligor contemplated by section 6, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support entered in the courts of this state during the period of such compliance.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18.

780.158 Duties of support enforceable; obligor presumed present while support sought.

Sec. 8. Duties of support enforceable under this law are those imposed or impossible under the laws of any state where the alleged obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18;—Am. 1900, p. 44, Act 55, Eff. Aug. 17.

780.159 Reimbursement of expenditures.

Sec. 9. Whenever the state or a political subdivision thereof has furnished or is furnishing support to an obligee, it shall have the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18;—Am. 1953, p. 282, Act 202, Eff. Oct. 2.

780.160 Jurisdiction; petition.

Sec. 10. Jurisdiction of all proceedings hereunder shall be vested in the circuit court in chancery of the county of petitioner's residence, whenever proceedings hereunder are initiated in this state, or of the county where the respondent resides or may be found, whenever such proceedings shall have been initiated in another state and re-

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ardless of whether a support order in favor of the petitioner against the respondent has been issued by some other court of this state. Proceedings for support hereunder may be initiated by petition filed in the appropriate court irrespective of the relationship between obligor and obligee.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18;—Am. 1957, p. 169, Act 147, Eff. Sep. 27.

780.160a Prosecuting attorney to represent petitioner; private counsel.

Sec. 10a. In all instances in which a public support burden has been incurred or is threatened, it shall be the duty of the prosecuting attorney to represent the petitioner in initiating and conducting proceedings under this act: Provided, That the petitioner may be represented in any proceedings by private counsel, at his own expense.

HISTORY: Add. 1953, p. 282, Act 202, Eff. Oct. 2.

780.161 Petition; verification, contents, information, filing.

Sec. 11. The petition shall be verified and shall state the name and, so far as known to the petitioner, the addresses and circumstances of the respondent, his dependents for whom support is sought and all other pertinent information. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent, including, but without limitation, by enumeration, a photograph of the respondent, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints or social security number.

All petitions filed in accordance with this act shall be filed by the clerk of the court as a miscellaneous matter.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18;—Am. 1953, p. 282, Act 202, Eff. Oct. 2.

780.161a Petition; minor obligee.

Sec. 11a. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as next friend.

HISTORY: Add. 1953, p. 282, Act 202, Eff. Oct. 2.

780.162 Petition; copy to court of responding state; forwarding and filing.

Sec. 12. If the court of this state, acting as an initiating state, finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, he shall so certify and shall cause 3 copies of the petition, the court's certificate and this act, to be transmitted to the court in the responding state within the jurisdiction of which the respondent is alleged to reside or be present. If the name or address of such court is unknown, or if the respondent is no longer within the jurisdiction of the named court and the responding state has an information agency comparable to that established in the initiating state, such copies may be transmitted to the state information agency or other proper official of the responding state with a request that it forward them to and file them with the proper court, and that such court acknowledge the receipt thereof to the initiating state. If the responding state is a foreign state, such copies shall be transmitted to the state department of social welfare for transmittal to the proper court of the responding state after determination concerning the statutes of reciprocity in accordance with section 24 of this act.

HISTORY: New 1952, p. 8, Act 8, Eff. Sep. 18;—Am. 1953, p. 282, Act 202, Eff. Oct. 2;—Am. 1959, p. 269, Act 191, Eff. Mar. 19, 1960.

780.162a Obtaining body of respondent; process.

Sec. 12a. When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction, it may (1) as an initiating state, request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under

the law of the responding state; or (2) as a responding state, obtain the body of the respondent by appropriate process.

HISTORY: Add. 1953, p. 282, Act 202, Eff. Oct. 2.

780.162b State department of social welfare; duty.

Sec. 12b. The state department of social welfare is hereby designated as the state information agency under this act, and it shall be its duty:

(1) To compile annually a list of the courts and their addresses in this state having jurisdiction under this act and the particular officers assigned duties in connection with the administration of this act and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act, including any foreign state in which this or a substantially similar reciprocal law has been enacted, together with a copy of this act whenever it has been amended, or otherwise upon request;

(2) To maintain a register of such lists received from other states and to supply information from such lists to every court in this state having jurisdiction under this act;

(3) To maintain in the bureaus of social aid a supply of duplicated copies of this act, as amended, for the use of court officers in preparing cases to be forwarded to responding states; and

(4) To act generally as a clearing center for information and maintaining general liaison with the council of state governments, law enforcement agencies, the legislature, other governmental or private agencies concerned with this act, and the public.

HISTORY: Add. 1953, p. 283, Act 202, Eff. Oct. 2;—Am. 1957, p. 160, Act 147, Eff. Sep. 27;—Am. 1959, p. 269, Act 191, Eff. Mar. 1960.

780.163 Court acting as responding state; duties.

Sec. 13. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall (1) docket the cause; (2) notify the prosecuting attorney of the county, who shall be thereby charged with the duty of carrying on the proceedings; (3) set a time and place for a hearing; and (4) take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.—Am. 1953, p. 283, Act 202, Eff. Oct. 2.

780.163a Inability to obtain jurisdiction; respondent, location in another county.

Sec. 13a. If a court of this state, acting as a responding state, is unable to obtain jurisdiction of the respondent or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state. If the respondent has been located in some other county of this state it shall not be necessary to obtain an amended petition but the original petition shall be forwarded to the circuit court in chancery of the county where the respondent has been located which court shall have jurisdiction regardless of the language of the petition.

HISTORY: Add. 1953, p. 283, Act 202, Eff. Oct. 2;—Am. 1957, p. 160, Act 147, Eff. Sep. 27.

780.163b Conduct of proceedings; manner.

Sec. 13b. The court shall conduct proceedings under this act in the manner prescribed by law for an action for the enforcement of the type of duty of support claimed.

HISTORY: Add. 1953, p. 283, Act 202, Eff. Oct. 2.

780.164 Order to furnish support.

Sec. 14. If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.

780.165 Orders transmitted to court of initiating state.

Sec. 15. The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or orders for reimbursement therefor.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.

780.166 Additional powers of court.

Sec. 16. In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders, and in particular:

Recognizance.

(a) To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the respondent.

Payment, report.

(b) To require the respondent to make payments at specified intervals to the clerk of the court or the friend of the court, as specified in the order, and to report personally to such clerk or friend of the court at such times as may be deemed necessary and as required by such order.

Contempt, punishment; assignment of wages; employer's liability; employer; defined.

(c) To punish the respondent who fails and refuses to obey and comply with the order of the court, having sufficient ability to comply, such punishment to be imposed by the court as a contempt of court, placing the respondent on probation or committing the respondent to the county jail of the county in which such person was convicted, or in Wayne county to the Detroit house of correction, for such period as said respondent shall continue to be in contempt, not to exceed 1 year. The court may also order an assignment to the friend of the court of the salary, wages or other income of the person responsible for the payment of support and maintenance, which assignment shall continue until further order of the court. The order of assignment shall be effective 1 week after service upon the employer of a true copy of the order by personal service or by certified mail. Thereafter, the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the friend of the court until further order of the court. The person ordered to pay the support and maintenance shall inform the friend of the court immediately of any change which would affect the assignment or the disbursement thereof. An employer shall not use the assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected. The term employer as used in this section includes the state and any political subdivision thereof.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18;—Am. 1955, p. 247, Act 161, Imd. Eff. Jun. 7;—Am. 1966, p. 309, Act 232, Eff. Jan. 1, 1967.

780.167 Court acting as responding state; clerk of court or friend of court, duties.

Sec. 17. The court of this state, when acting as a responding state, shall have the following duties which may be carried out through the clerk of the court or the friend of the court, in counties having a friend of the court:

(a) Upon the receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state; and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.

780.168 Court acting as initiating state; receipt and disbursement of payments.

Sec. 18. The court of this state, when acting as an initiating state, shall have the duty which may be carried out through the clerk of the court or the friend of the court, in counties having a friend of the court, to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.

780.169 Husband and wife; competent witnesses.

Sec. 19. Husband and wife are competent witnesses (and may be compelled) to testify to any relevant matter in connection herewith.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18.

780.170 Costs; payment, reimbursement; no filing fee.

Sec. 20. Expenses of stenographic records of court proceedings and of exemplification of court records, and all other costs incurred by the court or other public agency, including filing fees in the responding state when Michigan is the initiating state, in proceedings under this act, shall be a county charge and shall be paid out of the county treasury, but the court, in its discretion, may require such reimbursement thereof from the respondent or other party to the proceeding as may appear equitable. Where the action is brought by or through the state or an agency thereof, there shall be no filing fee in Michigan.

HISTORY: New 1952, p. 9, Act 8, Eff. Sep. 18;—Am. 1953, p. 283, Act 202, Eff. Oct. 2;—Am. 1957, p. 169, Act 147, Eff. Sep. 27.

780.171 Order of support; court acting as responding state; concurrent jurisdiction.

Sec. 21. Any order of support issued by a court of this state when acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. Every circuit court in chancery of this state shall have concurrent jurisdiction with the court issuing an order of support under this act for the purpose of enforcing the order.

HISTORY: Add. 1953, p. 283, Act 202, Eff. Oct. 2;—Am. 1957, p. 170, Act 147, Eff. Sep. 27.

780.172 Jurisdiction not conferred.

Sec. 22. Participation in any proceedings under this act shall not confer upon any court jurisdiction of any of the parties thereto in any other proceedings.

HISTORY: Add. 1953, p. 283, Act 202, Eff. Oct. 2.

780.173 Friend of court or county clerk fees; disposition.

Sec. 23. To reimburse the county for the cost of handling support payments under this act, the court shall order the payment of \$1.50 per month, payable semiannually on January 2 and July 2 thereafter, to the friend of the court or county clerk. The fees

shall be paid by the person ordered to pay any support money for a child or other persons whom the court finds he has a duty to support. The fee shall be computed from the beginning date of the support order and shall continue while the order is operative. The service charges shall be paid 6 months in advance on each due date, except for the first payment, which shall be paid at the same time the support order is filed, and shall cover the period of time from that month until the next calendar due date above mentioned. Every order or judgment for the payment of temporary or permanent alimony or support money shall provide for the payment of the fees. Any order or judgment for the payment of temporary or permanent alimony or support money, entered before the effective date of this 1967 amendatory act, may be amended by the court, upon its own motion, to provide for the payment of the fees, upon proper notice to the person ordered to pay the alimony or support money. All fees paid to the office of the friend of the court or county clerk shall be turned over to the county treasurer and credited to the general fund.

HISTORY: Add. 1955, p. 247, Act 161, Imd. Eff. Jun. 7;—Am. 1959, p. 113, Act 106, Eff. Mar. 19, 1960;—Am. 1967, p. 91, Act 72, Eff. Jan. 1, 1968.

780.174 Foreign state; declaration of reciprocity; revocation.

Sec. 24. Where the social welfare commission is satisfied that reciprocal provisions will be made by any foreign state for the enforcement therein of maintenance orders made within this state, the social welfare commission, with the approval of the attorney general, may declare the foreign state to be a reciprocating state for the purpose of this act. Any such order may be revoked by the social welfare commission, and thereupon the state with respect to which the order was made shall cease to be a reciprocating state for the purposes of this act.

HISTORY: Add. 1959, p. 289, Act 191, Eff. Mar. 19, 1960.

Act 134, 1893, p. 222; Eff. Aug. 28.

AN ACT to provide for incorporating the record of proceedings had on motions for new trial in bills of exceptions.

The People of the State of Michigan enact:

780.201 Appeal of case after denial of new trial; bill of exceptions.

Sec. 1. That in all cases hereafter taken to the supreme court on writ of error or appeal, where a motion for a new trial has been previously refused by the trial judge, the party appealing the same may incorporate in the bill of exceptions a record of all proceedings had on said motion for a new trial, including the reasons given by the trial judge in refusing to grant said new trial. Exceptions may be taken and error assigned on the decision of the circuit judge in refusing such motion, and the same shall be reviewed by the supreme court.

HISTORY: CL 1897, 10504;—CL 1929, 17370;—CL 1948, 780.201. This act was expressly excepted from repeal by Compilers' § 681.1 (Jud. Act), probably because it covered criminal as well as civil procedure, but it did not appear in the Compilation of 1915. See following note.

CIVIL PROCEDURE: In this respect this act has been re-enacted and superseded by GCR 517.

Act 66, 1949, p. 62; Eff. Sep. 23.

AN ACT to provide for the disposition of files and papers, other than dockets and books of journal entries, relating to prosecutions for offenses arising under the charter or any ordinance or regulation of any city or under any state law and civil actions in any municipal, justice, police, common pleas or other court established in any city with jurisdiction to hear such cases. Am. 1958, p. 163, Act 150, Eff. Sep. 13.

The People of the State of Michigan enact:

780.221 Municipal court; definition.

Sec. 1. The term "municipal court" when used herein shall refer to any municipal, justice, police, common pleas, or other court established in any city with jurisdiction to hear cases relating to prosecutions for offenses arising under the charter, or any ordinance or regulation of any city, including the recorder's court of Detroit.

HISTORY: New 1949, p. 62, Act 66, Eff. Sep. 23.

780.222 Files and papers; period to be filed; destruction.

Sec. 2. All files and papers, other than dockets and books of journal entry, relating to prosecutions for offenses arising under the charter, or any ordinance or regulation of any city in any municipal court need not be filed for a longer period than 6 years from the date of filing of the complaints thereunder, unless otherwise ordered by the court, and may then be destroyed when ordered by the court.

HISTORY: New 1949, p. 63, Act 66, Eff. Sep. 23;—Am. 1952, p. 29, Act 24, Eff. Sep. 18.

780.223 Files and papers in criminal cases; period to be filed, destruction.

Sec. 3. All files and papers relating to prosecutions for offenses arising under any law of this state in any municipal court shall be filed for 10 years from the date of sentence, acquittal, dismissal or other final action by the court in the cause, and may then be destroyed to such extent as is ordered by the court.

HISTORY: Add. 1958, p. 163, Act 150, Eff. Sep. 13.

780.224 Files and papers in civil action; destruction, docket entry.

Sec. 4. All files and papers relating to civil actions commenced in any municipal court shall be retained for 7 years, except where the defendants at the time of commencement of the action as indicated by the files and papers were serving in the armed forces or were nonresidents of this state in which case the retention shall be for 10 years, from the date of the final judgment, order or dismissal of the cause with or without prejudice, and may then be destroyed to such extent as is ordered by the court. The docket shall be indorsed to indicate such action.

HISTORY: Add. 1958, p. 163, Act 150, Eff. Sep. 13;—Am. 1964, p. 53, Act 47, Imd. Eff. May. 6.

780.225 Dockets and books of journal entry; not construed as files and papers.

Sec. 5. Dockets and books of journal entry shall not be construed as files and papers under the provisions of this act.

HISTORY: Add. 1958, p. 164, Act 150, Eff. Sep. 13.

Act 196, 1931, p. 322; Eff. Sep. 18.

AN ACT to prevent the taking of pictures of grand jury proceedings, or of persons present at or connected with the same, and to provide a penalty for the violation thereof.

The People of the State of Michigan enact:

780.301 Grand jury proceeding and persons connected therewith; photographs prohibited.

Sec. 1. It shall be unlawful for any person to take or attempt to take any picture or photographic reproduction of any grand jury proceeding, or of any judge, witness, at-

torney, juror, officer or other person present at or in any way connected with such proceeding, either within any grand jury room or room, or building adjacent thereto either during such proceeding or during an adjournment or recess thereof.

HISTORY: CL 1948, 780.301.

780.302 Violation of act; misdemeanor, penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 780.302.

Act 85, 1935, p. 139; Eff. Sep. 21.

AN ACT to abrogate the common law rule raising a presumption that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

The People of the State of Michigan enact:

780.401 Presumption that married woman commits offenses under coercion of husband; prohibition.

Sec. 1. In the prosecution of any complaint or indictment charging a criminal offense, whether cognizable by a justice of the peace or otherwise, no presumption shall be indulged that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

HISTORY: CL 1948, 780.401.

780.501-780.509 Repealed. 1966, p. 382, Act 267, Eff. Mar. 10, 1967;— 1968, p. 204, Act 143, Eff. Aug. 1.

Sections provided for parole, release and discharge of persons committed under criminal sexual psychopathic persons act.

780.551-780.553 Repealed. 1957, p. 372, Act 276, Eff. Sep. 27.

Sections authorized attorney general to deputize employees of other states in effecting return of parole violators, provided that such deputization be in writing, and authorized contracts for expenses.

Act 276, 1957, p. 370; Eff. Sep. 27.

AN ACT relative to the return to Michigan of persons violating the terms and conditions of parole; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

780.561 Return of parole violators; deputization of employees of other state.

Sec. 1. The attorney general may deputize any person regularly employed by another state for such purposes to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. In any matter relating to the return of such a person, any agent so deputized shall have all the powers of a police officer of this state for the purpose of effecting the transfer and limited to the time required to effect it.

HISTORY: New 1957, p. 370, Act 276, Eff. Sep. 27.

780.562 Parole violators; evidence of deputization.

Sec. 2. Any deputization pursuant to this statute shall be in writing, duly authenticated by the secretary of state, and any person authorized to act as an agent of this

state pursuant hereto shall carry formal evidence of his deputization and shall produce the same upon demand.

HISTORY: New 1957, p. 371, Act 276, Eff. Sep. 27.

780.563 Parole violators; contracts for expenses, terms.

Sec. 3. The attorney general is hereby authorized, subject to the approval of the controller of the department of administration, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. The contract shall covenant and agree as follows:

- "1. The party states hereby agree that any two or more of them may, in the discretion of their appropriate officials, cooperate in effecting the return of any parole violator.
- "2. In any instance where any officer or officers of one or more of the parties hereto shall effect the return of a parole violator from any jurisdiction to the custody of the state directing his return, the state on whose behalf the return is made shall bear the financial burden of such return and the extent of the financial liability of the cooperating states shall be determined as provided in paragraphs 3, 4 and 5 of this contract.
- "3. In every instance where a cooperative return of one or more parole violators is undertaken, the round trip distance which would have been traveled by the officers of each cooperating state in effecting the return of its own violators shall be computed and the sum of all such round trip distances shall also be computed. The share of the expense of a trip chargeable to any cooperating state shall be determined by ascertaining the proportion which its own round trip would have borne to the sum of all round trips which would have been necessary if all states had effected the return of their own violators by employing their own regular officers. Whenever the violator or violators of any cooperating state are not returned to the ultimate destination entirely by the regular officer or officers of another cooperating state or states, the state to which such violator or violators are to be returned shall be entitled to deduct the round trip distance between said ultimate destination and the point where it receives custody of its violator or violators from the round trip distance which its officer or officers would have traveled if such state had effected the entire return of such violator or violators. Standard highway or railway mileage shall be used in calculating distances pursuant to this paragraph.
- "4. The entire cost of a cooperative trip, but not including any charge on account of the salary or wages of any officer employed on said trip, shall form the base for determining the share of the expense to be borne by each cooperating state. The cost of any mileage shall be at the official rate for vehicles prevailing in the state by which such vehicles are owned or leased.
- "5. (a) Except where any injury or damage referred to herein results solely from the violent act or acts of its own violator or violators, no cooperating state shall be chargeable with any cost nor shall such state incur any liability by reason of injury to any officer regularly employed by another cooperating state nor shall any cooperating state be chargeable with or incur any liability by reason of damage to any vehicle or other equipment owned or leased by another cooperating state.
 (b) Workmen's compensation benefits and payments shall be determined and made in accordance with the laws of the state regularly employing the officer.

"6. All payments due under this contract shall be made within thirty days of the conclusion of the cooperative trip by reason of which they have accrued unless the parties hereto shall by mutual agreement determine otherwise."

HISTORY: New 1957, p. 371, Act 276, Eff. Sep. 27.

780.564 Binding effect of act.

Sec. 4. This act shall not be binding upon this state by any other state not having adopted such legislation.

HISTORY: New 1957, p. 372, Act 276, Eff. Sep. 27.

780.565 Repeal.

Sec. 5. Act No. 177 of the Public Acts of 1956, being sections 780.551 to 780.553 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1957, p. 372, Act 276, Eff. Sep. 27.

Act 44, 1961, p. 44; Imd. Eff. May 20.

AN ACT to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

780.581 Arrest without warrant for misdemeanor; bond for release; detention.

Sec. 1. (1) When any person is arrested without a warrant for a misdemeanor, violation of a city, village or township ordinance punishable by imprisonment for not more than 90 days or by a fine of not more than \$100.00, or both, the officer making the arrest shall take, without unnecessary delay, the person arrested before the most convenient magistrate of the county in which the offense was committed to answer to the complaint made against him.

(2) If no magistrate is available or immediate trial cannot be had, the person so arrested may recognize to the direct supervisor of the arresting officer or department or the sheriff or his deputy in charge of the county jail if the person so arrested is lodged in the county jail for his appearance by leaving with him:

(a) A sum of money not to exceed \$100.00, if the offense is punishable by imprisonment for not more than 90 days or by a fine, or both except as provided in subdivision (b).

(b) A sum of money not to exceed \$200.00, if the offense is a violation of sections 619, 625 or 626 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.619, 257.625 and 257.626 of the Compiled Laws of 1948, or an ordinance corresponding thereto.

(3) If, in the opinion of the arresting officer or department, the arrested person is under the influence of liquor or narcotic drug, is wanted by police authorities to answer to another charge, or it is otherwise unsafe to release him, the arrested person shall be held until he is in a proper condition to be released, or until the next session of court.

HISTORY: New 1961, p. 45, Act 44, Imd. Eff. May 20;—Am. 1970, p. 501, Act 157, Eff. Apr. 1, 1971.

780.582 Arrest with warrant for misdemeanor; bond.

Sec. 2. When any person is arrested with a warrant for a misdemeanor, violation of a city, village or township ordinance which is punishable by imprisonment for not more than 1 year or by a fine, or both, the provisions of section 1 of this act shall apply, ex-

cept that the interim bond shall be directed to the magistrate who has signed the warrant, or to any judge authorized to act in his stead.

HISTORY: New 1961, p. 45, Act 44, Imd. Eff. May 20;—Am. 1970, p. 501, Act 157, Eff. Apr. 1, 1971.

780.583 Cash bond; form; forfeiture; bench warrant.

Sec. 3. The officer or department making such arrest shall in all cases give a receipt to the person arrested for the money so deposited with him on a form as follows:

Date

Received from the sum of Dollars as cash bail to assure the appearance of before District Court Judge (or Municipal Judge) for at on the day of, 19...., to answer to a charge of

In the event of failure of the accused to appear at the time and place above named and submit to the jurisdiction of the said court and stand to and abide by any order of said court, the above named sum shall be forfeited to the state or the arresting political subdivision, and by paying said money and accepting this receipt the recipient hereof waives any and all claim thereon following such forfeiture.

.....
Officer: Dept.:

If the offender fails to appear as therein required, such deposit shall be forfeited by the court, as in cases of default in bail, and in addition said court may issue a warrant upon a signed complaint for the arrest of the accused, or a bench warrant for the further appearance of the accused may be issued.

HISTORY: New 1961, p. 45, Act 44, Imd. Eff. May 20;—Am. 1970, p. 501, Act 157, Eff. Apr. 1, 1971.

780.583a Release on own recognizance; interim bond receipt.

Sec. 3a. When an arrest is made on a misdemeanor warrant from another county, the arresting officer may release the arrested person on his own recognizance. An interim bond receipt as provided in section 3 shall be executed. On the face of the receipt shall be written "released on own recognizance".

HISTORY: Add. 1970, p. 502, Act 157, Eff. Apr. 1, 1971.

780.584 Officer taking deposit; report; embezzlement.

Sec. 4. Every officer taking a deposit under this act within 48 hours thereafter or at the next session of court shall deposit the same with the magistrate named in the receipt form, together with the facts relating to such arrest, and failure to make such report and deposit such money shall be deemed embezzlement of public money.

HISTORY: New 1961, p. 45, Act 44, Imd. Eff. May 20.

780.585 Magistrate; change of bond amounts.

Sec. 5. In cases arising under section 2 of this act, the magistrate issuing the warrant may endorse on the back thereof a greater or a lesser amount for an interim bond.

HISTORY: New 1961, p. 45, Act 44, Imd. Eff. May 20;—Am. 1970, p. 502, Act 157, Eff. Apr. 1, 1971.

780.586 Interim bond; purpose; change of amount on arraignment.

Sec. 6. Cash bonds accepted under this act shall be known as interim bonds, and shall be for the purpose of securing the defendant's arraignment in court, at which time said court may continue said bond for further proceedings, or may require a property bond or a cash bond in a greater or lesser amount.

HISTORY: New 1961, p. 46, Act 44, Imd. Eff. May 20;—Am. 1970, p. 502, Act 157, Eff. Apr. 1, 1971.

780.587 Traffic offenses not affected.

Sec. 7. The provisions of this act shall not affect section 728 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.728 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 46, Act 44, Imd. Eff. May 20;—Am. 1970, p. 502, Act 157, Eff. Apr. 1, 1971.

780.588 Repeal.

Sec. 8. Section 13 of chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being section 764.13 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1961, p. 46, Act 44, Imd. Eff. May 20.

Act 141, 1961, p. 194; Eff. Sep. 8.

AN ACT to ratify and enact the agreement on detainers into the laws of the state; to provide for the administration and enforcement of the agreement; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

780.601 Interstate agreement on detainers.

Sec. 1. The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

THE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

ARTICLE I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of co-operative procedures. It is the further purpose of this agreement to provide such co-operative procedures.

ARTICLE II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

ARTICLE III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, in-

formation or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officers' jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: Provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

ARTICLE IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further, That there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1961, p. 194, Act 141, Eff. Sep. 8.

780.602 Appropriate court; definition.

Sec. 2. The phrase "appropriate court" as used in the agreement on detainees, with reference to the courts of this state, means all courts of record.

HISTORY: New 1961, p. 196, Act 141, Eff. Sep. 8.

780.603 Agreement on detainees; cooperation to enforce.

Sec. 3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainees and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

HISTORY: New 1961, p. 196, Act 141, Eff. Sep. 8.

780.604 Agreement on detainees; nonapplicability of habitual criminal act.

Sec. 4. Nothing in this act or in the agreement on detainees shall be construed to require the application of sections 10, 11 and 12 of chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being sections 769.10, 769.11 and 769.12 of the Compiled Laws of 1948, to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

HISTORY: New 1961, p. 196, Act 141, Eff. Sep. 8.

780.605 Agreement on detainees; escape from custody in another state.

Sec. 5. Escape from custody while in any other state pursuant to the agreement on detainees constitutes an offense against the laws of this state to the same extent and degree as escape from prison in this state and shall be punishable in the same manner as such an escape.

HISTORY: New 1961, p. 199, Act 141, Eff. Sep. 8.

780.606 Agreement on detainees; duty of wardens.

Sec. 6. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainees.

HISTORY: New 1961, p. 199, Act 141, Eff. Sep. 8.

780.607 Agreement on detainees; director of department of corrections.

Sec. 7. The director of the department of corrections shall serve as the central administrator and chief enforcement officer of this act.

HISTORY: New 1961, p. 199, Act 141, Eff. Sep. 8.

780.608 Agreement on detainees; copies of act, distribution.

Sec. 8. Copies of this act, upon its approval, shall be transmitted to the governor of each state and the attorney general and the secretary of state of the United States and to the council of state governments.

HISTORY: New 1961, p. 199, Act 141, Eff. Sep. 8.

Act 213, 1965, p. 374; Imd. Eff. Jul. 16.

AN ACT to provide for setting aside the conviction in certain criminal cases; and to provide for the effect of such action.

The People of the State of Michigan enact:

780.621 Motion to set aside conviction; persons eligible, hearing, order.

Sec. 1. Any person who is convicted, or pleads guilty to not more than 1 offense, excepting traffic violations and criminal offenses, the maximum punishment for which is life imprisonment, the commission of which occurred before his twenty-first birthday, may move the convicting court for the entry of an order setting aside the conviction in said cause. Such motion shall not be made until the expiration of 5 years from the time of the entry of the guilty plea or rendition of the decision of the court or jury. A copy of such motion shall be served upon the office of the prosecuting attorney or attorney general who prosecuted the crime and an opportunity be given to contest the motion. Upon the hearing of the motion the court may require the filing of such affidavits and may require the taking of such proofs as it deems proper. If the court determines that the circumstances and behavior of the applicant from the date of his conviction to the filing of the motion warrant setting aside the conviction, it may, in its discretion, enter an order for same.

HISTORY: New 1965, p. 374, Act 213, Imd. Eff. Jul. 16.

780.622 Entry of order; effect.

Sec. 2. Upon the entry of an order as provided for in section 1 of this act, the applicant, for purposes of the law, shall be deemed not to have been previously convicted.

HISTORY: New 1965, p. 375, Act 213, Imd. Eff. Jul. 16.

Act 189, 1966, p. 214; Eff. Mar. 10, 1967.

AN ACT to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

780.651 Search warrant; issuance by magistrate on affidavit; oath; grounds.

Sec. 1. When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases and when the affidavit establishes the grounds for issuing a warrant pursuant to this act, the magistrate, if he is satisfied that there is reasonable or probable cause therefor, shall issue a warrant to search the house, building or other location or place where the property or thing which is to be searched for and seized is situated.

HISTORY: New 1966, p. 214, Act 189, Eff. Mar. 10, 1967.

780.652 Search warrant; grounds for issuance.

Sec. 2. A warrant may be issued to search for and seize any property or other thing which is either:

- (a) Stolen or embezzled in violation of any law of this state.
- (b) Designed and intended for use or which is or has been used as the means of committing a criminal offense.
- (c) Possessed, controlled or used wholly or partially in violation of any law of this state.
- (d) Evidence of crime or criminal conduct on the part of any person.
- (e) Contraband.
- (f) The bodies or persons of human beings or of animals, who may be the victims of a criminal offense.
- (g) The object of a search warrant under any other law of this state providing for the same. If a conflict exists between this act and any other search warrant law, this act shall be deemed controlling.

HISTORY: New 1966, p. 214, Act 189, Eff. Mar. 10, 1967.

780.653 Magistrate's finding of reasonable or probable cause; basis for affidavit, contents.

Sec. 3. The magistrate's finding of reasonable or probable cause shall be based upon all the facts related within the affidavit made before him. The affidavit may be based upon reliable information supplied to the complainant from a credible person, named or unnamed, so long as the affidavit contains affirmative allegations that the person spoke with personal knowledge of the matters contained therein.

HISTORY: New 1966, p. 215, Act 189, Eff. Mar. 10, 1967.

780.654 Search warrant; direction of warrant, contents.

Sec. 4. A search warrant shall be directed to the sheriff or any peace officer, commanding such officer to search the house, building or other location or place, where any property or other thing for which he is required to search is believed to be concealed. Each warrant shall designate and describe the house or building or other location or place to be searched and the property or thing to be seized. The warrant shall also state the grounds or the probable or reasonable cause for its issuance, or in lieu thereof, a copy of the affidavit may be attached thereto.

HISTORY: New 1966, p. 215, Act 189, Eff. Mar. 10, 1967.

780.655 Articles seized upon search; tabulation, filing; custody; restoration to owner; disposition of other property.

Sec. 5. When an officer in the execution of a search warrant finds any property or seizes any of the other things for which a search warrant is allowed by this act, the officer, in the presence of the person from whose possession or premises the property or thing was taken, if present, or in the presence of at least 1 other person, shall make

a complete and accurate tabulation of the property and things so seized. The officer taking property or other things under the warrant shall forthwith give to the person from whom or from whose premises the property was taken a copy of the warrant and shall give to the person a copy of the tabulation upon completion, or shall leave a copy of the warrant and tabulation at the place from which the property or thing was taken. He shall file the tabulation promptly with the court or magistrate. The tabulation may be suppressed by order of the court until the final disposition of the case unless otherwise ordered. The property and things so seized shall be safely kept by the officer so long as necessary for the purpose of being produced or used as evidence on any trial. As soon as practicable after trial, stolen or embezzled property shall be restored to the owner thereof. Other things seized under the warrant shall be disposed of under direction of the court or magistrate, except that moneys and other useful property shall be turned over to the state, county or municipality, the officers of which seized the property under the warrant. Such moneys shall be credited to the general fund of the state, county or municipality.

HISTORY: New 1966, p. 215, Act 189, Eff. Mar. 10, 1967.

780.656 Service of warrant; officer's authorization to use force.

Sec. 6. The officer to whom a warrant is directed, or any person assisting him, may break any outer or inner door or window of a house or building, or anything therein, in order to execute the warrant, if, after notice of his authority and purpose, he is refused admittance, or when necessary to liberate himself or any person assisting him in execution of the warrant.

HISTORY: New 1966, p. 215, Act 189, Eff. Mar. 10, 1967.

780.657 Executing search warrant; wilfully exceeding authority; penalty.

Sec. 7. Any person who in executing a search warrant, wilfully exceeds his authority or exercises it with unnecessary severity, shall be fined not more than \$1,000.00 or imprisoned not more than 1 year.

HISTORY: New 1966, p. 216, Act 189, Eff. Mar. 10, 1967.

780.658 Unlawful procurement of search warrant; penalty.

Sec. 8. Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than \$1,000.00 or imprisoned not more than 1 year.

HISTORY: New 1966, p. 216, Act 189, Eff. Mar. 10, 1967.

780.659 Repeal.

Sec. 9. Sections 1, 2, 3 and 5 of chapter 16 of Act No. 175 of the Public Acts of 1927, as amended, being sections 776.1, 776.2, 776.3 and 776.5 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1966, p. 216, Act 189, Eff. Mar. 10, 1967.

Act 289, 1968, p. 494; Eff. Nov. 15.

AN ACT to authorize circuit court judges to grant immunity to witnesses upon application of the prosecuting attorneys; to prescribe the procedures therefor; and to prescribe penalties for refusal to testify and for giving false testimony.

The People of the State of Michigan enact:

780.701 Immunity to witnesses; application, contents; order.

Sec. 1. In any case of a felony or a circuit court misdemeanor the prosecuting attorney may apply at the preliminary examination to the circuit court for the county in which the offense was committed or at the trial to the trial judge for an order granting

immunity to any person within the state, designated by name and address in the application, who might give testimony concerning the violation charged in the complaint and warrant. The application shall be accompanied by a verified petition of the prosecuting attorney setting forth the facts upon which the application is based. If the judge to whom the application is presented is satisfied that it is in the interest of justice that such immunity be granted, he shall enter an order granting immunity to the witness if the witness appears before any court in a criminal proceeding and testifies under oath concerning any matter or thing of which the witness has knowledge concerning matters charged in the complaint and warrant, as set forth in the petition of the prosecuting attorney.

HISTORY: New 1968, p. 494, Act 289, Eff. Nov. 15.

780.702 Immunity order; copy to witness; extent of order; record of testimony.

Sec. 2. A true copy of the order granting immunity shall be delivered to the witness before he answers such questions as are thereafter put to him at the preliminary examination or trial. The order granting immunity shall extend to all related questions which may thereafter be put to the witness until the judge advises the witness that the immunity no longer applies. All such questions and answers thereto shall be reduced to writing under the direction of the judge. A true copy of the transcript, duly certified by an officer authorized to administer oaths, shall be delivered to the witness as soon as practicable thereafter. No person required to answer such questions shall thereafter be prosecuted for any offense concerning which such answers may have tended to incriminate him.

HISTORY: New 1968, p. 495, Act 289, Eff. Nov. 15.

780.703 Failure or refusal to testify; contempt.

Sec. 3. A witness who fails or refuses to testify at a preliminary examination or trial after service of a true copy of the order granting immunity upon him is guilty of contempt.

HISTORY: New 1968, p. 495, Act 289, Eff. Nov. 15.

780.704 False testimony; perjury, penalty.

Sec. 4. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined under a grant of immunity is subject to the penalties of perjury as prescribed by law.

HISTORY: New 1968, p. 495, Act 289, Eff. Nov. 15.

780.705 Right to counsel.

Sec. 5. A witness granted immunity as provided by this act has the right to representation by counsel at all times at his request.

HISTORY: New 1968, p. 495, Act 289, Eff. Nov. 15.

CHAPTER 791. CORRECTIONS—STATE DEPARTMENT

STATE DEPARTMENT OF CORRECTIONS

Act 4 of 1947 (2nd Ex. Ses.)

791.1-791.123 Repealed.

Act 232 of 1953

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791.283 Repeal.

791.1-791.123 Repealed. 1953, p. 419, Act 232, Eff. Oct. 2.

Sections revised laws relating to probation, pardons, reprieves, commutations and paroles, prison labor and industries, administration of penal institutions and supervision and inspection of local jails, created state department of corrections, prescribed its powers and duties, abolished department of corrections, created state advisory council of corrections, prescribed its duties and prescribed penalties.

Act 232, 1953, p. 407; Eff. Oct. 2.

AN ACT to revise, consolidate and codify the laws relating to probationers and probation officers as herein defined, to pardons, reprieves, commutations and paroles, to the administration of penal institutions, correctional farms and probation recovery camps, to prison labor and prison industries, and the supervision and inspection of local jails and houses of correction; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions and officers, and to abolish certain boards, commissions and offices the powers and duties of which are hereby transferred; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

CHAPTER I.

DEPARTMENT OF CORRECTIONS.

791.201 State department of corrections; creation; powers; Michigan corrections commission, members, oath, qualification, terms, vacancy, compensation; meetings.

Sec. 1. There is hereby created a state department of corrections, hereinafter called the department, which shall possess the powers and perform the duties granted and conferred. Such department shall consist of and be administered by a commission of 6 members appointed by the governor, by and with the advice and consent of the senate, to be known as the Michigan corrections commission, hereinafter called the commission, not more than 3 of whom shall be members of the same political party, each of whom shall qualify by taking the constitutional oath of office, and filing the same in the office of the secretary of state, and of such other officers and assistants as may be appointed or employed in such department, including a director as its executive head. No person holding any position either state or federal, nor any person drawing any salary from any municipal unit of the state, shall be eligible for appointment to the commission, without having first resigned from such position. The term of office of each member of the commission shall be 6 years: Provided, That of the members first appointed 2 shall be appointed for 2 years, 2 for 4 years and 2 for 6 years. The governor shall fill any vacancy occurring in the membership of the commission for the unexpired term only, and for cause established on hearing may remove any member

thereof. Each member of the commission shall hold office until his successor shall be appointed and shall qualify. The members of the commission shall receive as compensation \$25.00 per diem for each day they shall attend any regular or special meeting. The members of the commission shall be entitled to actual and necessary traveling and other expenses while in the performance of any of the duties hereby imposed. Such department and commission shall have its executive office at Lansing, and it shall be the duty of the department of administration to provide suitable office accommodations therefor: Provided, however, That meetings of the commission may be held at such other suitable places as it may designate.

HISTORY: New 1953, p. 408, Act 232, Eff. Oct. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 16.377.

791.202 Corrections commission; meetings, time, quorum; duties.

Sec. 2. When this act becomes effective, the commission shall forthwith hold its organization meeting, and proceed promptly to comply with and enforce the several provisions of this act. The commission shall elect annually a chairman and such other officers as it may deem expedient. Meetings shall be held at least once each month or at such other times as shall be deemed necessary under the provisions of this act and in accordance with the rules and regulations adopted by the commission. A majority of the total membership of the commission shall constitute a quorum for the transaction of business. The commission shall constitute the responsible authority for the administration of the penal institutions, prison industries, parole and probation of the state, subject to the limitations hereinafter set forth. The commission shall determine all matters relating to the unified development of the penal institutions, prison industries, parole and probation of the state and shall coordinate and adjust the agencies and penal institutions within its jurisdiction so that each shall form an integral part of a general system.

HISTORY: New 1953, p. 408, Act 232, Eff. Oct. 2.

791.203 Corrections commission; director of corrections, appointment, qualifications, salary, powers and duties.

Sec. 3. The commission shall appoint a director of corrections who shall be qualified by training and experience in penology. He shall hold office at the pleasure of the commission except that he may be removed for cause and only after a public hearing before the commission. He shall receive such salary as shall be appropriated by the legislature, together with actual and necessary traveling and other expenses. The director shall be the chief administrative officer of the commission and shall be responsible to the commission for the exercise of the powers and duties prescribed and conferred by this act, and for such other powers and duties as may be assigned by the commission, subject at all times to its control. Subject to the provisions of this act, and to the rules and regulations adopted by the commission, the director shall have full power and authority to supervise and control the affairs of the department, and the several bureaus thereof, and he shall carry out the orders of the commission.

HISTORY: New 1953, p. 408, Act 232, Eff. Oct. 2.

791.204 State department of corrections; jurisdiction.

Sec. 4. Subject to constitutional powers vested in the executive and judicial departments of the state, the department shall have exclusive jurisdiction over the following: (a) Probation officers of this state, and the administration of all orders of probation, (b) pardons, reprieves, commutations and paroles, and (c) penal institutions, correctional farms, probation recovery camps, prison labor and industry, wayward minor programs and youthful trainee institutions and programs for the care and supervision of youthful trainees.

HISTORY: New 1953, p. 409, Act 232, Eff. Oct. 2;—Am. 1966, p. 236, Act 210, Imd. Eff. Jul. 11.

791.205 Corrections commission; assistant directors, powers and duties.

Sec. 5. The director, subject to the approval of the commission, shall appoint an assistant director in charge of probation, an assistant director in charge of pardons and paroles, an assistant director in charge of penal institutions, an assistant director in charge of prison industries, and an assistant director in charge of a youth division. The assistant directors shall exercise and perform the respective powers and duties prescribed and conferred by this act, and such other powers and duties as may be assigned by the director, subject at all times to his control.

HISTORY: New 1953, p. 408, Act 232, Eff. Oct. 2.

791.206 Rules and regulations; provisions.

Sec. 6. The director, having first obtained the approval of the commission, subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, of the Compiled Laws of 1948, shall promulgate rules and regulations which shall provide:

(a) For the control, management and operation of the general affairs of the department.

(b) For supervision and control of probationers and probation officers throughout the state, subject to the provisions contained in this act.

(c) For the manner in which applications for pardon, reprieve or commutation shall be made to the governor; for procedure in handling such applications by the commission, and for recommendations thereon to the governor; for the manner in which paroles shall be considered, and to prescribe the duties of the parole board in respect thereto; for hearings on paroles and for notice thereof, in accordance with the provisions of this act; for the entering of appropriate orders granting or denying paroles; and for the supervision and control of paroled prisoners.

(d) For the management and control of state penal institutions, correctional farms, probation recovery camps, the wayward minor program and youthful trainee institutions and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the commission. Such rules may permit the use of portions of penal institutions in which persons convicted of crimes are detained. Such rules shall provide that decisions as to the removal of the youth from the youthful trainee facility or the release of the youth from the supervision of the department of corrections shall be made by the department of corrections and shall assign responsibility for such decisions to a committee composed of representative departmental staff members and may include, when practical and applicable, an appropriate probation officer.

(e) For the management and control of prison labor and industry.

(f) For the establishment and supervision of a youth division.

(g) For the transfer, with the approval of the director of the state department of social services, of youthful trainees to the department of social services for admission to any of its facilities for youth, where such facilities are more appropriate for the treatment and supervision of the youth than the facilities of the department of corrections. When the facilities of the department of social services are used by the department of corrections, the youth may be required to abide by the regulations of the department of social services and shall be subject to the same supervision and discipline as other youth in its care. The cost of care of such youth while under the care of the department of social services shall be a charge against the appropriation of the department of social services.

The director, having first obtained the approval of the commission, may adopt such further rules and regulations with respect to the affairs of the department as he may

deem necessary or expedient for the proper administration of this act and he may modify, amend, supplement or rescind any such rule or regulation. No rule or regulation shall be adopted which shall be inconsistent with or in contravention of any of the express provisions of this act or the constitution.

HISTORY: New 1953, p. 409, Act 232, Eff. Oct. 2;—Am. 1966, p. 236, Act 210, Imd. Eff. Jul. 11.

791.207 Report to governor and legislature; time; order by board of auditors; printing and distribution.

Sec. 7. On or before the 15th day of January of each year, the commission shall make to the governor and legislature a report of the department for the preceding fiscal year. Such report, if so ordered by the board of state auditors, shall be printed and distributed in such manner and to such persons, organizations, institutions and officials as said board may direct.

HISTORY: New 1953, p. 409, Act 232, Eff. Oct. 2.

791.208 Division of criminal statistics; powers and duties of director.

Sec. 8. Within the department there shall be established a general division of criminal statistics under the supervision and control of the director. He shall have the power and it shall be his duty to obtain from all chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and all others concerned in the control, apprehension, trial, probation, parole and commitments of adult criminals and delinquents in this state, periodical reports as to the number and kinds of offenses known to law enforcement officers; the numbers, age, sex, race, nativity and offenses of criminals and delinquents arrested, tried and otherwise disposed of; the sentences imposed and whether executed or suspended; the numbers placed on parole and probation and the reasons therefor and such other information as he may deem necessary. It shall be the duty of all such chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and others concerned to make such reports at such times and in such manner, and to furnish such facilities for investigation as the director may reasonably require.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.209 Corrections commission; crime prevention and criminology research.

Sec. 9. The commission shall study the problem of crime prevention and foster research in criminology. It shall lend its aid in local crime prevention activities.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.210 Corrections commission; bond of officers and employees, purpose.

Sec. 10. The commission may require a bond from any officer or employee appointed by or subject to the control of the commission, conditioned upon the faithful performance of his duties and the accounting for all money and property within his control.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.211 Corrections commission; powers and duties.

Sec. 11. The commission shall exercise the powers and duties created by Act No. 89 of the Public Acts of 1935, being sections 798.101 to 798.103, inclusive, of the Compiled Laws of 1948, and by any interstate compact made and entered into pursuant to said act, in regard to the control and supervision of parolees and probationers, and in regard to cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the penal laws and policies of the contracting states, and the com-

mission may promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of the aforesaid act and compacts made pursuant thereto.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.212 Corrections commission; seal, orders, copies of records; body corporate.

Sec. 12. The commission shall devise a seal, and the rules and regulations of the commission shall be published over the seal of the commission. All orders of the commission shall be issued over the seal of the commission. Copies of all records and papers in the office of the department, certified by a duly authorized agent of the commission and authenticated by the seal of the commission, shall be evidence in all cases equally, and with the like effect, as the originals. A description of the seal, with an impression thereof, shall be filed in the office of the secretary of state. The commission shall be a body corporate, and is hereby authorized to lease any lands under its jurisdiction and to do any other act or thing necessary in carrying out the provisions of this act.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.213 Corrections commission; gifts, donations, bonds, real or personal property; purpose.

Sec. 13. The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, and accept the same, so that the right and title to the same shall pass to the state of Michigan; and all such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or thing of value so received by the commission shall be used for the purposes set forth in the grant, devise, bequest, donation, gift or assignment: Provided, That such purposes shall be within the powers conferred on said commission. Whenever it shall be necessary to protect or assert the right or title of the commission to any property so received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the attorney general is directed to take the necessary and proper proceedings and to bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and to prosecute all such suits.

HISTORY: New 1953, p. 410, Act 232, Eff. Oct. 2.

791.214 Corrections commission; estimation of needs and cost, submission to department of administration.

Sec. 14. The commission shall prepare for submission to the department of administration the estimated needs and costs to operate the department, and the several penal institutions under the jurisdiction of the department, in accordance with the requirements of the laws of this state.

HISTORY: New 1953, p. 411, Act 232, Eff. Oct. 2.

CHAPTER II.

BUREAU OF PROBATION.

791.221 Bureau of probation; creation; supervision.

Sec. 21. There is hereby established within the department a bureau of probation. This bureau shall be under the direction and supervision of the assistant director in charge of probation.

HISTORY: New 1953, p. 411, Act 232, Eff. Oct. 2.

791.222 Probation officers; powers and duties; probation recovery camps.

Sec. 22. The commission shall appoint, supervise and remove probation officers for the circuit courts, municipal courts, superior courts and police courts of this state, in the manner provided by the laws of this state.

The commission shall be vested with the powers and duties prescribed by law with relation to probation recovery camps.

HISTORY: New 1953, p. 411, Act 232, Eff. Oct. 2.

791.223 Assistant director; powers and duties; reports by probation officers; refusal of information, misdemeanor, penalty.

Sec. 23. The assistant director in charge of probation shall be the administrative head of the bureau of probation subject to the authority and supervision of the director of corrections, and the commission. He shall exercise general supervision over the administration of probation in circuit courts, municipal courts, superior courts and police courts of the state. He shall, with the approval of the director, appoint such personnel other than probation officers as may be necessary for the conduct of the bureau. He shall endeavor to secure the effective application of the probation system in all courts of the state and the enforcement of probation laws. He shall cooperate in promoting measures for effective treatment and prevention of juvenile delinquency. He shall supervise the work of probation officers and shall have access to all probation offices and records. He shall prescribe the form of records to be kept and reports to be made by probation officers and shall promulgate general rules which shall regulate the method of procedure in the administration of probation, including investigation, supervision, case work, record keeping and accounting. He shall collect and maintain a complete file of all pre-sentence investigations made by all probation officers throughout the state, subject to the provisions of sections 26 and 27 of this chapter. He shall collect and compile and publish statistical and other information relating to probation work in all courts and such other information as may be of value in probation service. All probation officers are hereby required to submit such reports to the department of corrections as may be required on forms to be prescribed and furnished by the department of corrections. Any person or officer contemplated in this section who shall fail or refuse such information within 30 days after the same has been demanded, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$10.00 nor more than \$200.00.

HISTORY: New 1953, p. 411, Act 232, Eff. Oct. 2.

791.224 Division of state into geographical districts; assistants; duties of probation officers.

Sec. 24. For the purpose of the administration of probation within this state the assistant director in charge thereof may, with the approval of the director, divide the state into such geographical districts as he may deem practicable: Provided, That such districts may be combined, created or eliminated from time to time. One or more probation officers shall be appointed for each such district. The assistant director shall select such secretarial and other assistants as may be necessary for each such probation district and may obtain permanent quarters for such staff in each district as may be necessary. Probation officers appointed under this act may be required to serve such courts and to perform such other duties as may be requested of them.

HISTORY: New 1953, p. 411, Act 232, Eff. Oct. 2.

791.225 Probation service; compensation of probation officers; service grants.

Sec. 25. Where the courts of more than 1 county are served by the same probation officer or officers, the compensation of such officer or officers and the expenses of administering probation service within such counties shall be met jointly by the boards of

supervisors therein: Provided, That when it shall appear to the commission that any county is unable to adequately maintain its probation program according to the standards set by the state bureau of probation, then service grants to such an extent and under such conditions as the commission may determine, may be made available to said county: Provided, That uniform rules to be followed in making available such service grants first shall be promulgated by the commission.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

791.226 Probation departments excepted.

Sec. 26. The provisions of this chapter shall not apply to probation departments heretofore established in any county of over 500,000 population, according to the latest or each succeeding federal decennial census.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

791.227 Juvenile probation; construction of act.

Sec. 27. Nothing in this act contained shall be construed to apply to juvenile probation. The terms probation officers, probation offices, probation, probation work, probation service, probation system, probation program, probation departments, probationers, probation laws, and comparable terms, whenever used in this act, shall be construed to refer to adults and to exclude juveniles.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

791.228 Information furnished by state department of social welfare and probate courts.

Sec. 28. It shall be the duty of the state department of social welfare and of the several probate courts of this state to furnish the state department of corrections information, on request, concerning any individual having a previous record as a juvenile probationer who shall have come within the jurisdiction of the state department of corrections.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

791.229 Records and reports privileged communications; access.

Sec. 29. All records and reports of investigations made by probation officers, whether state or local, for courts of criminal jurisdiction in cases referred for such investigation by such courts, and all case histories of probationers are hereby declared to be privileged or confidential communications not open to public inspection. Judges and probation officers shall have access to such records, reports and case histories. The probation officer or the assistant director of probation, or his representative, shall permit the attorney general, the auditor general, and law enforcement agencies to have such access. The legislative intent is that the relation of confidence between the probation officer and probationer or defendant under investigation shall remain inviolate.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

CHAPTER III.

BUREAU OF PARDONS AND PAROLES; PAROLE BOARD.

791.231 Bureau of pardons and paroles; direction and supervision by assistant director; appointment, duties; assistants.

Sec. 31. There is hereby established within the department a bureau of pardons and paroles, under the direction and supervision of an assistant director in charge of pardons and paroles, who shall be appointed by the director and who shall be within the state civil service. He shall direct and supervise the work of the bureau and shall formulate methods of investigation and supervision and develop various processes in the technique of the case work of the parole staff, including interviewing, consultation of records, analysis of information, diagnosis, plan of treatment, correlation of effort by

individuals and agencies, and methods of influencing human behavior. He shall be responsible for all investigations of persons eligible for release from state penal institutions, and for the general supervision of persons so released. The assistant director in charge of the bureau of pardons and paroles shall be responsible for the collection and preservation of such records and statistics with respect to paroled prisoners as may be required by the director. He shall employ such parole officers and assistants as may be necessary, subject to the approval of the commission. He shall designate 1 of his assistants as employment director, whose duty, primarily, shall be to aid persons coming under the supervision of the bureau of pardons and paroles in securing employment. The assistant director shall, subject to the approval of the commission, divide the state into geographical parole districts and shall designate a parole officer as district supervisor of each such district. The assistant director shall select such secretarial and other assistants as may be necessary for each such parole district under the merit system hereinbefore described, and may obtain permanent quarters for such staff in each such district as may be necessary.

HISTORY: New 1953, p. 412, Act 232, Eff. Oct. 2.

CITED IN OTHER SECTIONS: Sections 791.231 to 791.245 are cited in § 712A.18.

791.232 Parole board; members, appointment, chairman; powers and duties.

Sec. 32. There is hereby established in the department a parole board consisting of 5 members who shall be appointed by the commission and who shall be within the state civil service. The chairman of the parole board shall be designated by the commission from the membership of the parole board. The parole board shall exercise and perform the powers and duties prescribed and conferred by this act and such other powers and duties as may be assigned by the commission.

HISTORY: New 1953, p. 413, Act 232, Eff. Oct. 2.

791.233 Granting parole; provisions.

Sec. 33. The grant of any parole shall be subject to the following provisions:

(a) That no prisoner shall be given his liberty on parole until the board has reasonable assurance after consideration of all of the facts and circumstances, including the prisoner's mental and social attitude, that he will not become a menace to society or to the public safety;

(b) That no parole shall be so granted to any prisoner until he has served the minimum term imposed by the court less such allowances for good time or special good time as he may be entitled to by statute: Provided, That prisoners shall be eligible for parole prior to the expiration of their minimum terms of imprisonment whenever the sentencing judge or his successor in office shall give his written approval of the parole of such prisoner prior to the expiration of such minimum terms of imprisonment;

(c) That no prisoner shall be released on parole until the parole board shall have satisfactory evidence that arrangements have been made for such honorable and useful employment as he is capable of performing, or for his education, or for his care if he is mentally or physically ill or incapacitated.

Paroles-in-custody to answer warrants filed by local, out-of-state agencies or immigration officials are permissible, provided an accredited agent of the agency filing the warrant shall call for the prisoner so paroled in custody.

The parole board, in its discretion, may adopt such other or further rules and regulations not inconsistent with the foregoing provisions with respect to conditions to be imposed upon paroled prisoners under this act.

HISTORY: New 1953, p. 413, Act 232, Eff. Oct. 2.

791.233a Parole; determining prisoner's fitness, consideration of medical assistance and blood donations.

Sec. 33a. In determining a prisoner's fitness to be released on parole, the parole board may give consideration to instances of voluntary assistance to medical and other scientific research and blood donations.

HISTORY: Add. 1959, p. 322, Act 220, Eff. Mar. 19, 1960.

791.234 Jurisdiction of parole board; indeterminate and other sentences.

Sec. 34. Every prisoner sentenced to an indeterminate sentence and confined in a state prison or reformatory, and any convict who is now imprisoned under a maximum sentence for life, with a minimum in terms of years, who shall have served the minimum so provided, notwithstanding that such sentence may otherwise be construed as a life sentence, and the term of years a nullity, when he has served a period of time equal to the minimum sentence imposed by the court for the crime of which he was convicted, less allowances made for good time and special good time, shall be subject to the jurisdiction of the parole board.

Same; consecutive sentences; computation of time.

In case the prisoner is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board shall have jurisdiction over the prisoner for purposes of parole when he shall have served the total time of the added minimum terms, less the good time credit allowed by statute. The maximum terms of the sentences shall be added to compute the new maximum term under this provision and discharge shall be issued only after the sum total of such maximum sentences has been served less the good time credit the prisoner may earn or may be awarded by appropriate order; unless the procedure of parole shall intervene and discharge issue upon satisfactory completion of said parole, in which case the maximum term shall be discharged.

Same; termination of sentence presently being served; ratification of orders.

Whenever any convict shall have 1 or more consecutive terms remaining to serve in addition to the term he is serving, the parole board shall be empowered to terminate the sentence such convict shall be presently serving at any time, in the board's discretion, after the minimum term of such sentence has been served. All orders of termination of maximum sentences heretofore executed by the parole board or any former parole commissioner are hereby ratified and adopted retroactive nunc pro tunc as of date of execution.

Public hearing; notice to sentencing judge; parole period, validation.

Any convict who now is, or hereafter may be imprisoned in any one of the prisons or reformatories of this state under sentence for life or for any term of years, other than those so sentenced for life for murder in the first degree, and who shall have served 10 calendar years of such sentence, shall be subject to the authority and jurisdiction of the parole board and may be released on parole in the discretion of the parole board: Provided, however, That no parole shall be granted any convict so sentenced and so imprisoned except after public hearing in the manner hereinafter prescribed for pardons and commutations, except that 2 members of the parole board may conduct such public hearing: Provided further, That notice of such public hearing shall be given to the sentencing judge, or his successor in office, and said parole shall not be granted in case said sentencing judge, or his successor in office, shall file written objections to the granting thereof, which written objections shall be made part of the hearing. Parole so granted any convict so sentenced and so imprisoned shall be for a period of not less than 4 years, and subject to the usual rules appertaining to paroles issued by the parole board: Provided, however, That no parole ordered for a convict whose sentence for

life or for a minimum term equaling or exceeding 10 calendar years shall become valid until the transcript of the record shall have been filed with the attorney general whose certification of receipt thereof shall within 5 days be returnable to the office of the parole board. And such file shall become [sic] a public record as in the manner made and provided for pardons and commutations.

Time of release.

The time of his release on parole shall be discretionary with the parole board. The action of the parole board in releasing prisoners shall not be reviewable if in compliance with law.

HISTORY: New 1953, p. 413, Act 232, Eff. Oct. 2;—Am. 1955, p. 168, Act 107, Imd. Eff. Jun. 3;—Am. 1957, p. 242, Act 192, Eff. Sep. 27;—Am. 1958, p. 280, Act 210, Eff. Sep. 13.

791.235 Release of prisoner; procedure.

Sec. 35. The release of a prisoner on parole shall be granted solely upon the initiative of the parole board. At least 1 month prior to the expiration of the minimum term of each prisoner eligible for parole, less good time or special good time allowances, it shall be the duty of the parole board to cause each prisoner to be brought before it, together with all pertinent information with regard to such prisoner. Included in such information shall be a report of the warden of each prison or reformatory in which such prisoner has been confined as to the prisoner's conduct with a detailed statement as to all infractions of rules and discipline, punishment given to such prisoner and the circumstances connected therewith; the extent to which such prisoner appears to have responded to the efforts made to improve his social attitude; the prisoner's industrial record while confined, the nature of such occupation, and a recommendation as to the kind of work he is best fitted to perform and at which he is most likely to succeed when he is released; and the results of such physical, mental and psychiatric examinations as have been made of the prisoner. The parole board shall reach its own conclusions as to the desirability of releasing such prisoner on parole. All decisions of the parole board shall be by majority vote.

HISTORY: New 1953, p. 414, Act 232, Eff. Oct. 2.

791.236 Issuance of parole; signature of chairman; notice, amendment, conditions.

Sec. 36. All paroles shall issue upon order of the parole board, duly adopted, and shall be signed by the chairman; notice thereafter shall be given the sheriff, in writing, or other local police officers of the municipality or county in which the prisoner was convicted, and to the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent. Any order of parole may be amended, revised, modified or rescinded at the discretion of the parole board. Whenever an order for parole is issued it shall contain the conditions thereof and shall specifically provide proper means of supervision of the paroled prisoner in accordance with the rules and regulations of the board and under the direction of the bureau of pardons and paroles created by this act.

HISTORY: New 1953, p. 414, Act 232, Eff. Oct. 2.

791.237 Paroled prisoner; clothing, non-transferable ticket from state.

Sec. 37. Whenever any prisoner is released upon parole he shall receive from the state clothing and a non-transferable ticket to the place in which he is to reside. At the discretion of the assistant director in charge of the bureau of pardons and paroles, the prisoner may be advanced the expenses of such transportation, and such further sums, not to exceed \$40.00, as the assistant director may direct for his temporary maintenance. Failure of the paroled prisoner to return such sums of money within 90 days may be declared to be a violation of his parole.

HISTORY: New 1953, p. 415, Act 232, Eff. Oct. 2.

791.238 Custody of paroled prisoner; warrant for return hearing; incarceration; treatment as escaped prisoner; forfeiture of good time; committing crime while on parole; construction of parole.

Sec. 38. Every prisoner on parole shall remain in the legal custody and under the control of the commission. The assistant director of the bureau of pardons and paroles is hereby authorized, at any time in his discretion, and upon a showing of probable violation of parole, to issue a warrant for the return of any paroled prisoner to any penal institution in the state under the control of the commission. Pending hearing upon any charge of parole violation, the prisoner shall remain incarcerated in such penal institution.

A prisoner violating the provisions of his parole and for whose return a warrant has been issued by the assistant director of the bureau of pardons and paroles shall, after the issuance of such warrant, be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired portion of his maximum imprisonment, and the time from the date of the declared violation to the date of his availability for return to any penal institution under the control of the commission shall not be counted as any part or portion of the time to be served. The warrant of the assistant director of the bureau of pardons and paroles shall be a sufficient warrant authorizing all officers named therein to detain the paroled prisoner in any jail of the state until his return to any penal institution under the control of the commission can be effected.

If any paroled prisoner shall fail to return to the prison enclosure when required by the assistant director of the bureau of pardons and paroles, or if he makes escape while on parole, he shall be treated in all respects as if he had escaped from the prison enclosure, and shall be subject to be retaken as provided by the laws of this state.

The parole board, in its discretion, may cause the forfeiture of all good time to the date of the declared violation.

Any prisoner committing a crime while at large upon parole and being convicted and sentenced therefor shall be treated as to the last incurred term, as provided under section 34.

A parole granted a prisoner shall be construed simply as a permit to such prisoner to go without the enclosure of the prison, and not as a release, and while so at large he shall be deemed to be still serving out the sentence imposed upon him by the court, and shall be entitled to good time the same as if he were confined in prison.

HISTORY: New 1953, p. 415, Act 232, Eff. Oct. 2;—Am. 1968, p. 290, Act 192, Eff. Nov. 15.

791.239 Paroled prisoner; arrest without warrant.

Sec. 39. Any probation officer, any parole officer or any peace officer of this state may arrest without warrant, and detain in any jail of this state, any paroled prisoner, whenever he has reasonable grounds to believe that the prisoner has violated his parole or for whose return a warrant has been issued under section 38.

HISTORY: New 1953, p. 415, Act 232, Eff. Oct. 2;—Am. 1968, p. 290, Act 192, Eff. Nov. 15.

791.240 Repealed. 1968, p. 291, Act 192, Eff. Nov. 15.

Section related to violation of parole; hearing, witnesses, subpoena.

791.240a Parole violation; hearing, rules and regulations; counsel.

Sec. 40a. Within 30 days after a paroled prisoner has been returned to a state penal institution under accusation of a violation of his parole, other than the conviction for a felony or misdemeanor punishable by imprisonment in any jail, a state or federal prison under the laws of this state, the United States or any other state or territory of the United States, he shall be entitled to a hearing on such charges before 2 members of the parole board. Hearings shall be conducted in accordance with rules and regula-

tions adopted by the director, and the accused prisoner shall be given an opportunity to appear personally or with counsel and answer to the charges placed against him.

HISTORY: Add. 1968, p. 291, Act 192, Eff. Nov. 15.

791.241 Order rescinding or reinstating parole.

Sec. 41. When the parole board has determined the matter it shall enter an order rescinding such parole, or reinstating the original order of parole or enter such other order as it may see fit.

HISTORY: New 1953, p. 416, Act 232, Eff. Oct. 2.

791.242 Final order of discharge; certificate; period of parole.

Sec. 42. When any paroled prisoner has faithfully performed all of the conditions and obligations of his parole for the period of time fixed in such order, and has obeyed all of the rules and regulations adopted by the parole board, he shall be deemed to have served his full sentence, and the parole board shall enter a final order of discharge and issue to the paroled prisoner a certificate of discharge.

No parole shall be granted for a period less than 2 years in all cases of murder, actual forcible rape, robbery armed, kidnapping, extortion, or breaking and entering an occupied dwelling in the night time except where the maximum time remaining to be served on the sentence is less than 2 years.

HISTORY: New 1953, p. 416, Act 232, Eff. Oct. 2;—Am. 1961, p. 100, Act 92, Eff. Sep. 8.

791.243 Applications for pardon; filing, information.

Sec. 43. All applications for pardons, reprieves and commutations shall be filed with the parole board upon forms provided therefor by the parole board, and shall contain such information, records and documents as the parole board may by rule require.

HISTORY: New 1953, p. 416, Act 232, Eff. Oct. 2.

791.244 Application for reprieves, commutation or pardon; delivery to governor, filing; hearing; notice, rules and regulations; investigation.

Sec. 44. Subject to the constitutional authority of the governor to grant reprieves, commutations and pardons, the parole board shall, upon receipt of any application for reprieve, commutation or pardon:

(a) Deliver the original application to the governor and retain a copy thereof in its file, pending investigation and hearing; and

(b) Within 10 days after receipt of any application, forward to the sentencing judge, and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing thereof, together with copies of the application, the supporting affidavits, and a brief summary of the case. Within 10 days after receipt of notice of the filing of any application, it shall be the duty of the sentencing judge and the prosecuting attorney, or their successors in office, to file with the parole board, in writing, such information as may be at their disposal, together with such objections as they may desire to interpose to such application.

(c) In all cases where the applicant applies for a reprieve, commutation or pardon, the parole board shall conduct a public hearing before recommending executive clemency. Two members of the board may conduct such hearing, and the public shall be represented by the attorney general or a member of his staff.

(d) At least 5 days prior to any public hearing written notice thereof shall be transmitted by mail to the attorney general, to the sentencing trial judge and to the prosecuting attorney, or their successors.

(e) Public hearing shall be conducted pursuant to the provisions of this act, and in accordance with such rules and regulations as the commission may adopt. Any person having information to divulge, in connection with any application for pardon, commu-

tation or reprieve, shall be sworn as a witness. And in hearing testimony, the parole board shall give to any technical rules of evidence a liberal construction.

(f) The parole board shall in each case make a full investigation and recommendation, and shall make all data in its files available to the governor. The files of the parole board in such cases shall be matters of public record.

HISTORY: New 1953, p. 416, Act 232, Eff. Oct. 2.

791.245 Hearing; administering oath to witness.

Sec. 45. In the conduct of any hearing or investigation as herein provided any member of the parole board may administer the oath to any witness.

HISTORY: New 1953, p. 417, Act 232, Eff. Oct. 2.

CHAPTER IV.

BUREAU OF PENAL INSTITUTIONS.

791.261 Bureau of prisons; establishment, direction and supervision.

Sec. 61. There is hereby established within the department, a bureau of prisons. This bureau shall be under the direction and supervision of the assistant director in charge of the bureau of penal institutions.

HISTORY: New 1953, p. 417, Act 232, Eff. Oct. 2.

791.262 Bureau of penal institutions; places administered.

Sec. 62. The following penal institutions shall be administered within said bureau: The state prison of southern Michigan in the township of Blackman, in the county of Jackson; the state house of correction and branch of state prison at Marquette, in the county of Marquette; the Michigan reformatory at Ionia, in the county of Ionia; also any other state prison or reformatory for adults hereafter established; also any state penal institutions, farm probation recovery camp, or penal institutions for sex offenders hereafter established.

Supervision and inspection of jails and houses of correction, visitation.

The department shall supervise and inspect local jails and houses of correction for the purpose of obtaining facts in any manner pertaining to the usefulness and proper management of said penal institutions and of promoting proper, efficient and humane administration thereof, and shall promulgate rules and standards with relation thereto; and any reasonable order with respect to such penal institutions may be enforced through mandamus or injunction in the circuit court of the county where the penal institution is located, through proper proceedings instituted by the attorney general on behalf of the commission. The board of supervisors may determine whether the sheriff's residence is to be a part of the county jail. Any sheriff, superintendent or employee of any penal institution, subject to inspection under the provisions of this act, who shall refuse to admit any member of the commission, or any duly authorized agent of the commission, for the purpose of visitation and inspection, or who shall refuse or neglect to furnish the information required by the commission, or its duly authorized agent, shall be guilty of a misdemeanor, and shall be punished as provided in the laws of this state.

Records, reports.

The sheriff of each county of this state and the superintendent of each local house of correction shall keep such records with respect to the several county jails and houses of correction as shall be reasonably prescribed by the commission. The sheriff of each county of this state and the superintendent of each local house of correction shall, on or before September 30 in each year, make a report to the commission with respect to the several county jails and houses of correction such report to be in such form and contain such information as shall be reasonably prescribed by the commis-

sion. The commission shall furnish any blank forms required for the making of such report.

HISTORY: New 1953, p. 417, Act 232, Eff. Oct. 2;—Am. 1964, p. 109, Act 111, Eff. Aug. 28.

791.263 Wardens; appointment; personnel.

Sec. 63. The wardens of the several penal institutions of this state shall be appointed by the director of corrections and such wardens shall be within the state civil service. The assistant director in charge of the bureau of penal institutions shall, subject to the approval of the director, appoint such personnel within the bureau as may be necessary: Provided, That members of the staff and employees of each penal institution in this state shall be appointed by the warden subject to the approval of the director.

HISTORY: New 1953, p. 417, Act 232, Eff. Oct. 2.

791.264 Classification of prisoners; classification committee; information, filing; investigation.

Sec. 64. The assistant director in charge of the bureau of penal institutions shall have authority and it shall be his duty to classify the prisoners in the several penal institutions. He shall, subject to the approval of the director, promulgate regulations under which there shall be organized in each penal institution, a classification committee from the staff of such penal institution, which committee shall perform such services and in such manner as the assistant director in charge of the bureau of penal institutions shall require. It shall be the duty of each such classification committee to obtain and file complete information with regard to each prisoner sentenced under an indeterminate sentence at the time such prisoner is received in any penal institution. It shall be the duty of the clerk of the court and of all probation officers and other officials to send such information as may be in their possession or under their control to each such classification committee when and in such manner as they may be directed. When all such existing available records have been assembled, each such classification committee shall determine whether any further investigation is necessary, and, if so, it shall make such investigation. All such information shall be filed with the parole board so as to be readily available when the parole of the prisoner is to be considered.

HISTORY: New 1953, p. 418, Act 232, Eff. Oct. 2.

791.265 Transfer or re-transfer of prisoners; use of employees.

Sec. 65. Under rules and regulations promulgated by the director with the approval of the commission, the assistant director in charge of the bureau of penal institutions may cause the transfer or re-transfer of any prisoner from any penal institution to which committed to any other penal institution, or temporarily to any state institution for medical or surgical treatment. In effecting such transfers the assistant director of the bureau of penal institutions may utilize the services of any executive or employee within the department and of any law enforcement officer of the state.

HISTORY: New 1953, p. 418, Act 232, Eff. Oct. 2.

791.266 Commitment by courts; purpose of classification.

Sec. 66. For the purpose of classification, all convicted prisoners shall be committed by courts of criminal jurisdiction of the state, to the commission, at a place to be designated by the commission.

HISTORY: New 1953, p. 418, Act 232, Eff. Oct. 2.

791.267 Temporary confinement; study of prisoner; rehabilitation purposes; report by warden.

Sec. 67. Quarters for temporary confinement apart from those of regular inmates shall be provided for convicted prisoners upon commitment at each of the institutions which the commission shall designate as such reception centers. Within 60 days after the arrival of a convicted prisoner at such designated institution, the classification

committee therein shall make and complete a comprehensive study of such prisoner, including physical and psychiatric examinations, to the end that he may be confined in the penal institution suited to the type of rehabilitation required in his case. The warden thereof shall thereupon deliver a report of the study of the classification committee to the assistant director in charge of the bureau of penal institutions, who shall, within 5 days thereafter, execute an order to confine the prisoner in such penal institution as he may determine.

HISTORY: New 1953, p. 418, Act 232, Eff. Oct. 2;—Am. 1980, p. 107, Act 103, Imd. Eff. Apr. 28.

791.268 Release of adult prisoner; clinical mental evaluation; hazards to public; commitment to department of mental health, testimony of psychiatrists; applicability of act.

Sec. 68. Before releasing any adult prisoner who has been convicted of 1 or more murders, attempted murders, conspiracy to murder, forcible rapes, sexual mutilations, felonious assaults or mayhems and if there is a previous or accompanying history of severe mental derangement as a motivating factor in the crimes, the department shall petition the probate court of the county from which the prisoner was sentenced for an order requiring the prisoner to undergo a clinical mental evaluation at the center for forensic psychiatry. If from the evidence of the mental evaluation, the probate court is satisfied that the prisoner would present a probable hazard to the public if he were released, the court shall commit the prisoner to the department of mental health. Before the probate court may commit the prisoner, there must be testimony from at least 2 licensed psychiatrists to the effect that the prisoner would present a probable hazard to the public if he were released. The provisions of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.11 to 330.71 of the Compiled Laws of 1948 shall apply to procedures under this section and to the extent they are not inconsistent.

HISTORY: Add. 1968, p. 516, Act 306, Eff. Nov. 15.

CHAPTER V.

BUREAU OF PRISON INDUSTRIES.

791.271 Bureau of prison industries; supervision of industrial plants.

Sec. 71. The assistant director of the bureau of prison industries is hereby vested with the control, management, coordination and supervision of the industrial plants connected with the several penal institutions, and subject to the approval of the director shall appoint all bureau personnel as may be necessary.

HISTORY: New 1953, p. 418, Act 232, Eff. Oct. 2.

CHAPTER VI.

MISCELLANEOUS.

791.281 Powers and duties transferred; department abolished; rules and regulations.

Sec. 81. The powers and duties vested by law in the state department of corrections created under the provisions of Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, being sections 791.1 to 791.123, inclusive, of the Compiled Laws of 1948, are hereby transferred to and vested in the state department of corrections herein created. Immediately on the taking effect of this act the state department of corrections created under said Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be abolished, and the state department of corrections herein created shall be the successor to all the powers, duties and responsibilities thereof, and whenever reference is made in any law of the state to the department of corrections reference shall be deemed to be intended to be made to the state department of corrections herein created. Any hearing or other proceeding pending before

the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall not be abated but shall be deemed to be transferred to the department created under the provisions of this act, and shall be conducted and determined thereby in accordance with the provisions of the law governing such hearing or proceeding. All records, files and other papers belonging to the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be turned over to the state department of corrections created under this act and shall be continued as a part of the records and files thereof. All orders and rules and regulations shall continue in effect at the pleasure of the department created under the provisions of this act, acting within its lawful authority. All of the powers and duties vested in the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be transferred to and vested in the department of corrections created under this act.

HISTORY: New 1953, p. 419, Act 232, Eff. Oct. 2.

791.282 Transfers of appropriations.

Sec. 82. The provisions of any other law to the contrary notwithstanding, for the fiscal year ending June 30, 1954, the commission may, with the approval of the state administrative board, make such transfers of appropriations as are necessary to carry out the intent of this act.

HISTORY: New 1953, p. 419, Act 232, Eff. Oct. 2.

791.283 Repeal.

Sec. 83. Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, being sections 791.1 to 791.123, inclusive, of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1953, p. 419, Act 232, Eff. Oct. 2.

CHAPTER 798. CORRECTIONS—SUPPLEMENTAL CHAPTER

PROBATION RECOVERY CAMPS		798.103 Interstate compact; prevention of crime.	
Act 195 of 1935		DISCHARGE FROM PAROLE, DISCHARGED FROM	
798.1	Probation recovery camps; state prison commission to establish and supervise.	ARMED FORCES	
798.2	Probation recovery camps; rules and regulations.	Act 277 of 1945	
798.3	Probation recovery camps; persons eligible.	798.201, 798.202 Repealed.	
798.4	Transfer of inmates; written notice, time.	FARMS AND STONE QUARRIES	
798.5	Agreements with state departments for joint undertakings; conservation and development of natural resources.	Act 301 of 1931	
798.6	Construction of act.	798.301-798.303 Repealed.	
INTERSTATE COMPACT, PROBATION AND PAROLE		PRISON CAMPS IN CONSERVATION AREAS	
Act 89 of 1935		Act 274 of 1949	
798.101	Interstate compact; probation and parole.	798.351 Camps for inmates of state prisons; purpose.	
798.102	Interstate compact; declaration of necessity.	798.352, 798.353 Repealed.	
		JACKSON, SALE OF PROPERTY	
		Act 171 of 1939	
		798.401-798.405 Repealed.	
		Act 192 of 1939	
		798.421, 798.422 Repealed.	

Act 195, 1935, p. 321; Imd. Eff. Jun. 6.

AN ACT to provide for the establishment of probation recovery camps; to prescribe the powers and duties of the state prison commission with respect thereto; to designate persons eligible for entrance in said camps, and to declare the effect of this act.

The People of the State of Michigan enact:

798.1 Probation recovery camps; state prison commission to establish and supervise.

Sec. 1. The state prison commission is hereby authorized and it shall be the duty of said commission to provide and establish probation recovery camps, to be located in such regions of the state which are adapted to reforestation and the development and conservation of the natural resources of the state, other than agricultural. Said camps shall be under the complete and exclusive supervision of the state prison commission. Said commission shall have the power to acquire by purchase, gift, grant or devise, or condemnation under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 3763 to 3783, inclusive, of the Compiled Laws of 1929, suitable sites and acreage; to erect and maintain appropriate buildings thereon; and to otherwise equip and furnish the said camps. The said commission is hereby authorized to engage teachers, trainers and other employees and incur such other expenses as shall be necessary to the proper functioning of this act.

HISTORY: CL 1948, 798.1.

NOTE: Act 149, 1911, above referred to, is Compilers' § 213.21 et seq.

798.2 Probation recovery camps; rules and regulations.

Sec. 2. The said commission shall adopt and enforce rules and regulations for the government and discipline of the camps: Provided, That parolees shall be segregated from probationers and confined in separate camps and that no camp shall confine both

probationers and parolees. The commission shall provide educational and instructive courses of both a civil and semi-military character: Provided, That such courses shall not be other than vocational or physical and shall be best suited to equip and train the inmates as good citizens.

HISTORY: CL 1948, 798.2.

798.3 Probation recovery camps; persons eligible.

Sec. 3. Any person convicted of a crime in his state who has been or shall be declared eligible to probation, under the laws of this state, by a court of competent jurisdiction, or who, in the opinion of the state prison commission, is qualified to parole from any penal institution, is eligible to confinement in the camps herein provided for.

HISTORY: CL 1948, 798.3.

798.4 Transfer of inmates; written notice, time.

Sec. 4. The said commission shall have the discretionary power to transfer an inmate from 1 camp to another whenever it shall deem such change wise for the welfare of the inmate or the interests of the camps. Written notice of any such transfer shall be given to the committing authority within 15 days from the date thereof.

HISTORY: CL 1948, 798.4.

798.5 Agreements with state departments for joint undertakings; conservation and development of natural resources.

Sec. 5. The commission shall have the power and authority to enter into agreements with the department of conservation or any other department or agency of the state for joint undertakings for the conservation and development of the natural resources of the state and for the recovery and reclamation of any inmate of the camps, or for any other kindred purpose wherein the facilities of any such department or agencies may be useful and available and of mutual benefit and advantage. The various agencies of the state shall establish, as far as possible, reciprocal relations for the efficient functioning of this act.

HISTORY: CL 1948, 798.5.

798.6 Construction of act.

Sec. 6. This act shall be construed as supplementary to the laws of this state with respect to pardons, paroles and probation.

HISTORY: CL 1948, 798.6.

Act 89, 1935, p. 143; Imd. Eff. May 27.

AN ACT providing that the state of Michigan may enter into a compact or compacts with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses or who are or may be at large on probation or parole, and providing that the state may enter into a compact or compacts with any of the United States that will provide for cooperative effort and mutual assistance amongst them in the prevention of crime and in the enforcement of their respective penal laws and policies and to establish such agencies, joint or otherwise, as said states may deem desirable for making effective such agreements and compacts.

The People of the State of Michigan enact:

798.101 Interstate compact; probation and parole.

Sec. 1. The governor of this state is hereby authorized and directed to enter into a compact on behalf of the state of Michigan with any of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to any 2 or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state") to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state") while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person's being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than 1 year prior to his coming to the sending state and has not resided within the sending state for more than 6 continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition or fugitives from justice are hereby expressly waived. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, That if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified, it shall have the full force and effect of law within such state; the form of ratification to be in accordance with the laws of the ratifying state.

(7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending 6 months' notice in writing of its intention to withdraw from the compact.

HISTORY: CL 1948, 798.101.

CITED IN OTHER SECTIONS: Sections 798.101 to 798.103 are cited in § 791.211.

798.102 Interstate compact; declaration of necessity.

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall become effective immediately upon its passage and, when the governor of this state shall sign and seal this compact or any compact with any other state, pursuant to the provisions of this act. Such compact or compacts as between the state of Michigan and such other state so signing shall have the force and effect of law immediately upon the enactment by such other state of a law giving it similar effect.

HISTORY: CL 1948, 798.102.

798.103 Interstate compact; prevention of crime.

Sec. 3. The governor of the state of Michigan is further authorized and empowered to enter into any other agreements or compacts with any of the United States not inconsistent with the laws of this state or of the United States, or the other agreeing states, for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the penal laws and policies of the contracting states and to establish agencies, joint or otherwise, as may be deemed desirable for making effective such agreements and compacts. The intent and purpose of this act is to grant to the governor of the state of Michigan administrative power and authority if and when conditions of crime make it necessary to bind the state in a cooperative effort to reduce crime and to make the enforcement of the criminal laws of agreeing states more effective, all pursuant to the consent of the Congress of the United States heretofore granted.

HISTORY: CL 1948, 798.103.

Sec. 4. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

798.201, 798.202 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized discharge from paroles to persons honorably discharged from armed forces of United States.

798.301-798.303 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized acquisition of farms and stone quarries for short time prisoners.

Act 274, 1949, p. 401; Imd. Eff. Jun. 7.

AN ACT to authorize the construction of camps for inmates of state prisons on state-owned lands within conservation areas, to authorize the use of inmate labor on conservation projects on state-owned lands, and to make an appropriation therefor.

The People of the State of Michigan enact:

798.351 Camps for inmates of state prisons; purpose.

Sec. 1. In order to facilitate the rehabilitation of inmates of state prisons and to provide inmate labor for conservation projects on state-owned lands, the corrections de-

partment and the conservation department are hereby authorized to construct on state-owned lands within conservation areas camps for the purpose of housing prison inmates who shall be made available to the conservation department for work on conservation projects on state-owned lands.

HISTORY: New 1949, p. 401, Act 274, Imd. Eff. Jun. 7.

CITED IN OTHER SECTIONS: The above section is cited in § 750.193.

798.352, 798.353 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections made appropriations for construction and maintenance of prison camps.

798.401-798.405 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized sale of state land in city of Jackson.

798.421, 798.422 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized sale of certain state buildings and equipment in city of Jackson.

CHAPTER 800. CORRECTIONS—PRISONS

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800.323	Corrections commission; authority and duties.		

Act 118, 1893, p. 170; Imd. Eff. May 26.

AN ACT to revise and consolidate the laws relative to the state prison, to the state house of correction, and branch of the state prison in the upper peninsula, and to the house of correction and reformatory at Ionia, and the government and discipline thereof and to repeal all acts inconsistent therewith.

The People of the State of Michigan enact:

800.1 State penal institutions; maintenance.

Sec. 1. There shall continue to be maintained in this state a state prison in the township of Blackman, in the county of Jackson; a state prison at Marquette, in the county of Marquette, and a house of correction and reformatory at Ionia, in the county of Ionia, in which persons sentenced shall be confined, employed at hard labor, and governed in the manner provided by law. The state prison in the township of Blackman.

in the county of Jackson, shall be known and designated as the state prison of southern Michigan.

HISTORY: CL 1897, 2080;—CL 1915, 1700;—CL 1929, 17544;—Am. 1935, p. 119, Act 76, Eff. Sept. 21;—CL 1948, 800.1.

STATE INSTITUTIONS: For general provisions as to management and operation, see Compilers' § 21.71 et seq.

IONIA STATE HOSPITAL: For care and treatment of the criminal insane, see Act 151 of 1923, being Compilers' § 330.11 et seq.

CITY PRISONS: In fourth class cities, see Compilers' §§ 93.1 and 93.2.

VILLAGE PRISONS: See Compilers' §§ 66.11 and 67.5.

STERILIZATION: Procedure for sterilization of insane, feeble-minded, etc., convict, see Compilers' § 720.301 et seq.

800.2 Board of control; appointment, members, qualifications; ex officio members, vacancy.

Sec. 2. The government and control of said prison and of the house of correction, and of the branch of the state prison in the upper peninsula, shall be vested in a board of control for each to consist of 3 members, not more than 2 of whom shall be of the same political party, to be appointed by the governor, by and with the advice and consent of the senate, 1 to serve for 2 years, 1 to serve for 4 years, and 1 to serve for 6 years, as may be designated by the governor at the time of their appointment, and at the expiration of their term their successors shall be appointed in like manner for the term of 6 years. The governor shall be ex officio a member of said board. Whenever a vacancy occurs in either of such boards otherwise than by the expiration of a term, such vacancy shall be filled by the governor for the remainder of the term, by and with the advice of the senate, if in session. If the senate is not in session, the appointment shall continue until the next regular session of the senate. The first appointment shall be made on the passage of this act, and the terms of office of the first appointees shall terminate on the fifteenth day of February, 1895, 1897, and 1899, respectively.

HISTORY: CL 1897, 2081;—CL 1915, 1701;—CL 1929, 17545;—CL 1948, 800.2.

BOARDS OF CONTROL: Abolished: duties vested in the bureau of prisons, see Compilers' § 791.261.

800.3 Board of control; compensation; expenses.

Sec. 3. The members of said boards of control, shall receive no compensation for their time or services, but their actual and reasonable expenses, incurred in the performance of their official duties, to be verified on oath, shall be paid by the state treasurer on the warrant of the auditor general, out of money in the treasury not otherwise appropriated.

HISTORY: CL 1897, 2082;—CL 1915, 1702;—CL 1929, 17546;—CL 1948, 800.3.

800.4 Prison officers; oath.

Sec. 4. The officers of each of the prisons shall consist of a warden, who shall be the principal keeper, 1 deputy warden, 1 clerk, 1 chaplain, 1 physician who is a surgeon, and who shall also be a keeper, and 1 chief engineer, and as many keepers and guards as the warden and the respective boards may deem necessary. Each of said officers, before entering upon the duties of his office, shall take and subscribe the official oath prescribed in the constitution, and file the same with the auditor general.

HISTORY: CL 1897, 2083;—CL 1915, 1703;—CL 1929, 17547;—CL 1948, 800.4.

800.5 Warden; appointment, term, qualifications, removal.

Sec. 5. The said boards of control shall appoint for the prison under their control a warden, who shall hold office during the pleasure of the board. He shall, from practical experience, possess the ability and qualifications necessary to successfully carry on the industries of the prison, and be one who has the executive ability essential to the proper management of the officers and employes under his jurisdiction, and to enforce and maintain proper discipline in every department, and shall have power to remove him for cause, after opportunity shall be given him to be heard, upon written charges. No warden shall be removed except for cause.

HISTORY: CL 1897, 2084;—CL 1915, 1704;—CL 1929, 17548;—CL 1948, 800.5.

BOARDS OF CONTROL: See note under Sec. 2.

800.6 Deputy warden and employees; appointment, term.

Sec. 6. The deputy warden, and all other officers and employes of each prison, shall be appointed by the warden of the prison for which such appointments are made, subject to the approval of the board of such prison, and shall hold their office during the pleasure of the warden and the board of managers.

HISTORY: CL 1897, 2065;—CL 1915, 1705;—CL 1929, 17549;—CL 1948, 800.6.

800.7 Warden; attendance, absence.

Sec. 7. Each warden shall be in attendance at the prison, except when necessarily absent, in which case his duties during his absence shall be performed by the deputy, or the duly appointed representative of the warden, and in no case shall the warden or deputy warden or the duly appointed representative of the warden be absent from the prison at the same time.

HISTORY: CL 1897, 2066;—CL 1915, 1706;—CL 1929, 17550;—CL 1948, 800.7;—Am. 1969, p. 379, Act 197, Imd. Eff. Aug. 6

800.8 Warden; daily journal, contents.

Sec. 8. The warden shall keep a daily journal of the proceedings of the prison in which he shall note every infraction of the rules and regulations of the prison by any officer or guard thereof, which shall come to his knowledge, and make a memorandum of every complaint made by any convict of cruel or unjust treatment from any officer of the prison, or a want of good and sufficient food or clothing; and also of every infraction of the rules and regulations of the prison by any prisoner, naming him and specifying the offense, and also what punishment and the extent thereof, if any, was awarded, which journal shall be laid before the board of his prison at every stated meeting, and at every special meeting when demanded.

HISTORY: CL 1897, 2067;—CL 1915, 1707;—CL 1929, 17551;—CL 1948, 800.8.

800.9 Warden; general duties.

Sec. 9. It shall be the duty of the warden, under the rules and regulations adopted by the board of his prison for the government of the prison:

First, To exercise a general superintendence over the government, discipline and police of the prison, and to superintend all the business concerns thereof;

Second, To give necessary directions to all inferior officers, keepers and guards and to examine whether they have been careful and vigilant in their respective duties;

Third, To examine daily into the state of the prison, and the health, conduct and safe keeping of the prisoners;

Fourth, To use every proper means to furnish employment to prisoners most beneficial to the state and best suited to their several capacities;

Fifth, To superintend any manufacturing and mechanical business that may be carried on by the state, pursuant to law, within the prison; to receive the articles manufactured, and to sell and dispose of the same for the benefit of the state;

Sixth, To take charge of the real and personal estate attached to the prison;

Seventh, To inquire into the justice of any complaints made by any of the convicts relative to their provisions, clothing or treatment;

Eighth, The said warden, under the direction of the said board shall be the custodian of all funds belonging to the prison, whether arising from the avails of the labor of the convicts, the sales of manufactured articles or appropriations made by the legislature and drawn from the state treasury;

Ninth, And generally to have charge of all the departments of the prison and its officers as its executive head.

HISTORY: CL 1897, 2068;—CL 1915, 1708;—CL 1929, 17552;—CL 1948, 800.9.

SERVICE OF PROCESS: Duty of warden in case of service on prisoner, see Compilers' § 600.1906 and GCR 103.

800.10 Warden; monthly report to board of control, moneys.

Sec. 10. Each warden shall make a monthly report to the board of his prison of all moneys received by him from every source by virtue of his office, and of all sums paid and expended by him with lawful vouchers therefor, and stating also the balance in his hands at the time of making such report.

HISTORY: CL 1897, 2089;—CL 1915, 1709;—CL 1929, 17553;—CL 1948, 800.10.

800.11 Warden; care of convict's property, money or nonperishable items; death of prisoner.

Sec. 11. The warden shall take charge of the property which a convict may have about his person when received at the prison. The money so taken shall be placed in the prison accounts to the credit of the convict from whom it is taken; the other property, if of any value, and not of a perishable nature, shall be kept by the warden and returned to the convict when he shall be discharged or all shall be delivered to his legal representatives in case of his death before being released: Provided, That if no legal representative shall demand such property within 2 years after the death of the convict, the whole of it shall become the property of, and be applied to the use of the state.

HISTORY: CL 1897, 2090;—CL 1915, 1710;—CL 1929, 17554;—CL 1948, 800.11.

ESCHEATS: When property escheats to state in general, see Compilers' § 567.1 et seq.

800.12 Warden; fiscal transactions; proceedings.

Sec. 12. All the fiscal transactions and dealings on account of each prison shall be conducted by and in the name of the warden thereof, with the consent and approval of the board of control. Whenever in the judgment of the warden it is necessary to institute any proceeding against any person, firm or corporation, for the recovery of any sum of money due the institution, or to protect the rights thereof, he shall lay the matter before the board of control and if the said board shall deem such proceeding necessary, the warden shall be authorized with the approval of the attorney general to institute same in his own name and shall be represented in such proceeding by the attorney general. When a controversy arises respecting any contract made by the warden on account of the prison, the warden may, with the written approval of the board, submit the same to the final determination of arbitrators or referees.

HISTORY: CL 1897, 2091;—Am. 1911, p. 384, Act 219, Eff. Aug. 1;—CL 1915, 1711;—CL 1929, 17555;—CL 1948, 800.12.

800.13 Clerk; bond.

Sec. 13. The clerk of each prison, before entering on the duties of his office, shall execute a bond to the people of this state, with sufficient sureties, to be approved by the board of the prison employing him, in the penal sum of 10,000 dollars, conditioned that he will keep a true, honest and faithful record of the accounts of the prison, and pay over all money that may come into his hands as such clerk, and will faithfully discharge all the duties of such office as prescribed by law and the rules and regulations of the prison, which bond shall be filed in the office of the auditor general.

HISTORY: CL 1897, 2092;—CL 1915, 1712;—CL 1929, 17556;—CL 1948, 800.13.

800.14 Clerk; duties.

Sec. 14. It shall be the duty of the clerk of the prison:

First, To attend at the prison daily during the proper business hours, unless by the direction of the board, or the warden, he is otherwise engaged in transacting business on account of the prison;

Second, To keep the books and accounts of the prison in such manner as to exhibit clearly all the financial transactions relating to it; to also keep a register of convicts, in which shall be entered in alphabetical order the name of each convict, the crime of which he is convicted, the date of his conviction, term of sentence, from what county, and by what court sentenced, his place of nativity, age, occupation, complexion, stat-

ure, number of previous convictions, and whether previously confined in a prison in this or any other state, together with when and how he was discharged. The board or warden may require such additional facts to be stated on the register as may be deemed proper;

Third, To do all such writing as may be required of him by the board or warden relating to the affairs of the prison.

HISTORY: CL 1897, 2093;—CL 1915, 1713;—CL 1929, 17557;—CL 1948, 800.14.

800.15 Physician; duties.

Sec. 15. It shall be the duty of the physician of the prison:

First, To attend at all times to the wants of sick convicts whether in the hospital, or in their cells, and to bestow upon them all necessary medical service;

Second, In company with the hall master, to examine weekly the cells of the convicts, for the purpose of ascertaining whether they are kept in a proper state of cleanliness and ventilation, and if they are not so kept to point out to said hall master the deficiencies, and report the same monthly to the board of such prison;

Third, To prescribe the diet of sick convicts, and his directions in relation thereto shall be strictly followed; and to be present at and superintend all corporal punishments which may be inflicted in the prison;

Fourth, To keep a daily record of all admissions to the hospital, and of cases treated in the cells or elsewhere, indicating the sex, color, nativity, age, occupation, habits of life, crime, period of entrance and discharge from the hospital, and disease;

Fifth, To make a yearly report to the board of the prison of the sanitary condition of the prison during the year, which report shall also contain a condensed statement of the information contained in his daily record;

Sixth, To make all such other reports as the board or warden may from time to time require.

HISTORY: CL 1897, 2094;—CL 1915, 1714;—CL 1929, 17558;—CL 1948, 800.15.

800.16 Physician; certification of convict's disability to labor.

Sec. 16. It shall be the duty of such physician, in case of any convict claiming to be unable to labor by means of sickness, to examine such convict; and if it is his opinion upon such examination that such convict is unable to labor, he shall immediately certify the same to the warden, and such convict shall thereupon be relieved from labor and admitted to the hospital, or placed in his cell or elsewhere, for medical treatment, as said physician shall direct, having a due regard for the safe keeping of such convict; and such convict shall not be required to labor so long as in the opinion of said physician such disability shall continue; and whenever said physician shall certify to the warden that such convict is sufficiently recovered as to be able to labor said convict shall be required to labor.

HISTORY: CL 1897, 2095;—CL 1915, 1715;—CL 1929, 17559;—CL 1948, 800.16.

800.17 Physician; advice as to purchase of hospital supplies.

Sec. 17. The necessary medicines and other hospital stores for the use of the prisons shall be purchased as other prison stores, but with the advice of the physician and under the direction of the warden.

HISTORY: CL 1897, 2096;—CL 1915, 1716;—CL 1929, 17560;—CL 1948, 800.17.

800.18 Chaplain; duties.

Sec. 18. It shall be the duty of the chaplain of each prison, under such regulations as the board of the prison may prescribe, or in the absence of such regulations, then as the warden shall direct, to hold religious services in the prison and to attend to the spiritual wants of the convicts; to give the convict moral and religious instruction; to furnish each convict at the expense of the state a bible and a prayer book of such ver-

sion or kind as the convict may choose; to visit the sick; to make a report to the board of the prison at the close of each prison year relative to the work he has performed during the year, and the result of such work; to conduct suitable funeral services as required, and to perform such other duties as may from time to time be necessary, or for the interest of the prison.

HISTORY: CL 1897, 2097;—CL 1915, 1717;—CL 1929, 17561;—CL 1948, 800.18.

800.19 Prison inspection; board of control.

Sec. 19. It shall be the duty of the warden and other officers of each prison, whenever requested, to admit the board of the prison or any member thereof, into every part of the prison; to exhibit to them, or either of them on demand, all the books, papers, accounts and writings pertaining to the prison, or to the business, government, discipline, or management thereof, and to render such board every other facility, to discharge their duties under this act.

HISTORY: CL 1897, 2098;—CL 1915, 1718;—CL 1929, 17562;—CL 1948, 800.19.

800.20 Salary of prison officers; warden's house; lodging of employees.

Sec. 20. There shall be paid at the office of each prison to the officers thereof such compensation as shall be fixed by the prison commission, with the approval of the state legislature. The warden shall, in addition to his salary, be allowed the use of house, fuel, lights and provisions for his family, and for guests who visit him on business connected with the prison, and shall wherever possible use trustees in operating and maintaining said home. Any officer may, in the discretion of the commission be allowed the use of a house or an apartment free of rent; and no officer or other person employed in or about the prison shall be permitted to receive in any way perquisites, emoluments or supplies for himself or his family from the prison, other than the compensation allowed by law. The commission may, if it shall deem it for the interest of the prison, require the keepers, guards, and such of the employes as they may designate, to be lodged and messed or boarded in the prison, and for that purpose may furnish lodging rooms in a plain and substantial manner, and supply provisions from the prison stock, which shall be cooked and prepared by the labor of convicts, and served at such time and on such terms and in such place as the commission may direct.

HISTORY: CL 1897, 2099;—Am. 1907, p. 62, Act 57, Imd. Eff. April 25;—CL 1915, 1719;—CL 1929, 17563;—Am. 1933, p. 289, Act 192, Eff. Oct. 17;—CL 1948, 800.20.

800.21 Qualifications for office; prohibition of contract, purchase or sale for prison and convict labor for prison official.

Sec. 21. No member of the boards shall be warden of either prison or be concerned in the business thereof, or hold any other appointment or place connected with either prison, and no person shall be appointed member of the boards, warden, deputy or clerk, or to any other employment in the prison, who is interested directly or indirectly in any kind of business carried on in such prison. And no member of the boards, warden, or any other officer of either prison shall be directly or indirectly interested in any contract, purchase or sale for or on account of either prison. No member of the boards, warden, or any other officer of either prison, shall employ the labor of any convict upon any work in which he or any other officer shall be interested.

HISTORY: CL 1897, 2100;—CL 1915, 1720;—CL 1929, 17564;—CL 1948, 800.21.

800.22 Prisoner officers; exemption from military or jury duty.

Sec. 22. The wardens, clerks, deputies, keepers, guards and other necessary attendants shall, while in the actual employ of the state as such, be exempt from military and jury duties.

HISTORY: CL 1897, 2101;—CL 1915, 1721;—CL 1929, 17565;—CL 1948, 800.22.

800.23 Meetings of boards of control; time, quorum, special notice, proceedings, record, rules.

Sec. 23. The boards shall meet at the prisons under their respective control as often as once in each month, and as much oftener as the proper control and management thereof shall require. A majority of the members of the board shall constitute a quorum for the transaction of business; but for a meeting held for the appointment and removal of the warden, and any business relating thereto, at least 10 days' notice in writing to each member shall have been given by the president or secretary of said board, stating the object of the meeting. All orders and resolutions of the boards shall be entered in their respective journals. At the first meeting after the appointment of a member for the full term, the members shall choose the presidents of their respective boards. The clerk of the prison shall attend and shall keep regular minutes of its proceedings, and of all rules and regulations adopted by it, which shall be recorded in a book provided for that purpose, signed by the members of the board present, and kept at the prison office. It shall be the duty of the board of control of each of said prisons to make and adopt all such general rules of government and discipline of the prison as they may deem expedient, and from time to time to change and amend the same, as circumstances may require.

HISTORY: CL 1897, 2102;—CL 1915, 1722;—CL 1929, 17566;—CL 1948, 800.23.

Sec. 24.

HISTORY: CL 1897, 2103;—CL 1915, 1723;—CL 1929, 17567;—Rep. 1937, p. 438, Act 255, Imd. Eff. July 22.

This section provided for classification of prisoners.

800.25 Regulations; food, rations, clothing, bedding.

Sec. 25. The boards may make regulations in regard to the food, rations, clothing and bedding of the convicts, as the health, well-being and circumstances of each may require; but all diet, rations, clothing, beds and bedding shall be plain, of good quality, and in sufficient quantity for the sustenance and comfort of the convicts.

HISTORY: CL 1897, 2104;—CL 1915, 1724;—CL 1929, 17568;—CL 1948, 800.25.

800.26 Reports by warden and officers; report by boards to governor, time; contents.

Sec. 26. The boards shall annually, and as much oftener as they may deem necessary, require reports from the warden and other officers of their respective prisons in relation to all matters connected with the management, business, discipline, money and property thereof, and the condition, conduct and employment of the convicts confined therein; and they shall, on or before the first day of September in each year preceding the regular session of the legislature, make out and transmit to the governor a report, made up to the thirtieth of June of the current year, showing the condition of their respective prisons, together with a detailed statement of the receipts and expenditures thereof for the 2 preceding years, the estimates of expenses for buildings, repairs and all other purposes for the next 2 succeeding years, the number of officers, with their several salaries, the whole number of convicts in the prison, and the whole number received during each of the 2 years, with the names of the counties from whence they were received, and the crimes of which they were convicted, the number who died, were discharged, escaped or pardoned, the changes or additions, if any, to the prison buildings and the cost thereof, together with such other facts and suggestions as will fully exhibit the entire workings of the prison during the 2 preceding fiscal years.

HISTORY: CL 1897, 2105;—CL 1915, 1725;—CL 1929, 17569;—CL 1948, 800.26.

ALIEN INMATE: Report by person in charge of institution to U.S immigration service, and release for deportation, see Compilers' § 404.31.

800.27 Officers' uniform.

Sec. 27. The boards shall prescribe a uniform to be worn while on duty by the several officers of their respective prison, except physician and chaplain, which shall have the name plainly designating the rank of officer wearing the same.

HISTORY: CL 1897, 2106;—CL 1915, 1726;—CL 1929, 17570;—CL 1948, 800.27.

Sec. 28.

HISTORY: CL 1897, 2107;—CL 1915, 1727;—CL 1929, 17571;—Am. 1931, p. 294, Act 183, Eff. Sept. 18;—Rep. 1937, p. 438, Act 255, Imd. Eff. July 22.

This section provided for transfer of prisoners.

800.29 Sentences to penal institutions; jurisdiction of courts.

Sec. 29. Courts of criminal jurisdiction may sentence to the state house of correction and reformatory at Ionia all male persons over 15 years of age and not known to have been previously sentenced to a prison for felony, who shall be convicted of any crime except treason or murder in the first degree; and all male persons over 15 years of age who shall be convicted of any misdemeanor, where the sentence for such crime or misdemeanor shall not be less than 6 months; and may sentence to the state prison at Jackson any person over the age of 15 years, duly convicted of any crime punishable by imprisonment in said state prison as the courts shall deem best; and may sentence to the state house of correction and branch of the state prison in the upper peninsula all persons convicted as is or may be provided by law for sentencing prisoners to any of the other prisons in this state as the court shall in its discretion deem best.

HISTORY: CL 1897, 2108;—CL 1915, 1728;—CL 1929, 17572;—CL 1948, 800.29.

PLACE OF IMPRISONMENT: See also Compilers' § 801.212.

800.30 Record of prisoner; contents.

Sec. 30. Respecting each prisoner received into either prison upon direct sentence thereto, the board shall cause to be entered from time to time in a register such facts as can be ascertained of parentage, and of early social influence as seem to indicate the constitutional and acquired defects and tendencies of the prisoner, and based upon these an estimate of the character of the prisoner, and the best probable plan of treatment. Upon such register shall also be entered from time to time, minutes of observed improvement or deterioration of character, and notes as to methods of treatment employed, and all orders or alterations affecting the standing or situation of prisoners, and any facts of personal history which may be brought to the knowledge of the board affecting the question of transfer to another prison, of the final release of the prisoner, or his being suffered to go out on parole.

HISTORY: CL 1897, 2109;—CL 1915, 1729;—CL 1929, 17573;—CL 1948, 800.30.

RECORD OF PRISONERS: As to duty of person in charge of institution to keep; also contents, see Compilers' § 404.32. Registration of criminals, see Compilers' § 800.201 et seq.

800.31 Employment of convicts; types.

Sec. 31. The warden shall also have authority, under such regulations as the board of his prison may adopt, to employ convicts in the erection or repair of the buildings or walls of the prison, in the prison coal mine or on the prison farm.

HISTORY: CL 1897, 2110;—CL 1915, 1730;—CL 1929, 17574;—CL 1948, 800.31.

800.32 Aiding prisoner to escape; penalty.

Sec. 30. [32]. Any person supplying any such convict with weapons, money, clothing, disguises, or any implement or thing, with the intent to assist him in escaping from custody, or who shall in any way assist such convict in his endeavor to escape, shall upon conviction be deemed guilty of a felony, and be liable to imprisonment in any of said prisons for a period not to exceed 5 years: Provided, however, That if the convict so assisted is being imprisoned for life, then and in such case, the person so assisting in such escape may be imprisoned for a period not to exceed 20 years: And provided further, That this section shall apply to every effort to assist a convict to escape by fur-

nishing weapons, money, clothing, disguises, or in any other manner to any convict, whether he is within the walls of the prison or is placed at work outside of the prison walls by direction of either the board or the warden. If any warden, deputy warden, guard, keeper or other officer shall through negligence, or by violating any of the rules of such prison or any of the provisions of this act, suffer any prisoner confined in any of such prisons to escape, he shall on conviction be punished by fine not exceeding 1,000 dollars, or by imprisonment in any of such prisons for a period not to exceed 2 years, or by both such fine and imprisonment in the discretion of the court. If any warden, deputy warden, guard, keeper or other officer shall *voluntary suffer any convict being imprisoned in any of such prisons to escape, he shall suffer the like punishment and penalties as the convict so suffered to escape was sentenced to suffer.

HISTORY: CL 1897, 2111;—CL 1915, 1731;—CL 1929, 17575;—CL 1948, 800.32.

*The word "voluntary" should be "voluntarily."

NOTE: This section was erroneously numbered 30.

ESCAPE: Penalties, see Compilers' § 750.183 et seq.

AIDING ESCAPE: See also Compilers' §§ 800.51 and 800.283. For right to search visitors to prisons for implements which might aid escape of convicts, see Compilers' § 800.284.

800.33 Infraction of prison rules; record, use at hearings; good time allowance, restoration, extension; release or discharge, eligibility, approval of parole board; parole violations.

Sec. 33. The warden shall cause a record to be kept of each and all infractions of the rules of discipline by convicts, with the names of the persons so offending, and the date and character of each offense, which record shall be placed before the commissioner of corrections at each regular hearing, and every convict who shall have no infraction of the rules of the prison or the laws of the state recorded against him, shall be entitled to and shall receive a reduction from his sentence as follows: During the first and second years of his sentence, 5 days for each month; during the third and fourth years, 6 days for each month; during the fifth and sixth years, 7 days for each month; during the seventh, eighth and ninth years, 9 days for each month; during the tenth, eleventh, twelfth, thirteenth and fourteenth years, 10 days for each month; during the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years, 12 days for each month; and from and including the twentieth year, up to and including the period fixed for the expiration of the sentence, 15 days for each month. This section shall not be construed so as to allow any good time in cases of commuted sentences unless so stipulated in the executive order commuting the sentence. The commissioner of corrections may, by general rule, subject to amendment from time to time and subject to general rules promulgated in compliance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, prescribe how much of the good time earned under the foregoing provisions a convict shall forfeit for 1 or more infractions of the prison rules in any month, and for any serious act of insubordination, attempt to escape, or escape, the warden may, by special order, take away any portion of the whole of the good time made by any convict up to the date of such offense. The warden may, as a reward for especially good conduct, such as aiding officials in cases of insubordination or attempts at escape, restore to any convict the whole or any portion of the good time lost because of any minor infraction of the rules. The warden, in computing the diminution of time for convicts, shall allow them the good time in accordance with the provisions of this amendatory act. Whenever a convict has been committed under several convictions, with separate sentences being served concurrently, they shall be considered as 1 continuous sentence in the granting or forfeiting of good time: Provided, That when a convict begins serving a second or any subsequent term for which he has been convicted after the effective date of this amendatory act, he shall be allowed good time in accordance with the schedule, beginning with the lowest figure stated therein. The

warden of any institution subject to the provisions of this act may, with the consent and approval of the commissioner of corrections, extend the good time allowance beyond that herein specified, to persons whom he deems to have achieved a decided reformation since the date of commitment or for good work records or for exemplary conduct: Provided, however, That such additional good time allowance shall not exceed 50 per cent of the good time allowance under the foregoing schedule. This amendatory act is hereby declared to be effective as to all prisoners now in custody at said institutions as well as to all prisoners who shall hereafter be committed: Provided further, That any convict now in prison whose good time allowance has been increased by this amendatory act, who would thereby be eligible for release or discharge, shall not be released or discharged without the approval of the parole board: Provided, That every convict shall be eligible for release or discharge if he has served the maximum of his sentence less the good time allowed him under the law prior to this amendatory act. The parole board shall be exclusively empowered to cause the forfeiture of the good time credited to any convict at the time of any parole violation.

HISTORY: CL 1897, 2112;—CL 1915, 1732;—Am. 1917, p. 41, Act 17, Eff. Aug. 10;—Am. 1921, p. 481, Act 256, Imd. Eff. May 18;—Am. 1929, p. 768, Act 300, Imd. Eff. May 23;—CL 1929, 17576;—Am. 1931, p. 133, Act 86, Imd. Eff. May 11;—Am. 1933, p. 406, Act 252, Eff. Oct. 17;—CL 1948, 800.33;—Am. 1953, p. 102, Act 105, Eff. Oct. 2.

GOOD TIME: HIGHWAY LABOR: Additional allowance, see Compilers' § 800.103.

Sec. 34.

HISTORY: CL 1897, 2113;—Rep. 1913, p. 506, Act 265, Eff. Aug. 14;—Rep. 1921, p. 450, Act 237, Imd. Eff. May 26.

This section provided for a joint meeting of the prison boards to determine the kinds of productive labor to be pursued in each prison.

800.35 Employment of prisoners; payment, market price.

Sec. 35. The boards are required to employ so many prisoners in either prison as are necessary in making all articles for the various state institutions as far as practicable, and the state institution shall pay to the prison making such articles, the market price of all such articles furnished.

HISTORY: CL 1897, 2114;—CL 1915, 1733;—CL 1929, 17577;—CL 1948, 800.35.

EMPLOYMENT OF PRISONERS: See Act 181 of 1911, being Compilers' § 800.101 et seq.

800.36 Employment of prisoners; transfer, reasons.

Sec. 36. Whenever the warden or the board of either prison shall deem it necessary for the health, discipline, or interest of the state or of any convict to do so, such convict may be transferred from 1 kind of work to any other kind of work in the prison as the warden or the board shall from time to time direct, and no such transfer shall affect or be deemed a violation of any contract.

HISTORY: CL 1897, 2115;—CL 1915, 1734;—CL 1929, 17578;—CL 1948, 800.36.

See note to preceding section.

800.37 Solitary confinement; employment, approval of board of control.

Sec. 37. The convicts which may have been, or may be sentenced, to solitary confinement in the state prison at hard labor for life may be released from solitary confinement and employed as other convicts are whenever and for such time as the board of the prison may by resolution direct; and such board is authorized to allow such convicts under such restrictions as it may deem necessary and proper, to correspond with near relatives and friends.

HISTORY: CL 1897, 2116;—CL 1915, 1735;—CL 1929, 17579;—CL 1948, 800.37.

SOLITARY CONFINEMENT: Power of court to order, see Compilers' § 769.2.

800.38 Hard labor; time; exception.

Sec. 38. All convicts other than such as are confined in solitude for misconduct in the prison shall as far as practicable be kept constantly employed at hard labor at an average of not less than 10 hours a day, (Sundays excepted), unless incapable of laboring by reason of sickness or other infirmity.

HISTORY: CL 1897, 2117;—CL 1915, 1736;—CL 1929, 17580;—CL 1948, 800.38.

HARD LABOR: Power of court to order, see Compilers' § 769.2.

800.39 Prisoners kept singly in cells.

Sec. 39. Whenever there shall be a sufficient number of cells in the prison it shall be the duty of the warden to keep the prisoners singly in a cell at night, and also during the daytime when unemployed.

HISTORY: CL 1897, 2118;—CL 1915, 1737;—CL 1929, 17581;—CL 1948, 800.39.

800.40 Guards and employees; duties; violation, misdemeanor, penalty; punishment of convicts, record.

Sec. 40. It shall be the duty of guards, keepers and other employees employed by the state at all times to be ready to attend to any duty required of them by the warden or deputy warden. The several keepers and guards are hereby expressly charged with all the duties and responsibilities of jailors. It shall be the duties of guards, keepers and other employees employed by the state to faithfully enforce all the rules and regulations of the board of control relative to their respective duties. Any guard, keeper or other employee employed by the state, who shall knowingly violate any of the rules or regulations adopted by such board of control, or who shall violate any of the provisions of this act, or neglect to perform the duties required of him by the rules and regulations of the prison or by the provisions of this act, shall be guilty of a misdemeanor, and on conviction thereof may be punished by a fine not exceeding 1,000 dollars, or by imprisonment in any of said prisons for a period not exceeding 2 years, or both such fine and imprisonment in the discretion of the court. The warden or deputy warden may punish the convicts for misconduct in such manner and under such regulations as shall be adopted by the board: Provided, That punishment by showering with cold water or whipping with the lash on the bare body shall in no case be allowed; and the warden or deputy shall, as soon as the next day after inflicting punishment on any convict, enter in a book to be kept for that purpose, a written memorandum thereof, signed by him, stating the offense committed and the kind and extent of the punishment inflicted, but in no case shall any punishment be brutal or inhuman, and that no corporal punishment shall be inflicted without the presence of the prison physician.

HISTORY: CL 1897, 2119;—CL 1915, 1738;—CL 1929, 17582;—CL 1948, 800.40.

800.41 Enforcement of discipline; attempted escapes.

Sec. 41. When several convicts combined, or any convict alone, shall offer violence to any officer or guard of the prison, or to any other convict or person, or do, or attempt to do any injury to the building, or any workshop, or to any appurtenances thereof, or attempt to escape, or resist or disobey any reasonable command, the officers of the prison shall use all suitable means to defend themselves, to enforce the observance of discipline, to secure the persons of offenders and to prevent any such attempt to escape.

HISTORY: CL 1897, 2120;—CL 1915, 1739;—CL 1929, 17583;—CL 1948, 800.41.

800.42 Liquor or drugs; disposal and use prohibited.

Sec. 42. No spirituous or fermented liquor, drug, medicine or poison shall, on any pretense whatever, be sold or given away in any of the prisons, or in any building appurtenant thereto, or on the land granted to the state for the use and benefit of the prisons; and no such liquors shall be given to or suffered to be used by any convict or employee in the prison, unless he is sick, and then only under the special direction of the physician.

HISTORY: CL 1897, 2121;—CL 1915, 1740;—CL 1929, 17584;—CL 1948, 800.42.

LIQUORS AND DRUGS: See also Compilers' § 800.281, and as to jails, Compilers' §§ 801.116 and 801.117.

800.43 Prison books and papers as public property; reports, preservation; publication, biennially; exchange.

Sec. 43. All books of accounts, registers, and other documents and papers relating to the affairs of the prisons, shall be considered public property, and shall remain therein.

and the warden shall preserve at least 1 set of copies of all official reports made to the governor respecting said prison, and a set of similar reports in the relation to the prisons of other states, so far as he shall be able to obtain the same; and to accomplish this purpose, there shall be printed biennially, for the use of the prisons, 300 extra copies of the report of the board, 100 of which shall be supplied to each warden, for exchange with prisons of other states, and each shall biennially transmit, to each of the state prisons in the United States, 1 copy of such report.

HISTORY: CL 1897, 2122;—CL 1915, 1741;—CL 1929, 17585;—CL 1948, 800.43.

800.44 Warden to practice economy; duplicate receipts.

Sec. 44. It shall be the duty of the warden and the deputy warden to see that rigid economy is practiced in all matters pertaining to the prison, and in the employment of prisoners, and that duplicate receipts be taken for all expenditures made by them on account of the prison, 1 copy of which shall be sent to the auditor's office monthly.

HISTORY: CL 1897, 2123;—CL 1915, 1742;—CL 1929, 17586;—CL 1948, 800.44.

800.45 Monthly audit by boards of control; record.

Sec. 45. It shall be the duty of the boards to examine and audit before payment all bills and accounts of their respective prison, at least monthly, to enter a strict account of the same in their books, and after the same shall have been examined, entered and audited, they shall be transmitted by the boards to the auditor general.

HISTORY: CL 1897, 2124;—CL 1915, 1743;—CL 1929, 17587;—CL 1948, 800.45.

800.46 Auditor general to draw warrant on treasurer; amount, regulations.

Sec. 46. The auditor general is hereby authorized and required to draw his warrant on the treasurer for such sums as the board shall from time to time direct; but such sums so drawn at any 1 time from either prison shall not exceed 2,000 dollars, and no further sum shall be drawn until satisfactory vouchers are presented to and allowed by the auditor general for the amount previously drawn.

HISTORY: CL 1897, 2125;—CL 1915, 1744;—CL 1929, 17588;—CL 1948, 800.46.

800.47 Inventory or settlement of accounts; removal or resignation of warden.

Sec. 47. On the removal or resignation of any warden, the board shall cause an inventory to be taken and the auditor general shall settle the accounts of such warden on the presentation of his books and vouchers duly authenticated for that purpose.

HISTORY: CL 1897, 2126;—CL 1915, 1745;—CL 1929, 17589;—CL 1948, 800.47.

800.48 Conveyance of convict to prison; duty of sheriff.

Sec. 48. It shall be the duty of the sheriff of every county in which any criminal shall be sentenced to confinement in either prison, to cause such convict to be removed from the county jail within 48 hours after sentence, and conveyed to the proper prison and delivered to the warden thereof.

HISTORY: CL 1897, 2127;—CL 1915, 1746;—CL 1929, 17590;—CL 1948, 800.48.

WARRANT TO SHERIFF: See Compilers' § 769.17.

800.49 Conveyance of convict to prison; fees and expenses, payment.

Sec. 49. The fees and actual expenses of sheriffs in conveying convicts to either prison shall be made out in a bill containing the items thereof, and shall be presented to the warden when the prisoner is delivered at the prison. The warden shall certify on it that the prisoner has been received, and the bill, including the sheriff's actual expenses in returning to the county from whence the prisoner was sent, shall be audited by the auditor general and paid from the state treasury. Before drawing his warrant the auditor general shall correct any errors in said bill as to form, items or amount, and

the sheriff shall be paid for such services, his actual traveling expenses and the expenses of the convict, and the sum of 3 dollars for each and every day so employed.

HISTORY: CL 1897, 2128;—CL 1915, 1747;—CL 1929, 17591;—CL 1948, 800.49.

800.50 Conveyance of convict to prison; certified copy of sentence; delivery to warden, use as evidence.

Sec. 50. When any convict shall be delivered to the warden of either prison, the officer having such convict in his charge shall deliver to such warden the certified copy of the sentence, received by such officer from the clerk of the court, and shall take from such warden a certificate of the delivery of such convict; and such certified copy of the sentence of any convict shall be evidence of the facts therein contained.

HISTORY: CL 1897, 2129;—CL 1915, 1748;—CL 1929, 17592;—CL 1948, 800.50.

COPY OF SENTENCE: To be part of record sent to warden, see Compilers' § 769.18.

800.51 Traffic in letters or implements; violation, misdemeanor, penalty.

Sec. 51. No person, without the consent of the warden, or deputy warden shall bring into or carry out of either prison any letter or writing, or any information to or from any convict; or deliver to any convict any poison, implement or other thing which may be used to injure such convict or any person, or in assisting them to escape. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be subject to the penalty for a misdemeanor provided for in this act.

HISTORY: CL 1897, 2130;—CL 1915, 1749;—CL 1929, 17593;—CL 1948, 800.51.

AIDING ESCAPE: See also Compilers' §§ 750.183 et seq., 800.32 and 800.283. For right to search visitors to prisons for implements which might aid escape of convicts, see Compilers' § 800.284.

800.52 Visitors; persons authorized.

Sec. 52. The following persons shall be authorized to visit the prison at pleasure, namely, the governor, lieutenant governor, members of the legislature, state officers, the judges of the supreme and circuit courts, prosecuting attorneys, sheriffs, members and officers of any board authorized by law to visit the same, and all regular officiating ministers of the gospel; and no other person shall be permitted to go within the walls of the prison where convicts shall be confined except by special permission of the warden, or under such regulations as the board shall prescribe.

HISTORY: CL 1897, 2131;—CL 1915, 1750;—CL 1929, 17594;—CL 1948, 800.52.

CLERGYMEN: As to visitation of prisons, see also Compilers' § 800.291.

SEARCH OF VISITORS: See Compilers' § 800.284.

SERVICE OF PROCESS: On prisoner, see Compilers' § 800.1908 and GCR 103.

800.53 Visitors; uniform rules; admission tickets; fees, use.

Sec. 53. It shall be lawful for the board to establish uniform rules for the admission of visitors within the prison, and they may prescribe a reasonable sum, not more than 25 cents, to be charged each individual for 1 admission: Provided, That no ticket of admission shall be sold to any person known to have served a term in this or in any other prison, or to any persons intoxicated, or under the influence of liquor, or disorderly person, or to any person known to the prison officials, or in the police circles as a "crook" or prostitute. The warden shall procure suitable tickets, which shall be held by the clerk, who shall keep an account of such sales, and pay over the money received to the warden daily. The gate keeper at the prison entrance, shall receive the tickets, and shall deliver them to the warden each day before the prison is closed. It shall be the duty of the board to appropriate annually out of the fees received from visitors the sum of 500 dollars in the purchase of books for said prison for the use of said convicts.

HISTORY: CL 1897, 2132;—CL 1915, 1751;—CL 1929, 17595;—CL 1948, 800.53.

800.54 Use of convict as witness; procedure.

Sec. 54. If any convict confined in either prison shall be considered an important witness in behalf of the people of this state, or for the defendant, upon any criminal prosecution against any other person, it shall be the duty of any officer or court authorized by law to allow writs of habeas corpus, upon the affidavit of the prosecuting attorney, or other showing to the satisfaction of such court or officer that such convict is a material and important witness on the trial of the cause, to grant a habeas corpus for the purpose of bringing such convict before the proper court to testify upon such prosecution. And in every case where a convict shall be removed from the prison to testify on any trial as provided in this section, he shall be securely kept in the jail of the county to which he shall have been removed, subject only to be taken into the court to testify on such trial, and after his testimony shall have been given, he shall be by the sheriff of the county forthwith returned to the prison, there to serve out the remainder of his term.

HISTORY: CL 1897, 2133;—CL 1915, 1752;—CL 1929, 17596;—CL 1948, 800.54.

HABEAS CORPUS: See Sec. 1 of Ch. 37 of (Jud. Act), being Compilers' § 600.4385 and GCR 713.

800.55 Prison school; regulations.

Sec. 55. A school shall be maintained in each prison for the instruction of convicts confined therein. It shall be conducted under such regulations as may be approved by the board of the prison in which maintained.

HISTORY: CL 1897, 2134;—CL 1915, 1753;—CL 1929, 17597;—CL 1948, 800.55.

800.56 Prison library; regulations.

Sec. 56. The library now established at the respective prisons for the use of the convicts shall be maintained, subject to such regulations as the board may approve.

HISTORY: CL 1897, 2135;—CL 1915, 1754;—CL 1929, 17598;—CL 1948, 800.56.

BOOKS: Purchase, see Compilers' § 800.53.

800.57 Epidemics; health measures.

Sec. 57. In case any pestilence or contagious disease shall break out among the prisoners in either prison, or in the vicinity of either prison, the board of such prison may cause the convicts therein to be removed to some suitable place of security, where such of them as may be sick shall receive all necessary care and medical attendance, and such convicts shall be returned as soon as it may be safe to do so to the prison, and there confined according to their respective sentences, if the time be unexpired.

HISTORY: CL 1897, 2136;—CL 1915, 1755;—CL 1929, 17599;—CL 1948, 800.57.

800.58 Fire; removal of prisoners.

Sec. 58. Whenever by reason of either prison or any building contiguous or near to either prison being on fire there shall be reason to apprehend that the convicts therein may be injured or endangered by such fire, or may escape, the warden may remove such convicts to some safe and convenient place, and there confine them so long as may be necessary to avoid the danger.

HISTORY: CL 1897, 2137;—CL 1915, 1756;—CL 1929, 17600;—CL 1948, 800.58.

800.59 Fire; replacement of buildings; cost.

Sec. 59. If any of the shops or buildings are destroyed or injured by fire they may be rebuilt or repaired immediately under the direction of the board, and with the approval of the governor, and the expense thereof paid from the state treasury. The money for this purpose will be drawn from the state treasury and accounted for in the manner now provided by law.

HISTORY: CL 1897, 2138;—CL 1915, 1757;—CL 1929, 17601;—CL 1948, 800.59.

800.60 Examination of accounts; duty of auditor general.

Sec. 60. It shall be the duty of the auditor general to examine and audit the accounts of the warden, and to lay a statement thereof before the legislature at each regular session thereof.

HISTORY: CL 1897, 2139;—CL 1915, 1758;—CL 1929, 17602;—CL 1948, 800.60.

800.61 Escaped convicts; measures for apprehension, reward; sentence.

Sec. 61. Whenever any convict shall escape from either prison, it shall be the duty of the warden to take all proper measures for the apprehension of such convict, and for that purpose he may offer a reward not exceeding 50 dollars for the apprehension and delivery of such convict; but with the consent of his board such reward may be increased to a sum not exceeding 500 dollars. All suitable rewards and other sums of money, necessarily paid for advertising and apprehending any convict who may escape from prison, shall be audited by the auditor general, and paid out of the state treasury. If any prisoner shall be retaken, the time between the escape and his recommittal shall not be computed as part of the term of imprisonment, but he shall remain in the prison a sufficient length of time after the term of his sentence would have expired, if he had not escaped, to equal the period of time he may have been absent by reason of such escape.

HISTORY: CL 1897, 2140;—CL 1915, 1759;—CL 1929, 17603;—CL 1948, 800.61.

800.62 Released prisoner; clothing, money, transportation.

Sec. 62. When any convict shall be discharged from prison by pardon or otherwise, the warden shall furnish such convict with clothing, if he be not already provided for, not exceeding 25 dollars in value, and such sum of money, not less than 10 dollars nor exceeding 25 dollars, as the warden may deem necessary and proper. Whenever any discharged convict shall have been convicted and sentenced from any other city or village than that in which the prison from which he is discharged is located, the warden shall purchase a railroad ticket to such city or village for the use of such discharged convict, or a railroad ticket to any other point in the state selected by such discharged convict where the cost of transportation does not exceed the amount required to carry such discharged convict to the point from which sentenced, the cost of such transportation to be paid out of the general fund of the state. Upon release such convict shall be conducted to the station of the railroad from which such transportation has been purchased, by an attendant of said prison, and placed upon the proper train of such railroad. The attendant shall thereupon deliver to the conductor of such train the ticket so purchased for the use of such convict. The conductor so receiving such ticket, if the place of destination of such convict shall be without the limits of the run of such conductor, shall deliver to such convict, upon reaching such limits, the unused portion of such ticket. It shall be the duty of every such released convict to continue to the place of destination as indicated upon such ticket and failure so to do shall constitute a misdemeanor and shall be punishable as such.

HISTORY: CL 1897, 2141;—Am. 1913, p. 762, Act 399, Eff. Aug. 14;—CL 1915, 1760;—Am. 1927, p. 772, Act 323, Imd. Eff. June 1;—Am. 1929, p. 769, Act 300, Imd. Eff. May 23;—CL 1929, 17604;—CL 1948, 800.62.

NOTE: The title and enacting clause of Act 323 of 1927 purported to amend Sec. 62 of Act 118 of 1903 instead of 1893. Act 323 of 1927 was repealed by Act 300 of 1929.

PAROLED PRISONER: For provisions as to clothing and expenses, see Compilers' § 791.237.

800.63 Existing contracts and rights; validity.

Sec. 63. No lien, demand, claim or contract theretofore established or made by the warden or clerk of the prison in behalf of the state shall be in anywise changed or affected by the passage of this act; but the rights of the state, and of all parties to contracts or obligations heretofore made, as well as the lien of the state upon property of such contractors for sums unpaid or due for the labor of convicts, shall remain as com-

plete and as binding, and may be enforced in the same manner, and as fully as if this act had not been passed.

HISTORY: CL 1897, 2142;—CL 1915, 1761;—CL 1929, 17605;—CL 1948, 800.63.

Sec. 64.

HISTORY: CL 1897, 2143;—CL 1915, 1762;—Rep. 1927, p. 361, Act 175, Eff. Sept. 5, see Compilers' § 776.19n.

This section dealt with penalty for crimes committed in prison. For present law, see Compilers' § 768.6.

Sec. 65.

HISTORY: CL 1897, 2144;—CL 1915, 1763;—Am. 1917, p. 61, Act 35, Eff. Aug. 10;—Rep. 1927, p. 361, Act 175, Eff. Sept. 5, see Compilers' § 776.19n.

This section dealt with jurisdiction of courts over crimes committed in prison. For present law, see Compilers' § 768.7.

800.66 Repeal; saving clause.

Sec. 66. All acts and parts of acts contravening any of the provisions of this act are hereby repealed; but all proceedings pending, and all rights and liabilities existing, acquired or incurred at the time this act takes effect, are hereby saved, and such proceedings may be consummated under and according to the law in force at the time such proceedings were commenced.

HISTORY: CL 1897, 2144n;—CL 1915, 1764;—CL 1929, 17606;—CL 1948, 800.66.

800.91 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section changed name of state house of correction and reformatory at Ionia to Michigan reformatory.

Act 181, 1911, p. 305; Eff. Aug. 1.

AN ACT to provide for employing the convicts in the custody of the department of corrections upon public projects other than construction within any county. Am. 1970, p. 145, Act 54, Imd. Eff. Jul. 10.

The People of the State of Michigan enact:

800.101 Convicts; work on public projects.

Sec. 1. Upon the written request of a majority of the board of commissioners, the department of corrections may detail such able bodied convicts as in its discretion shall seem proper, not exceeding the number specified in the written request, to work upon public projects of a county. The county shall pay to the general fund a certain fixed amount of money per day for each man so detailed, which amount shall be decided upon by the corrections commission. The amount to be paid shall be a fair and just compensation for such labor. The county shall pay expenses of transportation to and from the county and shall provide or pay for the lodging and food of the convicts while employed by it and shall furnish all tools and materials necessary in the performance of the work. The convicts employed upon the public projects shall be under the care and custody of officers as the department of corrections shall designate, and the expense of guarding if guards are necessary shall be borne by the county. Where 2 or more applications shall be on file they shall be filled pro rata. All moneys collected under the provisions of this section shall be turned over to the state treasurer and credited to the general fund.

HISTORY: CL 1915, 1814;—CL 1929, 17637;—CL 1948, 800.101;—Am. 1970, p. 145, Act 54, Imd. Eff. Jul. 10.

HIGHWAY LABOR: Use of prisoners in county jails, see Compilers' § 801.10 et seq.

CITED IN OTHER SECTIONS: The above section is cited in § 800.327.

800.101a Convicts; employment on state highways; control, compensation.

Sec. 1-a. Any convicts mentioned in section 1 of this act may be employed by the state highway department in this state in construction work upon the public highways of this state. The state highway commissioner shall make requisition for convicts desired for employment and in such requisition shall state the number desired, the place of such work and the time when desired. Such requisition shall be made to the com-

missioner of pardons and paroles who shall thereupon determine which of such convicts may be used for such employment. At the direction of the governor, the commissioner of pardons and paroles shall issue an order authorizing the transfer of such convicts from their place of confinement to such place of highway employment or prison camp, a copy of which order shall be authority to the warden for the temporary transfer of such convicts. In their employment in highway construction such convicts shall be under the direction of the state highway commissioner or his designated agents and employes. The wardens shall furnish at each place of employment sufficient guards to prevent insubordination or escape. The compensation for such employment shall be determined by the state highway commissioner and the commissioner of pardons and paroles. Such officers shall determine the amount to be paid to each convict and the amount to be paid the prison from which such convict is obtained. All sums so paid or allowed to the prison therefor shall be paid or credited to the fund of such prison.

HISTORY: Add. 1927, p. 579, Act 316, Eff. Sept. 5;—CL 1929, 17638;—CL 1948, 800.101a.

800.102 Convicts; class of labor prohibited.

Sec. 2. Said convicts when employed under the provisions of section 1 of this act shall not be used for the purpose of building any bridge or structure of like character which requires the employment of skilled labor.

HISTORY: CL 1915, 1815;—CL 1929, 17639;—CL 1948, 800.102.

800.103 Convicts; good time allowance.

Sec. 3. The boards of control of the prisons mentioned in this act are hereby empowered to adopt a special rule applicable solely to convicts employed on the public work herein authorized and contemplated, whereby convicts so employed shall be granted additional good time allowance, conditioned upon their good behavior and cheerful compliance with all the rules that may be made by said boards for the management and control of convicts so employed.

HISTORY: CL 1915, 1816;—CL 1929, 17640;—CL 1948, 800.103.

GOOD TIME: Computation of ordinary allowance, see Compilers' § 800.33.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 1817;—CL 1929, 17641;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

800.151 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section imposed restrictions on commitments to state house of correction and reformatory at Ionia.

800.167 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section related to Ionia county prosecutor; duties in habeas corpus cases.

Act 183, 1891, p. 240; Imd. Eff. Jul. 2.

AN ACT to provide for the registration and identification of criminals in the penal institutions of this state, by the Bertillon system.

The People of the State of Michigan enact:

800.201 Register of criminals; contents.

Sec. 1. That in every prison in this state to which persons convicted of any felonious offense are, or may be committed by the courts of this state, or of the United States, the warden or other officer in charge shall record, or cause to be recorded, in a record kept for that purpose, a description and measurement, by the Bertillon or such other system as may be deemed proper for the identification of criminals, and also a criminal

history of every such person so committed, so far as the same may appear from the records of this state, or of any other state, or otherwise as full and complete as may be obtainable, and may attach thereto a photograph, or photographs of such person so recorded.

HISTORY: CL 1897, 2150;—CL 1915, 1820;—CL 1929, 17646;—CL 1948, 800.201.

FORMER ACT: Act 124 of 1887, being CL 1897, 2147-2149, repealed by Act 240 of 1915, being CL 1929, 120.

IDENTIFICATION: For central bureau of records see the following act which probably supersedes some of the provisions of this act. For bureau in department of public safety see Act 289 of 1925 being Compilers' § 28.241 et seq.

800.202 Register of criminals; uses.

Sec. 2. The register herein provided for shall not be made public, except for the identification of persons accused of crime and in their trial for offenses committed after having been imprisoned for a prior offense, and then only upon the order of the judge of the court or of the prosecuting attorney of the county, or the United States attorney of the district, in which the person is being held for a crime; which said order shall be attested by the seal of the court, and such record may be given in evidence upon any trial of an offender against the laws, for the purpose of proving a former conviction, or convictions, and the offense or offenses for which he may have been convicted.

HISTORY: CL 1897, 2151;—CL 1915, 1821;—CL 1929, 17647;—CL 1948, 800.202.

800.203 Records; duplicates for federal authorities.

Sec. 3. Whenever the prisons of the different states, or the department of justice of the United States shall establish an *officer for compiling such records as are herein provided for, the warden or other officer in charge shall send to such office when requested, a duplicate of every description and measurement taken.

HISTORY: CL 1897, 2152;—CL 1915, 1822;—CL 1929, 17648;—CL 1948, 800.203.

*COMPILERS' NOTE: The word "officer" should be "office".

Act 27, 1903, p. 32; Eff. Sep. 17.

AN ACT to provide for a central bureau for the receiving and compiling records of the description, measurements and histories of the convicts in the penal institutions of this and other states; to make such descriptions, measurements and histories available to the several circuit courts of this state, and to provide for the expenses necessarily incurred in so doing.

The People of the State of Michigan enact:

800.231 Bureau of criminal records; location, purpose.

Sec. 1. There shall be established at the Michigan state prison at Jackson a central bureau for receiving and properly compiling all records now made and which hereafter shall be made, at the penal institutions of this state, of the description and measurements, by the Bertillon or other system, and of the criminal history of the convicts in such institutions, as provided by section 1, Act 183, Public Acts of 1891, being section 2150, Compiled Laws of 1897, and, as far as practicable, of the convicts in the penal institutions in other states.

HISTORY: CL 1915, 1823;—CL 1929, 17649;—CL 1948, 800.231.

NOTE: For Act 183 of 1891, above referred to, see preceding act.

IDENTIFICATION: See preceding act; and for bureau of identification in department of public safety, see Act 289 of 1925 being Compilers' § 28.241 et seq.

800.232 Bureau of criminal records; duplicate records furnished by warden.

Sec. 2. The several wardens or other officers in charge of the penal institutions of this state shall send to said central bureau duplicate copies of records now made, and which shall hereafter be made at their respective institutions, of the descriptions and

measurements by the Bertillon or other system, and of the criminal history of the convicts in such institution, together with a photograph of each convict so recorded.

HISTORY: CL 1915, 1824;—CL 1929, 17650;—CL 1948, 800.232.

800.233 Compilation of duplicate records; availability for reference; exchange of copies; expenses.

Sec. 3. The warden of said Michigan state prison shall, either himself, or by some competent officer of said prison whom he shall appoint for such purpose, receive and properly compile the duplicate records provided for in section 2 of this act, in a manner to make such records available for speedy and convenient reference, as provided for in this act; such warden is also authorized and required, as far as practicable, to obtain, by correspondence only, records of the measurements, descriptions, criminal history and photographs of convicts in the penal institutions of other states, such records to be compiled in like manner as is provided for the records of inmates in the penal institutions in this state. The said warden is also authorized to furnish copies of records of inmates in the penal institutions in this state, in exchange for records from other states, but only on the application of the proper constituted authorities of the states which have furnished records of convicts to him. All necessary expense incurred in carrying out the provisions of this section shall be audited by the board of state auditors and paid from the general fund; said expense not to exceed 500 dollars per annum.

HISTORY: CL 1915, 1825;—CL 1929, 17651;—CL 1948, 800.233.

800.234 Records; used by circuit judges.

Sec. 4. The several judges of the circuit courts of this state may, when by them deemed advisable, appoint some person, duly competent to perform such duty, to visit any jail in his circuit, to obtain measurements and descriptions, made according to the system adopted by the penal institutions of this state, of such inmates as such judges shall designate, who have been convicted in his court, and who are awaiting sentence by him; and such person so appointed shall take such measurements and descriptions, compare the same with those on record at the central bureau provided for in the first section of this act, and make a speedy report of all his findings in the case to the judge by whom he is appointed, and to him only. Any person so appointed by a circuit judge shall be given access to the convict, and to the records of the said central bureau for the purpose required, but only upon the order of the judge appointing him, such order to be attested by the seal of the court making the same. All necessary expenses incurred in carrying out the provisions of this section shall become a part of the expense of the trial of the convict so designated by said circuit judge, and be provided for in all respects as such.

HISTORY: CL 1915, 1826;—CL 1929, 17652;—CL 1948, 800.234.

Act 17, 1909, p. 32; Eff. Sep. 1.

AN ACT to prohibit the bringing into prisons of all weapons, or other implements which may be used to injure any convict or person or in assisting any convict to escape from punishment, or the selling or furnishing of same to convicts; to prohibit the bringing into prisons of all spirituous or fermented liquors, drugs, medicines, poisons, opium, morphine or any other kind or character of narcotics, or the giving, selling or furnishing of spirituous or fermented liquors, drugs, medicines, poisons, opium, morphine or any other kind or character of narcotics to convicts or paroled prisoners and providing a penalty for the violation hereof.

The People of the State of Michigan enact:

800.281 Liquor and narcotics; prohibited distribution; permit, medical supply.

Sec. 1. No spirituous or fermented liquor, drug, medicine, poison, opium, morphine or any other kind of character of narcotics shall, on any pretense whatever, be sold or given away in any prison, or in any building appurtenant thereto, or on the land granted to or owned or leased by the state for the use and benefit of the prisoners; nor shall any kind of spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be brought into any prison, or any building appurtenant thereto, on or to the land granted to or owned or leased by the state for the use and benefit of the prisoners, without a written permit, signed by the physician of such prison, specifying the quantity and quality of the liquor or narcotic which may be furnished to any convict, or employe in the prison, the name of the prisoner or employe for whom, and the time when the same may be furnished, except the ordinary hospital supply of the prisons, which permit shall be delivered to and kept by the warden of the prison; nor shall any spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be sold, given away or furnished, either directly or indirectly, to any convict either in, or anywhere outside of the prison or be disposed of in such manner or in such a place, that it may be secured by any prisoner or employe of the prison; nor shall any spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be knowingly sold, given away, or furnished to any paroled prisoner, without a written prescription of a duly licensed physician.

HISTORY: CL 1915, 1827;—CL 1929, 17653;—CL 1948, 800.281.

LIQUORS AND DRUGS: See also Compilers' § 800.42, and as to jails, Compilers' §§ 801.116 and 801.117.

800.282 Liquor and narcotics; issuance of permit or prescription.

Sec. 2. No permit or prescription shall be granted or given unless it shall satisfactorily appear to the physician granting or giving the same, that the liquor or narcotic allowed to be furnished is necessary for the health of the person named therein, for whose use it is permitted, which shall be stated in such permit or prescription.

HISTORY: CL 1915, 1828;—CL 1929, 17654;—CL 1948, 800.282.

800.283 Weapons; prohibited furnishing.

Sec. 3. No weapon or other implement which may be used to injure any convict or person, or in assisting any convict to escape from imprisonment, shall be sold, given away or furnished to any convict in any prison, or any building appurtenant thereto, or on the land granted to or owned or leased by the state for the use and benefit of the prisoners; nor shall any weapon or other implement which may be used to injure any convict or person, or in assisting any convict to escape from imprisonment, be brought into any prison or any building appurtenant thereto, or onto the land granted to or owned or leased by the state for the use and benefit of the prisoners; nor shall any weapon or other implement, which may be used to injure any convict or person, or in assisting any convict to escape from imprisonment, be sold, given away, or furnished, either directly or indirectly, to any convict either in or anywhere outside of the prison, or be disposed of in such a manner, or in such a place that it may be secured by any convict in the prison.

HISTORY: CL 1915, 1829;—CL 1929, 17655;—CL 1948, 800.283.

AIDING ESCAPE: See also Compilers' §§ 750.183 et seq., 800.32 and 800.51.

800.284 Search of visitors; reasons.

Sec. 4. The warden of the prison is hereby authorized to search, or to have searched, any person coming to the prison as a visitor, or in any other capacity, who is suspected of having any weapon or other implement which may be used to injure any convict or

person or in assisting any convict to escape from imprisonment, or any spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics upon his person.

HISTORY: CL 1915, 1830;—CL 1929, 17656;—CL 1948, 800.284.

VISITORS: Who may visit prisons, see Compilers' § 800.52.

800.285 Violation of act; felony, penalty.

Sec. 5. Any person violating any of the provisions of this act shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding 1,000 dollars or imprisonment in the state prison not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 1831;—CL 1929, 17657;—CL 1948, 800.285.

Act 185, 1859, p. 516; Eff. May 18.

AN ACT to provide for the admission of clergymen to visit prisoners confined in any jail or prison in this state.

The People of the State of Michigan enact:

800.291 Admission of clergymen.

Sec. 1. That it shall be the duty of the keeper, or other persons having the control of any prison, jail, almshouse of correction hospital or poor-house in the state of Michigan to fix and appoint some suitable and convenient time in each week during which clergymen of all religious denominations may visit the inmates of such prison jail almshouse house of correction hospital or poor-house and when any inmate of any jail prison almshouse house of correction hospital or poor-house is dangerously sick and desires religious counsel the clergyman of his choice shall be admitted to visit such inmate and be permitted to administer to such inmate the rites of his church.

HISTORY: CL 1871, 8189;—How. 9901;—CL 1897, 2153;—CL 1915, 1832;—CL 1929, 17658;—CL 1948, 800.291.

CLERGYMEN: As to visitation of prisons, see also Compilers' § 800.52.

800.292 Duty of keeper.

Sec. 2. It shall be the duty of such keeper or other person in control during the time fixed in pursuance of the first section of this act to give free access to any clergyman of any religious denomination and to furnish such clergyman all reasonable facilities for interviews with the inmates named in the first section: Provided, however, That the keeper or other persons having the control of said prison or jail, almshouse, workhouse, house of correction, hospital or poor-house shall first be satisfied that such clergymen are in good and regular standing in their profession and are pastors of any church or religious congregation in this state.

HISTORY: CL 1871, 8190;—How. 9902;—CL 1897, 2154;—CL 1915, 1833;—CL 1929, 17659;—CL 1948, 800.292.

800.301-800.319 Repealed. 1968, p. 28, Act 15, Imd. Eff. Apr. 5.

Sections consisted of prison industries act.

Act 15, 1968, p. 25; Imd. Eff. Apr. 5.

AN ACT to provide for the employment of inmate labor in the correctional institutions of this state; to define the powers and duties of the corrections commission, the governor and other officers and employees in relation thereto; to provide for the requisitioning and disbursement of correctional industries products; to provide for the disposition of the proceeds of the industries; to provide for purchasing and accounting procedures; to regulate the sale or disposition of inmate labor and products; to provide for the requisitioning and purchases and supply of correctional industries products for

use or consumption by certain institutions and departments; to provide penalties for violations of this act; and to repeal acts and certain parts of acts.

The People of the State of Michigan enact:

800.321 Correctional industries act; short title.

Sec. 1. This act shall be known and may be cited as the "correctional industries act".

HISTORY: New 1968, p. 25, Act 15, Imd. Eff. Apr. 5.

800.322 Correctional industries act; definition.

Sec. 2. The term "correctional institution products" as used in this act, means all services provided, goods, wares and merchandise manufactured or produced, wholly or in part, by inmates in any state correctional institution.

HISTORY: New 1968, p. 25, Act 15, Imd. Eff. Apr. 5.

800.323 Corrections commission; authority and duties.

Sec. 3. The authority and duties herein are vested in the corrections commission.

HISTORY: New 1968, p. 26, Act 15, Imd. Eff. Apr. 5.

800.324 Corrections commission; powers.

Sec. 4. The state corrections commission may:

(a) Use, equip and maintain buildings, machinery, boilers and equipment which may be necessary to provide for the employment of inmate labor in the state correctional institutions for the manufacture of goods, wares and merchandise and the operation of services.

(b) Purchase new material to be used in the manufacture of goods, wares, merchandise and operation of services.

(c) Dispose of such manufactured products or to provide services in such manner as provided by law.

(d) Continue to use and maintain the buildings, machinery, boilers and equipment in the manufacture of goods, wares and merchandise in the manner now in the operation at the time of the effective date of this act and use such facilities in the operation of service programs.

(e) To employ such agents and assistants as may be necessary to carry out the purposes of this act.

HISTORY: New 1968, p. 26, Act 15, Imd. Eff. Apr. 5.

800.325 Proceeds from inmates' labor; correctional industries revolving fund, disbursement.

Sec. 5. All moneys collected from the sale or disposition of goods, wares and merchandise manufactured by inmate labor, or received for services provided by inmate labor in the correctional institutions in accordance with the provisions of this act, shall be turned over to the state treasurer and credited to the correctional industries revolving fund, and shall be paid out only for inmate wages, contractual services, supplies, materials and equipment representing direct and indirect costs of carrying out the purpose of this act and to comply with the provisions of Act No. 259 of the Public Acts of 1941, being sections 21.121 to 21.130 of the Compiled Laws of 1948, or as otherwise provided by law.

HISTORY: New 1968, p. 26, Act 15, Imd. Eff. Apr. 5.

800.326 Sale of products; regulations; labor of inmates; exceptions.

Sec. 6. No correctional institution products, except purebred livestock raised on the several institutional farms and sold for breeding purposes, shall be sold, exchanged, offered for sale or exchange, or purchased other than for use or consumption in the pe-

nal, charitable or other custodial institutions of this state or political subdivision thereof, or the federal government or agencies thereof, or otherwise as specifically provided in this act. The labor of inmates shall not be sold, hired, leased, loaned, contracted for or otherwise used for private or corporate profit or for any purpose other than the construction, maintenance or operation of public works, ways or property as directed by the governor. Nothing in this act shall be deemed to prohibit the sale at retail of articles made by inmates for the personal benefit of themselves or their dependents or the payment to inmates for personal services rendered in the penal institutions, subject to regulations approved by the corrections commission, or the use of inmate labor upon agricultural land which has been rented or leased by the department of corrections upon a sharecropping or other basis.

HISTORY: New 1968, p. 26, Act 15, Imd. Eff. Apr. 5.

800.327 Types of employment; priority.

Sec. 7. The corrections commission shall provide as fully as practicable for the employment of inmates in tasks consistent with the penal and rehabilitative purposes of their imprisonment and with the public economy. The types of employment in the order of their priority shall be as follows:

(a) Routine, maintenance and constructive activities contributing to the conduct of the several institutions in a manner most favorable to their correctional and rehabilitative purposes and to the minimum costs to the state.

(b) Educational and rehabilitation activities, whether formal or through productive or socialized activities, determined on the basis of individual needs and educability.

(c) Productive or maintenance labor on or in connection with the institution farms, or other land rented or leased by the department of corrections on a sharecropping or other basis, factories, shops or other available facilities for the production and supply of foods, clothing and other supplies, materials or equipment, and the performance of services properly required for the maintenance and operation of or for consumption in the correctional institutions of the state or which may be made available upon request to other federal, state or local units of government. Correctional industries may produce such items and may maintain an inventory compatible with sales volume and good business practice.

(d) Labor assignments on state public works, ways or properties when and as requisitioned by the governor or on county, township or district roads when requested by the commissioners thereof in accordance with section 1 of Act No. 181 of the Public Acts of 1911, being section 800.101 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 26, Act 15, Imd. Eff. Apr. 5.

800.328 Specifications and standards of packaging; delivery of products.

Sec. 8. The director of the department of administration shall prescribe specifications, standards, quality tests, methods and conditions of packaging and conditions and times of delivery, and may inspect, accept or reject correctional institution products to the same extent as if they were purchased from other sources.

HISTORY: New 1968, p. 27, Act 15, Imd. Eff. Apr. 5.

800.329 Purchase of finished products; approval required; resale; purpose.

Sec. 9. The corrections commission, with the specific approval of the director of the department of administration, may purchase finished goods, materials or equipment of the same type as ordinarily produced by correctional industries. The commission may then sell such items to those governmental entities for whom production by correc-

tional industries is permitted by this act. The purpose of this section is to provide for the completing of orders when production is not sufficient or for other reasons of economy and good business practice which may make such purchases beneficial to the state.

HISTORY: New 1968, p. 27, Act 15, Imd. Eff. Apr. 5.

800.330 Local correctional institutions; sale or disposal of products; applicability of act.

Sec. 10. A correctional institution now maintained by a political subdivision of this state may sell or otherwise dispose of its correctional institution products to the institutions or departments of the county or political subdivision in which the institution is located. The provisions of sections 8 and 9 shall not apply to a correctional institution of a political subdivision. None of the provisions of this act shall apply to the Detroit house of correction.

HISTORY: New 1968, p. 27, Act 15, Imd. Eff. Apr. 5.

800.331 Intent of act.

Sec. 11. It is the intent of this act:

(a) To provide adequate, regular, diversified and suitable employment for inmates of the state consistent with proper penal purposes.

(b) To utilize the labor of inmates exclusively for self-maintenance and for reimbursing the state for expenses incurred by reason of their crimes and imprisonment.

(c) To eliminate all competitive relationships between inmate labor or correctional industries products and free labor or private industry.

(d) To effect the requisitioning and disbursement of inmate labor and correctional industries products directly through established state authorities with no possibility of private profits therefrom and with the minimum of intermediating financial considerations, appropriations or expenditures, and to these ends the governor shall require the director of the department of administration to establish suitable methods of purchasing and of accounting which shall provide as may be necessary or advisable:

(i) For the purchasing and supply of supplies and materials necessary for the institutional manufacture or production of the correctional industries products in accordance with sections 2, 6 and 7.

(ii) For crediting corrections industries accounts and debiting accounts of consuming institutions or departments for products requisitioned and disbursed, at prices fixed as nearly as practicable to recapture direct and indirect costs exclusive of supervisory costs and to indicate fairly the true costs of maintenance and efficiency of the management of correctional institutions, provided that the prices or the requisitioning or disbursement of correctional industries products shall in no case be determined by or contingent upon competitive bidding from other sources.

(iii) For the purchase of all commodities or requirements other than correctional industries products as provided in this act, by competitive bidding or other methods established by law or approved practice, but no bids may be asked or received except for commodity requirements which it has been definitely decided shall not be supplied by requisitioning of correctional industries products as provided in this act.

HISTORY: New 1968, p. 27, Act 15, Imd. Eff. Apr. 5.

800.332 Payment or allowances to inmates or dependents; basis.

Sec. 12. The corrections commission may adopt a schedule of payments or allowances to inmates or to their dependents from such funds as may be provided therefor,

but such payments shall be made on the basis of need or of motivation or of reward for industry or behavior and shall not be related to profits to the state from the activities to which the prisoners may be assigned.

HISTORY: New 1968, p. 28, Act 15, Imd. Eff. Apr. 5.

800.333 Violation of act by public officer; penalty.

Sec. 13. Wilful violations of any of the provisions of this act by an officer of the state or of any political subdivision thereof, or by any officer of any institution of either, shall be sufficient cause for removal from office, and subject such officer to prosecution as provided in section 14.

HISTORY: New 1968, p. 28, Act 15, Imd. Eff. Apr. 5.

800.334 Violation of act; misdemeanor.

Sec. 14. Any person, firm or corporation who wilfully violates any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1968, p. 28, Act 15, Imd. Eff. Apr. 5.

800.335 Repeal.

Sec. 15. Act No. 210 of the Public Acts of 1935, as amended, being sections 800.301 to 800.319 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1968, p. 28, Act 15, Imd. Eff. Apr. 5.

Act 253, 1935, p. 434; Imd. Eff. Jun. 8.

AN ACT relative to the state penal institutions, and the care and maintenance of prisoners therein; and to provide for the reimbursement of the state on account thereof in certain cases.

The People of the State of Michigan enact:

800.401 Prison reimbursement act; short title.

Sec. 1. This act may be known and cited as "The Prison Reimbursement Act."

HISTORY: CL 1948, 800.401.

800.402 Report to auditor general; prisoner's financial responsibility; time; form.

Sec. 2. The warden of the state prison at Jackson, the branch of the state prison at Marquette, and the house of correction and reformatory at Ionia, shall forward to the auditor general a list containing the name of each prisoner, the county from which he was sentenced, term of sentence, date of admission, together with all information available on the financial responsibility of said prisoner. Such report shall be made on blanks to be furnished by the auditor general, and shall be made on or before the tenth day of each month.

HISTORY: CL 1948, 800.402.

800.403 Report to auditor general; investigation to secure reimbursement.

Sec. 3. The auditor general shall investigate or cause to be investigated all such reports furnished by said wardens for the purpose of securing reimbursement for the expense of the state of Michigan for the care, custody and control of said prisoners.

HISTORY: CL 1948, 800.403.

800.404 Appointment of guardian; procedure; additional remedy.

Sec. 4. Whenever it shall be found that any person has been admitted to any of the aforesaid state penal institutions, as a prisoner, the auditor general, or the prosecuting attorney of the county from which said person was so sentenced, shall, if such person or prisoner be possessed of any estate, or shall thereafter while he shall remain in such

institution become possessed thereof, petition the circuit court of the county from which said person was sentenced, stating that such person is a prisoner in such state penal institution, and that he has good reason to believe and does believe that the said prisoner has an estate, and praying for the appointment of a guardian of such person, if a guardian has not already been so appointed, and that said estate may be subjected to the payment to the state of the expenses paid and to be paid by it on behalf of said person as a prisoner. The court shall thereupon issue a citation to show cause why the prayer of the petitioner should not be granted. If such prisoner has a guardian, it shall be served upon him. If such prisoner has no guardian, it shall be served upon such prisoner by delivering a copy thereof personally or by registered mail to the warden of the penal institution where such prisoner is being detained at least 14 days before the date of hearing. The court may appoint a guardian of such person or prisoner. At the time of the hearing, if it appear that such person or prisoner has an estate which ought to be subjected to the claim of the state, the court shall without further notice appoint a guardian of the person and estate of such prisoner if the court deems one necessary for the protection of the rights of all parties so concerned, and the court shall make an order requiring the guardian or any person or corporation so possessed of the estate belonging to said prisoner to appropriate and apply such estate to the payment of so much or such part thereof as may appear to be proper toward reimbursing the state for the expenses theretofore incurred by it on behalf of such prisoner, and such part thereof towards reimbursing the state for the future expenses which it must pay on his behalf, which reimbursement shall not be in excess of the per capita cost of maintaining prisoners in the institution in which said prisoner is an inmate, regard being had to claims of persons having a moral or legal right to maintenance out of the estate of such prisoner. If such guardian, person or corporation shall neglect or refuse to comply with such order, the court shall cite him to appear before the court at such time as it may direct and to show cause why he should not be sentenced for contempt of court. As an additional remedy, the auditor general or prosecuting attorney may enforce payment of the sums provided in the original order, by a proper action in the name of the state. If in the opinion of the court, the estate of said prisoner is sufficient to pay the cost of such proceeds, such estate shall be made liable therefor by order of the court.

The proceedings provided for by this section may be begun at any time after admission to said state penal institution, and recovery thereunder may be had for the expense incurred on behalf of such person or prisoner during the entire period or periods such person has been confined as a prisoner in said state penal institution.

HISTORY: CL 1948, 800.404.

800.404a Claim for future maintenance of prisoner; procedure; lien.

Sec. 4-a. That upon admission to any state penal institution the attorney general may file a claim for future maintenance and support of such prisoner with the court from which said prisoner was sentenced, and thereupon the court may make an order making such prisoner's estate or property liable for such future care and support and that such claim shall constitute a lien upon all property, real and personal, of said prisoner.

All proceedings to enforce any such lien under this act against any such property shall be instituted by information in the name of the people of the state of Michigan addressed to such circuit court in chancery of the county in which such property is situated. The information shall be signed by the attorney general and need not be otherwise verified and shall be equivalent to a bill in chancery to enforce the lien against such property. Such information shall show the name of the prisoner, date and place of sentence, the length of time set forth in said sentence, description of the property against which said lien exists, and the amount due the state of Michigan for the care,

support and maintenance of said prisoner: Provided, That in no case shall any said property be sold to satisfy such claim of the state of Michigan within 60 days after the entry of such decree: And provided further, That such lien may be removed by filing a bond approved by the circuit court for payment of said claim or by payment of the claim itself. Otherwise the sale of said property shall be conducted the same as in cases of foreclosure of liens in chancery.

HISTORY: CL 1948, 800.404a.

800.404b Lien on property; certified copy of order filed with register of deeds; fee.

Sec. 4-b. Provided further, That upon the issuance of such decree or order it shall be the duty of the auditor general of the state of Michigan or the prosecuting attorney of the county in which such decree or order was issued to record a certified copy of such decree or order in the office of the register of deeds in the county or counties wherein any of the property of such prisoner may be located, and when such decree or order is so recorded the same shall operate as a lien against said property until so removed as heretofore provided. Further, such decree or order shall be recorded without payment of any recording fee by said auditor general or prosecuting attorney.

HISTORY: CL 1948, 800.404b.

800.405 Securing reimbursement of state; duty to assist auditor general.

Sec. 5. It shall be the duty of the sentencing judge, the sheriff of the county and the warden of the prison to furnish on inquiry to the auditor general or prosecuting attorney all information and assistance possible to enable said auditor general or prosecuting attorney to secure reimbursement for the state of Michigan.

HISTORY: CL 1948, 800.405.

800.406 Investigation costs; reimbursements credited to general fund.

Sec. 6. The costs of such investigations shall be paid from the reimbursements secured under this act, and, the balance of said reimbursements shall be credited to the general fund of the state to be available for general fund purposes. Said auditor general is hereby authorized to determine the amount due the state in such cases and render statements thereof, and such sworn statements shall be considered prima facie evidence of the account. The auditor general is further authorized to carry out this act and employ such assistance as may be necessary therefor.

HISTORY: CL 1948, 800.406.

800.407 Money saved from earnings; construction of act.

Sec. 7. The provisions of this act shall not apply to any moneys saved from earnings by the prisoner during the period of his incarceration. In enacting Act No. 253 of the Public Acts of 1935, it was not the intent of the legislature to discourage thrift and good habits by the prisoner during the period of his incarceration, but to provide for reimbursement to the state in such cases where the prisoners were possessed of estates which warranted such reimbursement.

HISTORY: Add. 1937, p. 493, Act 272, Eff. Oct. 29;—CL 1948, 800.407.

NOTE: Act 253, 1935, above referred to, is this act.

CHAPTER 801. CORRECTIONS—JAILS AND WORKHOUSES

COUNTY JAILS, AND THE REGULATION THEREOF
R.S. 1846, Ch. 171

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R.S. 1846, Ch. 171.

COUNTY JAILS, AND THE REGULATION THEREOF.

801.1 County jails; use as prisons.

Sec. 1. The common jails in the several counties of this state in charge of the respective sheriffs shall be used as prisons:

Indicted persons.

First, For the detention of persons charged with offenses and duly committed for trial;

Committed persons; federal prisoners.

Second, For the confinement of persons committed pursuant to a sentence upon conviction of an offense, and of all other persons duly committed for any cause authorized by law; and the provisions of this section shall extend to persons detained in or committed to any such jail when duly authorized by or under the authority of any court or officer of the United States, as well as by the courts and magistrates of this state: Provided, however, That all persons detained or committed to such jails by the authority of the courts of the United States, or any officer of the United States, shall be received in said county jails only in cases where the cost of the care and maintenance of such persons shall be paid by the United States, at actual cost thereof, to be fixed and determined by the Michigan welfare commission upon application of the sheriffs of the respective counties of this state, and not otherwise.

HISTORY: CL 1857, 6129;—CL 1871, 8018;—Am. 1875, p. 155, Act 125, Eff. Aug. 3;—How. 9634;—CL 1897, 2650;—CL 1915, 2522 — Am. 1927, p. 87, Act 67, Imd. Eff. April 25;—CL 1929, 17669;—CL 1948, 801.1.

SHERIFF: Has control of county jail and prisoners, by Compilers' § 51.75.

801.2 Solitary imprisonment; execution of sentence.

Sec. 2. When any convict shall be sentenced to solitary imprisonment and hard labor in any jail the keeper thereof shall execute such sentence of solitary imprisonment, by confining the convict in 1 of the cells if there be any in such jail, and if there be none, then in the most retired and solitary part of such jail.

HISTORY: CL 1857, 6130;—CL 1871, 8019;—How. 9635;—CL 1897, 2651;—CL 1915, 2523;—CL 1929, 17669;—CL 1948, 801.2.
HARD LABOR: See Compilers' § 801.9.

801.3 Solitary imprisonment; intercourse with other persons.

Sec. 3. No intercourse shall be allowed with any convict in solitary imprisonment, except for the conveyance of food and other necessary purposes, unless some minister of the gospel shall be disposed to visit him, in the manner hereinafter provided.

HISTORY: CL 1857, 6131;—CL 1871, 8020;—How. 9636;—CL 1897, 2652;—CL 1915, 2524;—CL 1929, 17670;—CL 1948, 801.3.

801.4 Maintenance of convicts and persons committed for trial; charges, payment.

Sec. 4. All charges and expenses of safe-keeping and maintaining convicts, and of persons charged with offenses, and committed for examination or trial, to the county jail, shall be paid from the county treasury the accounts therefor being first settled and allowed by the board of supervisors.

HISTORY: CL 1857, 6132;—CL 1871, 8021;—How. 9637;—CL 1897, 2653;—CL 1915, 2525;—CL 1929, 17671;—CL 1948, 801.4.

801.4a Maintenance of persons violating ordinances; expenses.

Sec. 4a. All charges and expenses of safekeeping and maintaining persons in the county jail charged with violations of city, village or township ordinances shall be paid

from the county treasury if a district court of the first or second class has jurisdiction of the offense.

HISTORY: Add. 1969, p. 512, Act 274, Eff. Sep. 1.

801.5 Contracts for supplies.

Sec. 5. The board of supervisors may, in their discretion, provide by contract for all necessary supplies for the use of the jail, including fuel and food, clothing, bedding, and medical attendance, for prisoners committed on criminal charges.

HISTORY: CL 1857, 6133;—CL 1871, 8022;—How. 9638;—CL 1897, 2654;—CL 1915, 2526;—CL 1929, 17672;—CL 1948, 801.5.

801.6 Prisoners; separation.

Sec. 6. It shall be the duty of the keepers of the said prisons, to keep the prisoners committed to their charge, as far as may be practicable, separate and apart from each other, and to prevent all conversation between the said prisoners.

HISTORY: CL 1857, 6134;—CL 1871, 8023;—How. 9639;—CL 1897, 2655;—CL 1915, 2527;—CL 1929, 17673;—CL 1948, 801.6.

801.7 Prisoners; conversations.

Sec. 7. Prisoners detained for trial, may converse with their counsel, and with such other persons as the keeper, in his discretion, may allow: prisoners under sentence shall not be permitted to hold any conversation with any person except the keepers or inspectors of the prison, unless in the presence of a keeper or inspector.

HISTORY: CL 1857, 6135;—CL 1871, 8024;—How. 9640;—CL 1897, 2656;—CL 1915, 2528;—CL 1929, 17674;—CL 1948, 801.7.

801.8 Prisoners; food.

Sec. 8. Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of wholesome food, at the expense of the county, and prisoners detained for trial, may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food.

HISTORY: CL 1857, 6136;—CL 1871, 8025;—How. 9641;—CL 1897, 2657;—CL 1915, 2529;—CL 1929, 17675;—CL 1948, 801.8.

801.9 Hard labor; annual account, proceeds of labor.

Sec. 9. It shall be the duty of the keepers of the said several prisons, whenever any person shall be sentenced to hard labor therein, and any mode of labor shall be provided, to cause such prisoner to be kept constantly employed during every day, except Sunday; and annually to account with the board of supervisors of the county for the proceeds of such labor.

HISTORY: CL 1857, 6137;—CL 1871, 8026;—How. 9642;—CL 1897, 2658;—CL 1915, 2530;—CL 1929, 17676;—1948, 801.9.
FORMER LAW: Law prior to 1846, see Sec. 8 of Act 39 of 1840.

801.10 Prisoners; work on highway construction; duty of sheriff.

Sec. 10. The board of supervisors of any county, by resolution passed at any regular or special session, may order that male prisoners over the age of 18 years under a sentence of imprisonment in the county jail, capable of performing manual labor, shall be required to work upon the public highways, streets, alleys and public roads, or in any quarry, pit or yard in the preparation or construction of materials for such public highways, streets, alleys or roads in such county, or to perform any other lawful labor for the benefit of the county. Whenever any such resolution is passed, the sheriff shall cause such prisoners to be put at work in the manner provided in the resolution of the board of supervisors. The county road commission and the village or city authorities of any village or city in the county or the authorities in charge of any county institution may make application to have such prisoners work in any township, city, village or institution in such manner as shall be prescribed by the board of supervisors, and the board shall determine in what township, city or village such prisoners shall work.

HISTORY: CL 1857, 6138;—Am. 1861, p. 222, Act 141, Eff. Jun. 15;—CL 1871, 8027;—How. 9643;—CL 1897, 2659;—Am. 1909, p. 17, Act 10, Eff. Sep. 1;—Am. 1915, p. 218, Act 132, Eff. Aug. 24;—CL 1915, 2531;—CL 1929, 17677;—CL 1948, 801.10;—Am. 1960, p. 60, Act 71, Eff. Aug. 17.

HIGHWAY LABOR: Use of convicts in state prisons, see Act 181 of 1911, being Compilers' § 800.101.

801.11 Prisoners; working conditions, transportation, meals, lodging.

Sec. 11. All work performed by any such prisoners shall be performed under the direction of the highway commissioner of the township or the authorities of the city, village or institution where the work is done. All such prisoners while engaged in such work shall be under the control and custody of the sheriff. All tools necessary for use by such prisoners and all materials upon which work is to be performed shall be furnished by the township, city, village or institution in which the work is done. The sheriff shall take such precautionary measures as may be deemed necessary to prevent the escape of prisoners employed under the provisions of this act, and in case any prisoner employed shall escape, it shall be deemed to be an escape from the jail: Provided, That no additional deputy sheriff shall be appointed to guard such prisoners while so at work without the previous authorization of the board of supervisors. The board of supervisors is hereby vested with authority to reimburse the sheriff for any expenses incurred in conveying such prisoners to and from any such road, street, alley, highway, quarry, pit, yard, or institution or in properly guarding them while beyond the confines of the county jail: Provided, That all meals and food shall be furnished by the sheriff to such prisoners in the same manner as though they were confined in the county jail, except in cases where such prisoners are employed in or for a county institution providing board for inmates, in which case all meals and food shall be furnished by said institution: Provided further, That the board of supervisors shall have authority to provide for keeping such prisoners at places other than the county jail while they are performing such work as is authorized under the provisions of this act.

HISTORY: CL 1857, 6139;—CL 1871, 8028;—How. 9644;—CL 1897, 2660;—Am. 1909, p. 17, Act 10, Eff. Sept. 1;—Am. 1915, p. 218, Act 132, Eff. Aug. 24;—CL 1915, 2532;—CL 1929, 17678;—CL 1948, 801.11.

801.12 Prisoners; compensation; record, report.

Sec. 12. No prisoner shall be entitled to any compensation either from the county, township, city or village in which he is employed for any services performed in accordance with the requirements of this act. It shall be the duty of the sheriff to keep a record of the number of days worked by each prisoner and the township, city or village in which such work was performed, and report in full to the board of supervisors at each regular session.

HISTORY: CL 1857, 6140;—Am. 1861, p. 222, Act 141, Eff. June 15;—CL 1871, 8029;—How. 9645;—CL 1897, 2661;—Am. 1909, p. 15, Act 10, Eff. Sept. 1;—CL 1915, 2533;—CL 1929, 17679;—CL 1948, 801.12.

801.13 Jail of contiguous county; designation for use; removal of prisoners.

Sec. 13. The provisions contained in chapter 148, in regard to the designation of the jail of a contiguous county for the use of any county; to the removal of prisoners in such cases; and to the removal of prisoners when danger shall be apprehended from fire or contagious disease, shall extend to prisoners confined upon any criminal process, or for a contempt, or under sentence, in like manner as to prisoners confined in civil cases.

HISTORY: CL 1857, 6141;—CL 1871, 8030;—How. 9646;—CL 1897, 2662;—CL 1915, 2534;—CL 1929, 17680;—CL 1948, 801.13.

NOTE: The provisions of Ch. 148, above referred to, are Compilers' §§ 801.107 to 801.115.

801.14 Insane convicts; court order.

Sec. 14. Whenever it shall appear to the circuit court for any county that any convict confined in the jail thereof, has become insane, such court may by an order to be entered in its minutes, direct that such convict be delivered to the superintendents of the poor of the county.

HISTORY: CL 1857, 6142;—CL 1871, 8031;—How. 9647;—CL 1897, 2663;—CL 1915, 2535;—CL 1929, 17681;—CL 1948, 801.14.

801.15 Insane convicts; notice of order; duty of superintendent of poor.

Sec. 15. The clerk of the court shall cause notice of every such order to be served upon such superintendents, or 1 of them, who shall immediately take measures for the safe-keeping of such insane person, in the manner provided by law.

HISTORY: CL 1857, 6143;—CL 1871, 8032;—How. 9648;—CL 1897, 2664;—CL 1915, 2536;—CL 1929, 17682;—CL 1948, 801.15.

INSANE PERSONS: Safe-keeping and treatment, see Compilers' § 330.11 et seq.

801.16-801.21 Repealed. 1959, p. 7, Act 7, Eff. Mar. 29, 1960.

Sections related to inspection of jails; inspectors' reports and powers; keepers' duties.

801.22 Keeper's calendar of prisoners; contents, delivery to court.

Sec. 22. It shall be the duty of the keeper of every county prison to present to every circuit court to be held in his county, at the opening of such court a calendar stating—

First, The name of every prisoner then detained in such prison;

Second, The time when such prisoner was committed, and by virtue of what process or precept; and

Third, The cause of the detention of every such person.

HISTORY: Am. 1850, p. 323, Act 275, Imd. Eff. April 2;—CL 1857, 6150;—CL 1871, 8039;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9655;—CL 1897, 2671;—CL 1915, 2543;—CL 1929, 17699;—CL 1948, 801.22.

801.23 Discharge of unindicted persons.

Sec. 23. It shall be the duty of such court during the term thereof to inquire into the cause of the commitment of every person confined in such prison upon any criminal charge who shall not have been indicted, or against whom no information shall have been filed, and unless satisfactory cause shall be shown to such court for detaining such person in custody or upon bail, as the case may require, to cause such person to be discharged.

HISTORY: Am. 1850, p. 323, Act 275, Imd. Eff. April 2;—CL 1857, 6151;—CL 1871, 8040;—Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9656;—CL 1897, 2672;—CL 1915, 2544;—CL 1929, 17690;—CL 1948, 801.23.

Sec. 24.

HISTORY: CL 1857, 6152;—CL 1871, 8041;—How. 9657;—CL 1897, 2673;—Rep. 1915, p. 490, Act 314, Eff. Jan. 1, 1916, (Jud. Act).

This section provided when a prisoner shall not be removed on habeas corpus.

801.25 Refractory or disorderly conduct of prisoner; persons confined on criminal charge or conviction; punishment.

Sec. 25. If any person confined in any jail, upon a conviction or charge of any criminal offense, shall be refractory or disorderly, or shall wilfully or wantonly destroy or injure any article of bedding, or other furniture, or a door or window, or any other part of such prison, the sheriff of the county, after due inquiry, may cause such person to be kept in solitary confinement, not more than 10 days for any 1 offense; and during such solitary confinement, he shall be fed with bread and water only, unless other food shall be necessary for the preservation of his health.

HISTORY: CL 1857, 6153;—CL 1871, 8042;—How. 9658;—CL 1897, 2674;—CL 1915, 2545;—CL 1929, 17691;—CL 1948, 801.25.

801.26 Refractory or disorderly conduct of prisoner; persons confined on original process or execution; civil liability.

Sec. 26. If any person committed to jail on original process or on execution, or for any other cause than those mentioned in the preceding section, shall be guilty of either of the offenses therein specified, and be thereof convicted before a justice of the peace of the county, on the complaint of the keeper of such jail, such person shall be punished by solitary imprisonment, as directed in the preceding section, not more than 10 days for any 1 offense; and such offender shall be liable for double the amount of the damages done to the jail, furniture or other property to be recovered with costs of suit, in an action of trespass, in the name of the board of supervisors of the county.

HISTORY: CL 1857, 6154;—CL 1871, 8043;—How. 9659;—CL 1897, 2675;—CL 1915, 2546;—CL 1929, 17692;—CL 1948, 801.26.

801.27 Refractory or disorderly conduct of prisoner; authority of jailer to preserve order.

Sec. 27. Nothing contained in the 2 preceding sections, shall be construed to take from any sheriff or jailer, any part of the authority with which he was before invested by law, to preserve order and enforce strict discipline among all the prisoners in his custody.

HISTORY: CL 1857, 6155;—CL 1871, 8044;—How. 9660;—CL 1897, 2676;—CL 1915, 2547;—CL 1929, 17693;—CL 1948, 801.27.

Secs. 28-30.

HISTORY: CL 1857, 6156-6158;—CL 1871, 8045-8047; Secs. 28 and 30 Am. 1875, p. 179, Act 146, Eff. Aug. 3;—How. 9661-9663;—CL 1897, 2677-2679;—CL 1915, 2548-2550;—CL 1929, 17694-17696;—Rep. 1931, p. 739, Act 328, Eff. Sept. 18.

These sections provided penalties for breaking jail. For present law, see Compilers' §§ 750.195-750.197.

R.S. 1846, Ch. 148.

GENERAL PROVISIONS RELATING TO JAILS AND THE CONFINEMENT OF PRISONERS THEREIN.

801.101 United States prisoners; duty of sheriff to take and keep; compensation.

Sec. 1. The sheriffs of the several counties of this state shall receive into their respective jails and keep all prisoners who are committed to the same, by virtue of any civil process, issued by any court of record instituted under the authority of the United States, until they are discharged by the due course of the laws of the United States, in the same manner as if such prisoner had been committed by virtue of process in civil actions issued under the authority of this state, and every such sheriff may receive to his own use such sums of money as shall be payable by the United States for the use of the jails.

HISTORY: Am. 1855, p. 415, Act 163, Eff. Feb. 13;—CL 1857, 5575;—CL 1871, 7362;—How. 8939;—CL 1897, 10532;—CL 1915, 14760;—CL 1929, 17697;—CL 1948, 801.101;—Am. 1960, p. 55, Act 64, Eff. Aug. 17.

801.102 United States prisoners; liability of sheriff for safe keeping.

Sec. 2. Every sheriff or keeper of a prison, to whose jail any prisoner shall be committed, by any marshal or other officer of the United States, as provided in the preceding section, shall be answerable for the safe keeping of such prisoner, in the courts of the United States, according to the laws thereof.

HISTORY: CL 1857, 5576;—CL 1871, 7363;—How. 8940;—CL 1897, 10533;—CL 1915, 14761;—CL 1929, 17698;—CL 1948, 801.102.

801.103 Separation of prisoners; persons arrested on civil process and persons confined on criminal charge.

Sec. 3. Prisoners arrested on civil process, shall be kept in rooms separate and distinct from those in which prisoners detained on a criminal charge or conviction, shall be confined; and on no pretense whatever shall prisoners on civil and criminal process be put or kept in the same room.

HISTORY: CL 1857, 5577;—CL 1871, 7364;—How. 8941;—CL 1897, 10534;—CL 1915, 14762;—CL 1929, 17699;—CL 1948, 801.103.

801.104 Separation of prisoners; male and female.

Sec. 4. Male and female prisoners, unless they be husband and wife, shall not be put, kept or confined in the same room in any prison.

HISTORY: CL 1857, 5578;—CL 1871, 7365;—How. 8942;—CL 1897, 10535;—CL 1915, 14763;—CL 1929, 17700;—CL 1948, 801.104.

801.105 Separation of prisoners; violation of sections; civil liability, penalty, forfeiture of office.

Sec. 5. Every sheriff or other officer, who shall offend against the provisions of either of the 2 last preceding sections, shall be liable to the party injured in 3 times the damages found by the jury; and shall be liable to an indictment for a misdemeanor, and upon conviction thereof, in addition to any other punishment, shall forfeit his office.

HISTORY: CL 1857, 5579;—CL 1871, 7366;—How. 8943;—CL 1897, 10536;—CL 1915, 14764;—CL 1929, 17701;—CL 1948, 801.105.
MISDEMEANOR: For punishment of a misdemeanor where no penalty is specifically provided, see Compilers' § 750.504.

801.106 Continuation of jails in use.

Sec. 6. The buildings now used as jails and prisons in the respective counties, of this state, shall be and continue the jails of the said counties respectively, until other buildings shall be designated or erected for that purpose; according to law.

HISTORY: CL 1857, 5580;—CL 1871, 7367;—How. 8944;—CL 1897, 10537;—CL 1915, 14765;—CL 1929, 17702;—CL 1948, 801.106.

801.107 Designation of jail of other county; officer to act.

Sec. 7. If in any county there shall not be a jail or the jail erected shall become unfit or unsafe for the confinement of prisoners or shall be destroyed by fire or otherwise the circuit judge of the circuit court or any circuit court commissioner for such county and in the upper peninsula the district judge of the district court for such county shall by an instrument in writing to be filed with the clerk of the county designate the jail of some other county for the confinement of the prisoners of such county which shall thereupon to all intents and purposes except as herein otherwise provided become the jail of the county for which it shall have been so designated.

HISTORY: Am. 1855, p. 33, Act 25, Imd. Eff. Feb. 7;—CL 1857, 5581;—CL 1871, 7368;—How. 8945;—CL 1897, 10538;—CL 1915, 14766;—CL 1929, 17703;—CL 1948, 801.107.

DISTRICT COURT: The provision relating to the upper peninsula district court was added by amendatory Act 25 of 1855. This district was established by Const. (1850) XIX, 1 and abolished by Act 150 of 1863.

801.108 Designation of jail of other county; copy of designation, service on sheriff.

Sec. 8. A copy of such instrument of designation duly certified by the clerk of the county with whom it is filed under the seal of the circuit or district court thereof shall be served on the sheriff and keeper of the jail so designated whose duty it shall be from thenceforth to receive into such jail and there safely keep all persons who may be lawfully confined therein pursuant to the foregoing provisions.

HISTORY: Am. 1855, p. 33, Act 25, Imd. Eff. Feb. 7;—CL 1857, 5582;—CL 1871, 7369;—How. 8946;—CL 1897, 10539;—CL 1915, 14767;—CL 1929, 17704;—CL 1948, 801.108.

801.109 Designation of jail of other county; responsibility of sheriff for safe keeping of prisoners.

Sec. 9. Such sheriff shall be responsible for the safe keeping of the persons so committed to such jail, in the same manner and to the same extent, as if he were sheriff of the county for whose use such jail shall have been designated, and with respect to the persons so committed, shall be deemed the sheriff of such county.

HISTORY: CL 1857, 5583;—CL 1871, 7370;—How. 8947;—CL 1897, 10540;—CL 1915, 14768;—CL 1929, 17705;—CL 1948, 801.109.

801.110 Designation of jail of other county; effect on prisoner admitted to jail liberties.

Sec. 10. If any prisoner confined on civil process, shall have been admitted to the liberties of the jail of the county for which such designation shall have been made, previous to such designation, they shall notwithstanding, be entitled to remain within such liberties, but may be removed to the jail so designated, and confined therein, by the sheriff of the county in which they were admitted to the liberties of the jail, in the same cases, and in the same manner as such sheriff might by law confine them in the jail of his own county.

HISTORY: CL 1857, 5584;—CL 1871, 7371;—How. 8948;—CL 1897, 10541;—CL 1915, 14769;—CL 1929, 17706;—CL 1948, 801.110.

801.111 Designation of jail of other county; effect on subsequent prisoner entitled to jail liberties.

Sec. 11. If any persons shall be in the custody of the sheriff of the county for which such designation shall have been made, subsequent to such designation, and shall be entitled, according to law, to the liberties of the jail thereof, they shall be admitted to the liberties of such jail, in the same manner, and in the same cases, as if no such desig-

nation had been made, but may be removed by such sheriff to the jail so designated, and confined therein, in the same cases and in the same manner, as such sheriff might by law confine them in the jail of his own county.

HISTORY: CL 1857, 5585;—CL 1871, 7372;—How. 8949;—CL 1897, 10542;—CL 1915, 14770;—CL 1929, 17707;—CL 1948, 801.111.

801.112 Designation of jail of other county; right of prisoner entitled to jail liberties.

Sec. 12. If any persons confined in the jail so designated on civil process, or removed there, as hereinbefore provided, shall by law be entitled to the liberties of the jail, the sheriff of the county in which the jail so designated shall be, shall admit them to the liberties of such jail, in the same manner and in the same cases, as if they had been originally arrested by such sheriff, on process directed to him.

HISTORY: CL 1857, 5586;—CL 1871, 7373;—How. 8950;—CL 1897, 10543;—CL 1915, 14771;—CL 1929, 17708;—CL 1948, 801.112.

801.113 Designation of jail of other county; revocation of order.

Sec. 13. Whenever a jail shall be erected for the county for whose use such designation shall have been made or its jail shall have been rendered fit and safe for the confinement of prisoners the circuit judge of the circuit court for such county or in the upper peninsula the district judge of the district court for such county shall by an instrument in writing to be filed with the clerk of the county declare that the necessity for such designation has ceased and that the same is hereby revoked and annulled.

HISTORY: Am. 1853, p. 33, Act 25, Imd. Eff. Feb. 7;—CL 1857, 5587;—CL 1871, 7374;—How. 8951;—CL 1897, 10544;—CL 1915, 14772;—CL 1929, 17709;—CL 1948, 801.113.

801.114 Designation of jail of other county; proceedings on revocation.

Sec. 14. The clerk of the county shall immediately serve a copy of such revocation upon the sheriff thereof, whose duty it shall be to remove the prisoners belonging to his custody, and so confined without his county, to his proper jail, and if any prisoners shall have been admitted to the liberties of the jail, in such other county, they shall also be removed, and shall be entitled to the liberties of the jail of the county to which they shall be removed in the same manner as if they had been originally arrested in such county.

HISTORY: CL 1857, 5588;—CL 1871, 7375;—How. 8952;—CL 1897, 10545;—CL 1915, 14773;—CL 1929, 17710;—CL 1948, 801.114.

801.115 Fire; removal of prisoners; prisoner not deemed escaped.

Sec. 15. Whenever by reason of any jail being on fire, or any building contiguous, or near to a jail, being on fire, there shall be reason to apprehend that the prisoners confined in such jail may be injured or endangered by such fire, the sheriff or keeper of such jail may at his discretion, remove such prisoners to some safe and convenient place, and there confine them, so long as may be necessary to avoid such danger; and such removal and confinement shall not be deemed an escape of such prisoners.

HISTORY: CL 1857, 5589;—CL 1871, 7376;—How. 8953;—CL 1897, 10546;—CL 1915, 14774;—CL 1929, 17711;—CL 1948, 801.115.

801.116 Liquors in jail prohibited; exception.

Sec. 16. No spirituous liquor shall on any pretense whatever, be sold within any building used and established as a jail; nor shall any spirituous liquor be brought into any jail for the use of any person confined therein, or be furnished to any such prisoner, unless the same shall be certified to be absolutely necessary for the health of such prisoner, by some reputable physician, who shall specify the quantity and quality of the liquor that may be furnished to any prisoner, the name of the prisoner for whom, and the time when the same may be furnished.

HISTORY: CL 1857, 5590;—CL 1871, 7377;—How. 8954;—CL 1897, 10547;—CL 1915, 14775;—CL 1929, 17712; CL 1948, 801.116.
LIQUORS AND DRUGS: As to prisons, see Compilers' §§ 800.42 and 800.281.

801.117 Liquors in jail prohibited; penalty, forfeiture of office.

Sec. 17. Every person who shall sell or bring into any jail, any spirituous liquor, contrary to the provisions of the last preceding section, and every sheriff, keeper of a jail,

assistant to such keeper, or other officer employed in or about the jail, who shall knowingly suffer any spirituous liquor to be sold or used in a jail, contrary to the foregoing provisions shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to imprisonment not exceeding 1 year or a fine not exceeding 250 dollars, or both, in the discretion of the court, and every sheriff or other officer so convicted shall forfeit his office.

HISTORY: CL 1857, 5591;—CL 1871, 7378;—How. 8955;—CL 1897, 10548;—CL 1915, 14776;—CL 1929, 17713;—CL 1948, 801.117.

Sec. 18.

HISTORY: CL 1857, 5592;—CL 1871, 7379;—How. 8956;—CL 1897, 10549;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916 (Jud. Act).

This section related to the duty of the sheriff to deliver all declarations, etc., served upon the sheriff directed to any prisoner, to such prisoner.

801.119 Conveyance of prisoners through other counties; right of officers.

Sec. 19. Any sheriff or other officer, who shall have arrested any prisoner, may pass over, across and through such parts of any other county or counties as shall be in the ordinary route of travel from the place where such prisoner shall have been arrested, to the place where he is to be conveyed and delivered, according to the command of the process by which such arrest shall have been made.

HISTORY: CL 1857, 5593;—CL 1871, 7380;—How. 8957;—CL 1897, 10550;—CL 1915, 14777;—CL 1929, 17714;—CL 1948, 801.119.

801.120 Conveyance of prisoners through other counties; prisoner not deemed escaped; civil arrest.

Sec. 20. Such conveyance shall not be deemed an escape; nor shall the prisoner so conveyed, or the officers having them in their custody, be liable to arrest on any civil process, while passing through such other county or counties.

HISTORY: CL 1857, 5594;—CL 1871, 7381;—How. 8958;—CL 1897, 10551;—CL 1915, 14778;—CL 1929, 17715;—CL 1948, 801.120.

Act 78, 1917, p. 145; Imd. Eff. Apr. 17.

AN ACT to establish and to provide for the conduct and maintenance of work farms, factories or shops in counties of this state and to authorize the confinement of convicted persons therein and to provide for the punishment of such persons for breaking or attempting to break out; and to permit counties not operating work farms, factories or shops to contract for the care of their prisoners with counties operating such farms, factories or shops.

The People of the State of Michigan enact:

801.201 County workhouse; authorization of county to acquire and own.

Sec. 1. The various counties of this state are hereby authorized to acquire, own and hold real estate and buildings within their respective boundaries to be used as work farms, factories or shops for the confinement, punishment and reformation of persons sentenced thereto, and to conduct and operate the same.

HISTORY: CL 1929, 17720;—CL 1948, 801.201.

801.202 Non-partisan commission for management; election, membership, number, term, vacancies, eligibility, oath.

Sec. 2. The management and direction of such work farms, factories or shops and of the convicted persons sentenced thereto, subject to the periodical visitations of the state authorities at their discretion, shall be under the authority of a non-partisan commission to be elected for that purpose by the board of supervisors of such county. Said board of commissioners shall consist of 3 members. The first 3 members shall be elected by the board of supervisors, at any meeting at which a majority of the members-elect shall decide to operate under this act, as follows: One member for 1 year from and after January first, following this election, 1 for 2 years, 1 for 3 years, after said

January first; and annually thereafter at the regular January meeting 1 member shall be elected for the full term of 3 years. Vacancies shall be filled by said board of supervisors. The first commissioners shall assume their duties immediately on election. The commissioners shall be residents of the county which they serve, but no member of the board of supervisors shall be eligible during the term for which he was elected supervisor. The commissioners shall make and subscribe the constitutional oath of office and file the same with the county clerk before assuming their duties.

HISTORY: CL 1929, 17721;—CL 1948, 801.202.

801.203 Non-partisan commission for management; superintendent; appointment, powers, oath, duties, bond; employees; appropriations.

Sec. 3. Said commissioners are hereby authorized and empowered to establish and adopt rules for the regulation and discipline and the work and labor of the persons confined in and on said work farm, factory or shop; and to appoint a superintendent thereof, whose term of office shall be during good behavior, the salary to be fixed by said commission. The superintendent shall have the usual powers of a deputy sheriff, shall take the constitutional oath of office before assuming his duties, same to be filed with the county clerk; and before entering such duties he shall execute to the people of the state of Michigan a bond in the penal sum of 5,000 dollars, to be approved by said commissioners, and filed with the county clerk, conditioned that he shall faithfully account for all money and property that may come into his hands by virtue of his office and faithfully perform all the duties incumbent upon him as such superintendent, according to law. It shall also be the duty of the commissioners to employ and fix the compensation of such subordinate officers, guards and employes as such commission, with the approval of the board of supervisors, may deem necessary, and prescribe their duties not otherwise prescribed by law, and to make all rules and regulations in relation to the management and government thereof as they may deem expedient. But no appropriation of moneys shall be made by said commission without the sanction of the said board of supervisors by a vote of a majority of all the members-elect.

HISTORY: CL 1929, 17722;—CL 1948, 801.203.

801.204 Non-partisan commission for management; expenses, meetings, duties, restrictions; records, inspection.

Sec. 4. Said commissioners shall serve without fee or compensation, except actual expenses. They shall hold a public meeting on the first Monday of May of each year at the county seat, and such other meetings as they shall by rule appoint. One or more of said commissioners shall visit said work farm, factory or shop once at least in each month. There shall be a meeting of said commissioners on said work farm, factory or shop once in every 3 months, when they shall examine into its management in every department, hear and determine all complaints or questions within the province of the superintendent; and shall determine and make such further rules and regulations for the good government of said work farm, factory or shop as to them shall seem proper and necessary. All rules, regulations or other orders of said commissioners shall be recorded in a book to be kept for that purpose, which shall be deemed a public record, and with the other books and records of said work farm, factory or shop shall be at all times subject to the examination of any member of committee of said board of supervisors or any officer of the county, or any officer or person duly authorized by any court of record in this state to make such examinations. No member of the board of supervisors, commissioners, or any officer or employe of said work farm, factory or shop shall be, directly or indirectly, interested in any contract, purchase or sale for or on account of said work farm, factory or shop. Nor shall they or either of them employ the labor of any persons sentenced thereto upon any work in which they or he shall be interested.

HISTORY: CL 1929, 17723;—CL 1948, 801.204.

801.205 Books of account; contents; quarterly statement.

Sec. 5. The books of said work farm, factory or shop shall be so kept as to clearly exhibit the state of the inmates, number received and discharged, and the receipts from and the expenditures for and on account of each line of work, and for repairs or improvements and up-keep of the premises. A quarterly statement shall be made out which shall specify minutely all receipts and expenditures; proper vouchers for each expenditure shall accompany each statement, and the statement shall be filed with the county clerk. The accounts of said work farm shall be annually closed and balanced on December thirty-first of each year, giving a full account of the operations of the preceding year.

HISTORY: CL 1929, 17724;—CL 1948, 801.205.

801.206 Reports to supervisors; removal of officials or employees.

Sec. 6. The board of supervisors of such county may require such further reports and exhibits of the condition of the management of such institution as to them may seem necessary and proper, and may, for misconduct or wilful neglect of duty, upon sufficient evidence thereof, after notice and hearing, remove any officer or employee, including the members of said commission.

HISTORY: CL 1929, 17725;—CL 1948, 801.206.

801.207 Superintendent; duties.

Sec. 7. The superintendent of the said work farm, factory or shop shall have entire control and management of all its concerns, subject to said commission, and the rules and regulations adopted for its government. He shall be responsible for the manner in which said work farm, factory or shop is managed and conducted. He shall reside on the premises, devote his entire time and attention to the business thereof and visit and examine into the condition and management of every part of the work, and of each person thereon confined, daily and as often as good order and necessity may require. He shall exercise a general supervision and direction in regard to the discipline, police and business of said work farm, factory or shop.

HISTORY: CL 1929, 17726;—CL 1948, 801.207.

801.208 Counties without workhouse; contract with commission; publication.

Sec. 8. The board of supervisors of any county of the state, not owning or operating a work farm, factory or shop under the provisions of this act, shall have full power and authority to enter into an agreement with any commission organized under this act to receive and keep in or on their work farm, factory or shop, any person or persons who may be sentenced to confinement by any court or magistrate in any of said counties, for any term of not more than 6 months. Whenever such agreement shall have been made it shall be the duty of the board of supervisors for any county in behalf of which such agreement shall have been made, to give public notice thereof in some newspaper published within said county.

HISTORY: CL 1929, 17727;—CL 1948, 801.208.

801.209 Counties without workhouse; sentence by court to workhouse.

Sec. 9. In every county having such agreement it shall be the duty of every court, police justice, justice of the peace or other magistrate by whom any person, for any crime or misdemeanor not punishable by imprisonment in the State prison, may be sentenced for any term of not more than 6 months, to sentence such person to the said work farm, factory or shop there to be received, kept and employed in a manner pre-

scribed by law and the rules and discipline of the said work farm, factory or shop; and by such warrant and commitment to cause such persons to be forthwith conveyed by some proper officer to said work farm, factory or shop.

HISTORY: CL 1929, 17728;—CL 1948, 801.209.

801.210 Counties without workhouse; transfer of convicted persons to workhouse; employment; fees.

Sec. 10. It shall be the duty of the sheriff, constable or other officer in and for any county having such agreement with said commissioners, to whom any warrant or commitment for that purpose may be directed by any court or magistrate in such county, to convey such person so sentenced to the said work farm, factory or shop and there deliver such person to the superintendent or other proper officer of the said work farm, factory or shop, whose duty it shall be to receive such person so sentenced and to safely keep and employ such person for the term mentioned in the warrant or commitment, according to the rules and regulations of the said work farm, factory or shop; the officer thus conveying and so delivering the person or persons so sentenced shall be allowed such fees or compensation therefor as shall be prescribed or allowed by the board of supervisors for the county in which such persons shall have been convicted.

HISTORY: CL 1929, 17729;—CL 1948, 801.210.

801.211 Maintenance expense; tax levy.

Sec. 11. The expense of maintaining the said work farm, factory or shop, over and above the receipts for labor of persons confined therein and for crops produced thereon, and for the support of those whose support shall not be chargeable to the county, shall be audited and paid from time to time by the board of auditors or the board of supervisors of the county in counties not having boards of auditors, and shall be raised, levied and collected as part of the general expense of said county.

HISTORY: CL 1929, 17730;—CL 1948, 801.211.

801.212 Commitment of prisoner; six months limited sentence; employment.

Sec. 12. It shall be lawful for any judge, justice of the peace or police magistrate of such county or of any city therein to commit persons convicted before them to said work farm, factory or shop for a term not exceeding 6 months, notwithstanding the fact that the law or ordinance under which sentence is passed provides that the respondent shall be committed to another place of detention. And every such person so sentenced shall be received upon said work farm, factory or shop provided the capacity thereof is not already overtaxed, and shall be kept and employed thereon in the manner prescribed herein, and shall be subject to the rules and discipline of said work farm, factory or shop.

HISTORY: CL 1929, 17731;—CL 1948, 801.212.

PLACE OF IMPRISONMENT: See also Compilers' § 800.29.

Sec. 13.

HISTORY: CL 1929, 17732;—Rep. 1931, p. 750, Act 328, Eff. Sept. 18.

This section provided penalties for escape from county workhouse. For present law, see Compilers' § 750.196.

801.214 Record of infractions; effect of good behavior.

Sec. 14. The superintendent of said work farm, factory or shop shall cause to be kept a record of each and all infractions of the rules and discipline of such work farm, factory or shop with the names of the person or persons offending, and the date and character of such offense; and every person therein detained whose name does not appear upon such record shall be entitled to a deduction of 3 days per month from his sentence for each month he shall continue to obey all the rules of the said work farm, factory or shop.

HISTORY: CL 1929, 17733;—CL 1948, 801.214.

801.215 Realty; powers of commission.

Sec. 15. Any real estate which has been or is being used for county work farm, factory or shop purposes shall, immediately upon the election of a commission pursuant to the terms of this act, be turned over to such commission pursuant to this act. And such commission, by and with the approval of a majority of all supervisors-elect of such county, given by vote at some regular meeting or special meeting called for that purpose, may sell such real estate and invest its proceeds in other real estate in said county to be used for like purposes; or in case it is decided to discontinue said farm, factory or shop then the proceeds shall be turned into the general fund of such county.

HISTORY: CL 1929, 17734;—CL 1948, 801.215.

Sec. 16. (This was a repeal section.)

HISTORY: CL 1929, 17735;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

801.217 Declaration of necessity.

Sec. 17. This act is hereby declared to be immediately necessary for the preservation of the public peace, health and safety.

HISTORY: CL 1929, 17736;—CL 1948, 801.217.

Act 60, 1962, p. 49; Eff. Mar. 28, 1963.

AN ACT to provide for the day parole of prisoners in county jails to permit them to be gainfully employed outside the jail or pursue other activities; and to provide for the disposition of earnings from such employment.

The People of the State of Michigan enact:

801.251 County jails; day parole of prisoners, purposes.

Sec. 1. A sentence or commitment of a person to a county jail for any reason may grant such person the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

- (a) Seeking employment;
- (b) Working at his employment;
- (c) Conducting his own self-employed business or occupation, including in the case of a woman housekeeping and caring for the needs of her family;
- (d) Attendance at an educational institution; or
- (e) Medical treatment.

A person may petition the court for such privilege at the time of sentence or commitment, and in the discretion of the court may renew his petition. The court may withdraw the privilege at any time by order entered with or without notice.

HISTORY: New 1962, p. 49, Act 60, Eff. Mar. 28, 1963.

CITED IN OTHER SECTIONS: Sections 801.251 to 801.258 are cited in § 421.29.

801.252 Employed prisoner; collection of wages; garnishment.

Sec. 2. The sheriff, or friend of the court in alimony or nonsupport cases, shall collect the wages or salary of an employed prisoner, or require him to turn over his wages or salary in full when received. The officer shall deposit the same in a trust checking account and keep a ledger showing the status of the account of each prisoner. The wages or salary are not subject to garnishment in the hands of the employer or the officer during the prisoner's term.

HISTORY: New 1962, p. 49, Act 60, Eff. Mar. 28, 1963.

801.253 Prisoner liability for board; prisoner transportation.

Sec. 3. A gainfully employed prisoner is liable for the cost of his board in the jail as fixed by the sheriff. If necessarily absent from jail at a meal time, he shall at his request

be furnished with an adequate nourishing lunch to carry to work. The sheriff or friend of the court shall charge his account, if he has one, for such board. If the prisoner is gainfully self-employed, he shall pay the sheriff for such board, in default of which his employment privilege is automatically forfeited. If the jail food is furnished directly by the county, the sheriff shall account for and pay the board payments to the county treasurer. The board of supervisors by ordinance may provide that the county furnish or pay for the transportation of employed prisoners to and from their place of employment.

HISTORY: New 1962, p. 49, Act 60, Eff. Mar. 28, 1963.

801.254 Employed prisoner; disbursement of wages; priority.

Sec. 4. The sheriff or friend of the court shall disburse the wages or salary of an employed prisoner for only the following purposes in the order stated:

- (a) Board of the prisoner;
- (b) Necessary travel expense to and from work and other incidental expenses of the prisoner;
- (c) Support of the prisoner's dependents, if any;
- (d) Payment, either in full or ratably, of the prisoner's obligations, acknowledged by him in writing, or which have been reduced to judgment;
- (e) The balance, if any, to the prisoner upon his discharge.

HISTORY: New 1962, p. 49, Act 60, Eff. Mar. 28, 1963.

801.255 County department of social welfare; clerk of court; duties.

Sec. 5. The board of supervisors by resolution may direct that the functions of the officer under sections 2 or 4, or both, be performed by the county department of social welfare; or, if the board has not so directed, a court of record may order that the prisoner's earnings be collected and disbursed by the clerk of the court. The order shall remain in force until rescinded by the board or the court, whichever made it.

HISTORY: New 1962, p. 49, Act 60, Eff. Mar. 28, 1963.

801.256 County department of social welfare; report on prisoners dependents.

Sec. 6. The county department of social welfare shall at the request of the court investigate and report to the sheriff or friend of the court the amount necessary for support of the prisoner's dependents.

HISTORY: New 1962, p. 50, Act 60, Eff. Mar. 28, 1963.

801.257 Reduction of term for good conduct.

Sec. 7. A prisoner may receive, if approved by the court, a reduction of 1/4 of his term if his conduct, diligence and general attitude merit such reduction.

HISTORY: New 1962, p. 50, Act 60, Eff. Mar. 28, 1963.

801.258 Violation of conditions; confinement, forfeiture of earned reduction.

Sec. 8. A prisoner who violates any condition specified by the court for his conduct, custody or employment shall be reported by the sheriff to the court, which may then order that the balance of his sentence or commitment be spent in actual confinement and that any earned reduction of his term be forfeited.

HISTORY: New 1962, p. 50, Act 60, Eff. Mar. 28, 1963.

CHAPTER 802. CORRECTIONS—HOUSES OF CORRECTION

DETROIT HOUSE OF CORRECTION

Act 164 of 1861

- 802.1 Detroit house of correction; use of building.
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- CITY HOUSES OF CORRECTION
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Act 164, 1861, p. 262; Eff. Jun. 15.

AN ACT to establish the Detroit house of correction and authorize the confinement of convicted persons and persons awaiting trial or sentence. Am. 1970, p. 545, Act 183, Imd. Eff. Aug. 3.

The People of the State of Michigan enact:

802.1 Detroit house of correction; use of building.

Sec. 1. That the building erected for that purpose by the city of Detroit, shall be known and recognized as the "Detroit house of correction" and shall be used for the confinement, punishment and reformation of criminals or persons sentenced thereto, under the provisions of this act, or any law of this state authorizing the confinement of convicted persons in said house of correction.

HISTORY: CL 1871, 8145;—How. 9843;—CL 1897, 2155;—CL 1915, 1841;—CL 1929, 17737;—CL 1948, 802.1.

802.2 Board of inspectors; duties; appointment, vacancies, terms.

Sec. 2. The management and direction of the said house of correction, subject to periodical inspection by the state authorities in their discretion, shall be under the control and authority of a board of inspectors, to be appointed for that purpose by the common council of the city of Detroit, upon the nomination of the mayor. Said board of inspectors shall consist of 4 members. The first 4 shall be appointed as follows: One member for 1 year, 1 for 2 years, 1 for 3 years, and 1 for 4 years, and annually thereafter 1 member shall be appointed for the full term of 4 years. And the official terms of the members of said board shall commence on the first day of July. Vacancies shall be filled in the same manner as the original appointments are made.

HISTORY: CL 1871, 8146;—Am. 1881, p. 251, Act 207, Imd. Eff. June 2;—How. 9844;—CL 1897, 2156;—CL 1915, 1842;—CL 1929, 17738;—CL 1948, 802.2.

The amendatory act of 1881, amending Secs. 2, 3 and 5 of this act, has a Sec. 6, which repeals all provisions of law relative to the appointment or term of office of all officers of said house of correction not contained herein.

802.3 Board of inspectors; powers and duties; appropriation of moneys.

Sec. 3. The board of inspectors of the Detroit house of correction, as provided for in Act No. 207 of the Public Acts of 1881, are hereby authorized and empowered to establish and adopt rules for the regulation and discipline in said house of correction and to appoint a superintendent thereof, whose term of office shall be 3 years, the salary to be fixed by said board and not to exceed 4,000 dollars, and the appointment to be made at least 3 months before the expiration of the term then pending, and to fix the compensation of the subordinate officers, guards, and employees who shall be appointed by the superintendent, and prescribe their duties not otherwise prescribed by law, and to make all rules and regulations in relation to the management and government thereof as they shall deem expedient. But no appropriation of moneys shall be made by said board of inspectors for any other purpose than the necessary expenses and for the repairs of said institution from damages which may occur to the property known as the Detroit house of correction, and from ordinary wear and usage of the same without the sanction of the common council by a vote of the majority of the aldermen elect in said city at some regular meeting subsequent to the meeting in which such appropriation shall have been presented to said common council.

HISTORY: CL 1871, 8147;—Am. 1881, p. 251, Act 207, Imd. Eff. June 2;—How. 9845;—Am. 1891, p. 202, Act 161, Imd. Eff. June 24;—CL 1897, 2157;—CL 1915, 1843;—CL 1929, 17739;—CL 1948, 802.3.

See history note under preceding section.

Act 161 of 1891 in addition to the text of Sec. 3 above contained the following: "All acts or parts of acts contravening the provisions of this act are hereby repealed."

802.4 Board of inspectors; compensation; meetings; records, inspection.

Sec. 4. Said inspectors shall serve without fee or compensation. There shall be a meeting of the entire board of the house of correction once in each year, at such time, as shall be fixed by said board. One or more of said appointed inspectors shall visit the said house of correction once at least in each month. There shall be a meeting of said appointed inspectors at said house of correction once in every 3 months, when they shall fully examine into its management in every department, hear and determine all complaints or questions not within the province of the superintendent, to determine and make such further rules and regulations for the good government of said house of

correction, as to them shall seem proper and necessary. All rules, regulations, or other orders of said board, shall be recorded in a book to be kept for that purpose, which shall be deemed a public record, and with the other books and records of said house of correction, shall be at all times subject to the examination of any member or committee of the common council, the controller treasurer or attorney of said city, or any officer or person duly authorized by any court of record in this state, to make such examination.

HISTORY: CL 1871, 8148;—How. 9846;—CL 1897, 2158;—CL 1915, 1844;—CL 1929, 17740;—CL 1948, 802.4.

802.5 Records and accounts; annual report, publication.

Sec. 5. The books of said house of correction shall be so kept as to clearly exhibit the state of the prisoners, the number received and discharged, and the receipts from and the expenditures for and on account of each department of business, or for repair or improvement of the premises. A quarterly statement shall be made out which shall specify minutely all receipts and expenditures; proper vouchers for each expenditure shall accompany each statement, and the same be approved by the inspectors and the common council of the city of Detroit, and return to the controller of said city for safe keeping. The accounts of said house of correction shall be annually closed and balanced on the thirty-first day of December of each year, and the annual report submitted as soon thereafter as practicable, the first report to be made in 1882, giving a full account of the operations of the preceding year and the same submitted to the board of inspectors, and with their report to the common council, a copy of which shall be transmitted to each department of the state government, and to each county in the state having contracts with said city for the confinement and maintenance of convicted persons. And such report shall be published in some newspaper in the city or in such other form as shall be directed by said board of inspectors.

HISTORY: CL 1871, 8149;—Am. 1881, p. 251, Act 207, Imd. Eff. June 2;—How. 9847;—Am. 1883, p. 11, Act 19, Eff. Sept. 8;—CL 1897, 2159;—CL 1915, 1845;—CL 1929, 17741;—CL 1948, 802.5.

See history note to section 2.

RECORDS: See also Compilers' s 404.32.

REPORTS: Report of alien inmate by person in charge of institution to U.S. immigration service, and release for deportation, see Compilers' § 404.31.

802.6 Common council; supervision of house of correction; removal of employees.

Sec. 6. The common council of said city may require such further reports and exhibits of the condition and management of such institution as to them shall seem necessary and proper and may with the approval of the mayor and inspectors, for misconduct or wilful neglect of duty and upon sufficient evidence thereof remove any officer or employe, or inspector of said institution except the superintendent thereof who shall be removable for the causes, and as provided in the charter of said city. But any subordinate officer or employe may be removed by the superintendent at his discretion, or by the board of inspectors with the approval of the superintendent.

HISTORY: CL 1871, 8150;—How. 9848;—CL 1897, 2160;—CL 1915, 1846;—CL 1929, 17742;—CL 1948, 802.6.

802.7 Superintendent; powers and duties; residence; deputy.

Sec. 7. The superintendent of the said house of correction shall have entire control and management of all its concerns subject to the authority established by law and the rules and regulations adopted for its government; it shall be his duty to obey and carry out all written orders and instructions of the inspectors not inconsistent with the laws, rules and regulations relating to the government of said institution. He shall be responsible for the manner in which said house of correction is managed and conducted. He shall reside at said house of correction, devote his time and attention to the business thereof, and visit and examine into the condition and management of every department thereof and of each prisoner therein confined daily, or as often as good order or necessity may require. He shall exercise a general supervision and direction in regard

to the discipline, police and business of said house of correction. The deputy superintendent of said house of correction shall have and exercise the powers of the superintendent in his absence, so far as relates to the discipline thereof and the safe keeping of prisoners.

HISTORY: CL 1871, 8151;—How. 9649;—CL 1897, 2181;—CL 1915, 1847;—CL 1929, 17743;—CL 1948, 802.7.

802.7a Superintendent; deputy and guards as peace officers.

Sec. 7a. The superintendent, deputy superintendent and guards of the Detroit house of correction are hereby declared to be peace officers but shall be entitled to all the rights and privileges of peace officers only while in the performance of their duties.

HISTORY: Add. 1958, p. 159, Act 146, Eff. Sep. 13.

802.8 Agreements for care of county prisoners; publication.

Sec. 8. The board of supervisors of any organized county of the state shall have full power and authority to enter into an agreement with the common council of the city of Detroit or with any authorized agent or officer in behalf of said city, to receive and keep in the Detroit house of correction any person or persons who may be sentenced to confinement by any court or magistrate in any of said counties for any term not less than 60 days. Whenever such agreement shall have been made, it shall be the duty of the board of supervisors for any county in behalf of which such agreement shall have been made to give public notice thereof in some newspaper published within said county, and in case no paper is published in said county, then such notice shall be published in some newspaper within the *judicial district to which said county is attached, for a period not less than 4 weeks, and such notice shall state the period of time for which such agreement will remain in force.

HISTORY: CL 1871, 8152;—How. 9850;—CL 1897, 2162;—CL 1915, 1848;—CL 1929, 17744;—CL 1948, 802.8.

*NOTE: The word "judicial" should be "judicial".

WAYNE COUNTY: Agreement, see Compilers' § 802.16.

802.8a Detroit house of correction; persons awaiting trial or sentence, custody; contracts.

Sec. 8a. The board of county commissioners of any county having a population of 500,000 or more may enter into an agreement with the common council of the city of Detroit, or with any authorized agent or officer on behalf of the city and the common council of the city of Detroit or any authorized agent or officer of the city so authorized shall have the authority to enter into an agreement with a county whereby the Detroit house of correction is authorized to receive and keep in custody any person detained in custody and awaiting trial or sentence pursuant to court order. The agreement shall provide that the county shall pay all reasonable expenses incurred by the city for such custodial incarceration.

HISTORY: Add. 1970, p. 545, Act 183, Imd. Eff. Aug. 3.

802.9 Agreements for care of county prisoners; duty of courts.

Sec. 9. In every county having such agreement with the said city of Detroit, it shall be the duty of every court, police justice, justice of the peace or other magistrate by whom any person for any crime or misdemeanor, not punishable by imprisonment in the state prison, may be sentenced for any term not less than 60 days, to sentence such person to the Detroit house of correction, there to be received, kept and employed in the manner prescribed by law and the rules and discipline of the said house of correction; and it shall be the duty of any such court, police justice, justice of the peace or other magistrate, by a warrant or commitment duly issued by the court, justice or magistrate declaring such sentence, to cause such person so sentenced, to be forthwith conveyed by some proper officer to said house of correction.

HISTORY: CL 1871, 8153;—How. 9851;—CL 1897, 2163;—CL 1915, 1849;—CL 1929, 17745;—CL 1948, 802.9.

802.10 Agreements for care of county prisoners; conveyance of prisoners by officer, fees.

Sec. 10. It shall be the duty of the sheriff, constable, or other officer in and for any county having such agreement with said city of Detroit, to whom any warrant or commitment for that purpose may be directed by any court or magistrate in such county, to convey such person so sentenced, to the said Detroit house of correction and there deliver such person to the keeper or other proper officer of said house of correction, whose duty it shall be to receive such person so sentenced and to safely keep and employ such person for the term mentioned in the warrant or commitment, according to the laws of said house of correction, and the officer thus conveying and so delivering the person or persons so sentenced, shall be allowed such fees or compensation therefor as shall be prescribed or allowed by the board of supervisors for the county in which such person shall have been convicted.

HISTORY: CL 1871, 8154;—How. 9852;—CL 1897, 2164;—CL 1915, 1850;—CL 1929, 17746;—CL 1948, 802.10.

802.11 Agreements for care of state prisoners; publication; classes of prisoners; employment.

Sec. 11. The inspectors of the state prison may contract with the said city of Detroit, or any duly authorized agent or officer in behalf of said city, for the confinement and maintenance, in the Detroit house of correction, of persons convicted of any offense punishable by imprisonment in the state prison: Provided That the compensation to be paid for such confinement and maintenance, shall not exceed the sum of 1 dollar per week; and upon the completion and execution of any such contract, the inspectors of the state prison and of the said house of correction shall give public notice thereof in some weekly newspaper, in each county in which a weekly newspaper is published, after which any male person, under the age of 21 years and above the age of 16 years, who shall be convicted of any offense, murder and treason excepted, punishable by imprisonment in the state prison, may, in the discretion of the court before whom such conviction shall be had, be sentenced to imprisonment in the Detroit house of correction; and every male between the ages of 16 and 22 years, who shall for the first time be so convicted, shall be sentenced to said Detroit house of correction. And every female who shall be so convicted shall be sentenced to said house of correction; and every person so sentenced shall be received into the said house of correction and shall be kept and employed in the manner prescribed by law, and shall be subject to the rules and discipline of said house of correction.

HISTORY: CL 1871, 8155;—How. 9853;—CL 1897, 2165;—CL 1915, 1851;—CL 1929, 17747;—CL 1948, 802.11.

STATE PRISON INSPECTORS: Were provided for by Act 213 of 1875, being How. 9668 et seq. which act was superseded by Act 118 of 1893, being Compilers' § 800.1 et seq., which provided for a board of control instead. The board of control has been abolished and its powers and duties are now vested in the division of prisons and industries, see Compilers' § 791.201 et seq.

RECORDER'S COURT: Expense of keeping prisoners sentenced from, see Compilers' § 726.27.

802.12 Agreements for care of state prisoners; conveyance of prisoners by sheriff, fees.

Sec. 12. It shall be the duty of the sheriff of any county within which any person shall be convicted and sentenced, as in the eleventh section of this act provided to convey such person to the said house of correction, and deliver him or her to the superintendent thereof, for which such sheriff shall be paid the same fees and compensation allowed for conveying persons to the state prison.

HISTORY: CL 1871, 8156;—How. 9854;—CL 1897, 2166;—CL 1915, 1852;—CL 1929, 17748;—CL 1948, 802.12.

802.13 Commitment of minors; laws applicable.

Sec. 13. All provisions of law authorizing the commitment and confinement of males under 16, and females under 14 years of age, in the jails, work-houses or houses of correction in the city of Detroit are hereby made applicable to all persons who may or

shall be, under the provisions of this act sentenced to the said Detroit house of correction.

HISTORY: CL 1871, 8157;—How. 9855;—CL 1897, 2107;—CL 1915, 1853;—CL 1929, 17749;—CL 1948, 802.13.

802.14 Expense of maintenance.

Sec. 14. The expenses of maintaining the said house of correction, over and above all receipts for the labor of persons confined therein, and for the support of those whose support shall not be chargeable to the county of Wayne, or be otherwise provided for, shall be audited and paid from time to time, by the common council of the city of Detroit, and shall be raised, levied and collected as part of the ordinary expenses of said city.

HISTORY: CL 1871, 8158;—How. 9856;—CL 1897, 2108;—CL 1915, 1854;—CL 1929, 17750;—CL 1948, 802.14.

802.15 Completion of institution; certificate of inspectors.

Sec. 15. Whenever the said house of correction shall, in the opinion of the board of inspectors, by this act created and established, or a majority of them, be so far completed as to insure the safe confinement and employment therein, of persons intended to be therein confined, they shall make duplicate certificates thereof under their hands and seals, 1 of which they shall file in the office of the clerk of Wayne county, and the other shall be served upon the sheriff of said county, and the said sheriff shall thereupon transfer all such persons to the said house of correction, and the superintendent thereof, shall receive such persons and safely keep them for the term for which they are sentenced, and employ them according to the discipline and rules established for the government of said house of correction.

HISTORY: CL 1871, 8159;—How. 9857;—CL 1897, 2109;—CL 1915, 1855;—CL 1929, 17751;—CL 1948, 802.15.

802.16 Agreements for care of Wayne county prisoners; publication; duty of courts; employment; conveyance of prisoners, exception.

Sec. 16. The board of auditors for the county of Wayne shall have full power and authority to enter into an agreement with the common council of the city of Detroit, or with any authorized agent or officer in behalf of said city, to receive and keep in the Detroit house of correction any person or persons who may be sentenced to confinement in said house of correction by any court or magistrate in said county of Wayne, for the offenses in this section hereafter mentioned. Whenever such agreement shall have been made, it shall be the duty of the board of auditors for said county to give public notice, in some newspaper published within said county for a period of not less than 4 weeks, and such notice shall state the period of time that such agreement will remain in force. Upon the making of such agreement, it shall be the duty of every court or magistrate in the said county of Wayne, authorized by law to sentence or commit any person to the county jail of said county as vagrants, common drunkards, disorderly persons, common prostitutes, or for assault and battery, petit larceny or other offenses punishable by imprisonment in the county jail, or by virtue of any final sentence or conviction, except for contempt, to sentence such person to be confined in the said house of correction, there to be received, kept and employed according to law, under the rules and regulations of said house of correction. And it shall be the duty of all officers having the execution of the final process of any court or magistrate sentencing convicted persons to said house of correction, to cause such convicts to be conveyed forthwith to said house of correction, and such officer or officers shall be paid therefor the fees allowed by law for conveying persons to the county jail; but this section shall not apply to those juvenile offenders who by law may be sent to the reform school at Lansing.

HISTORY: CL 1871, 8160;—Am. 1879, p. 93, Act 98, Imd. Eff. May 23;—How. 9858;—CL 1897, 2170;—CL 1915, 1856;—CL 1929, 17752;—CL 1948, 802.16.

REFORM SCHOOL: Now known as Boys' Vocational School, see Compilers' § 803.101.

802.17 Agreements for care of prisoners; commitment by justices.

Sec. 17. It shall be lawful for any justice of the peace, police justice or other magistrate having jurisdiction thereof, in the county of Wayne (when such agreement shall have been made), or in any other county having an agreement with the authorities of the city of Detroit for the confinement and maintenance of convicted persons in said house of correction, in all cases of complaints for vagrancy, to commit any person, except such juvenile offenders as are mentioned in the last preceding section, convicted on such complaint before such justice or magistrate, to said house of correction, for a term not exceeding 6 months.

HISTORY: CL 1871, 8162;—Am. 1879, p. 93, Act 98, Imd. Eff. May 23;—How. 9859;—CL 1897, 2171;—CL 1915, 1857;—CL 1929, 17753;—CL 1948, 802.17.

Sec. 18.

HISTORY: CL 1871, 8162;—How. 9860;—CL 1897, 2172;—CL 1915, 1858;—CL 1929, 17754;—Rep. 1931, p. 739, Act 328, Eff. Sept. 18.

This section provided penalties for escapes, or attempts, from the Detroit House of Correction. For present law, see Compilers' § 750.194.

802.19 Transfer of females from state prison.

Sec. 19. Upon the completion and execution of a contract for the confinement and maintenance of persons liable to imprisonment in the state prison, in the said house of correction as provided in section 11 of this act, it shall be competent and lawful for the inspectors of the state prison to transfer to said house of correction all females confined in the state prison and such persons so transferred shall be received into said house of correction, and there confined and employed for the unexpired term of their sentences, respectively.

HISTORY: CL 1871, 8163;—How. 9861;—CL 1897, 2173;—CL 1915, 1859;—CL 1929, 17755;—CL 1948, 802.19.

TRANSFER: See also Compilers' § 802.52.

802.20 Record of infractions; contents; effect of good behavior.

Sec. 20. The superintendent of said house of correction shall cause to be kept a record of each and all infractions of the rules and discipline of said house of correction, with the names of the convict or convicts offending, and the date and character of each offense, and every convict sentenced for 1 or more years whose name does not appear upon such record, shall be entitled to a deduction of 3 days per month from his or her sentence for each month they shall continue to obey all the rules of the said house of correction.

HISTORY: CL 1871, 8164;—How. 9862;—CL 1897, 2174;—CL 1915, 1860;—CL 1929, 17756;—CL 1948, 802.20.

802.21 Adjustment of claims against Wayne county.

Sec. 21. The board of auditors of the county of Wayne and the common council of the city of Detroit shall have full power and authority to settle and adjust, on such terms as shall be agreed upon, any and all claims or demands of the city of Detroit against the said county of Wayne for the board and expense of keeping convicted persons in the Detroit house of correction, committed thereto by any officer or magistrate in said county of Wayne, within or without the limits of said city of Detroit, at any time prior to the time this act shall take effect.

HISTORY: Add. 1879, p. 94, Act 98, Imd. Eff. May 23;—How. 9863;—CL 1897, 2175;—CL 1915, 1861;—CL 1929, 17757;—CL 1948, 802.21.

REASONABLE CHARGES: See Compilers' § 802.181.

Act 131, 1867, p. 175; Eff. Jun. 27.

AN ACT supplementary to an act entitled "An act to establish the Detroit house of correction and authorize the confinement of convicted persons therein."

*The People of the State of Michigan enact:***802.51 Female prisoners; sentencing to Detroit house of correction.**

Sec. 1. Whenever any female shall hereafter be convicted in any court of this state of any crime or offense which, under the existing laws of the state, would subject her to imprisonment in the Michigan state prison, Michigan reformatory or the branch state prison in the upper peninsula, the court shall sentence such female to imprisonment in the Detroit house of correction instead of the said prisons for such term as may be authorized by law; and it shall be the duty of the superintendent of the Detroit house of correction to receive and securely keep all females so convicted, sentenced and committed to said Detroit house of correction until the term of her or their sentence has expired, or until she or they are otherwise duly discharged according to law.

HISTORY: CL 1871, 8165;—How. 9664;—CL 1897, 2176;—Am. 1909, p. 442, Act 257, Eff. Sept. 1;—CL 1915, 1862;—CL 1929, 17758;—CL 1948, 802.51.

TRANSFER FROM STATE PRISON: See Compilers' §§ 802.19 and 802.52.

802.52 Female prisoners; commuted sentence; contract by state prison.

Sec. 2. Whenever the sentence of any female now confined or that shall hereafter be confined, in the state prison, shall be by the governor, or other competent authority, commuted to confinement for any period in the Detroit house of correction, it shall be the duty of the agent of said state prison to at once transmit such person in proper and safe custody to the superintendent of said house of correction, whose duty it shall be to receive and safely keep her in said house of correction until the expiration of her sentence as commuted, or until she is otherwise discharged by due process of law or competent authority. And the board of inspectors of the state prison are hereby authorized and empowered to contract with the board of inspectors of said house of correction for the maintenance at said house of correction of persons sentenced pursuant to the provisions of this section: Provided, That the compensation shall not exceed 1 dollar per week.

HISTORY: CL 1871, 8166;—Am. 1879, p. 59, Act 67, Imd. Eff. May 10;—How. 9665;—CL 1897, 2177;—CL 1915, 1863;—CL 1929, 17759;—CL 1948, 802.52.

STATE PRISON INSPECTORS: Were provided for by Act 213 of 1875, being How. 9666 et seq. which act was superseded by Act 118 of 1893, being Compilers' § 800.1 et seq. which provided for a board of control instead. The board of control has been abolished and its powers and duties are now vested in the division of prisons and industries, see Compilers' § 791.71 et seq.

TRANSFER: See also Compilers' § 802.19.

REASONABLE CHARGES: See Compilers' § 802.181.

802.53 Persons failing to give bail for good behavior; sentence, release.

Sec. 3. Hereafter, when any person found guilty of disorderly conduct or breach of the peace by any court of said state in any county having with the city of Detroit or its duly authorized agent an agreement such as is specified and provided for in section 8 of said act to which this is amendatory shall be sentenced to give bail for good behavior or upon other condition it shall be competent for the court by or before which such person is convicted to sentence her or him to confinement in said house of correction for the nongiving of or until such bail is given and the superintendent of said house of correction shall receive and safely keep the person so committed until the term of commitment has expired or until he is served with a certificate signed by a circuit judge of the circuit in which is included the county where such person was convicted stating that by giving of bail or otherwise the terms of the sentence or commitment of such person have been complied with.

HISTORY: CL 1871, 8167;—How. 9666;—CL 1897, 2178;—CL 1915, 1864;—CL 1929, 17760;—CL 1948, 802.53.

NOTE: For section 8, above referred to, see Compilers' § 802.8.

802.54 Federal prisoners; custody.

Sec. 4. Whenever any court of the United States (sitting in this state) or any officer thereof, shall order or sentence any person upon conviction to be confined in the Detroit house of correction for any period of time, or for want of bail, or for any other cause, it shall be the duty of the superintendent to receive such person and him or her

safely keep until the terms of such order or sentence are fully complied with, and it shall be the duty of the superintendent safely and securely to keep all such persons as have heretofore been received by him by virtue of any process, order or sentence of any court of the United States, or any officer thereof, in compliance with such process, order or sentence.

HISTORY: Am. 1871, p. 24, Act 21, Imd. Eff. Feb. 24;—CL 1871, 8168;—How. 9867;—Am. 1885, p. 303, Act 221, Eff. July 1, 1886;—Am. 1893, p. 114, Act 93, Eff. Aug. 28;—CL 1897, 2179;—CL 1915, 1865;—CL 1929, 17761;—CL 1948, 802.54.

802.55 State prison laws applicable.

Sec. 5. All laws now in force, applicable to persons confined in the state prison shall be and are hereby made applicable to all persons who are or hereafter shall be confined in said house of correction who have been transferred to said house from the state prison or who shall be sentenced to confinement in said house on conviction of any offense punishable by confinement in the state prison.

HISTORY: CL 1871, 8169;—How. 9868;—CL 1897, 2180;—CL 1915, 1866;—CL 1929, 17762;—CL 1948, 802.55.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1871, 8170;—How. 9869;—CL 1915, 1867;—CL 1929, 17763;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

802.57 Persons sentenced from other state; confinement.

Sec. 7. No person shall be confined in the said Detroit house of correction, sentenced from any other state or territory, or by any United States court sitting in any other state or territory, than the state of Michigan: Provided, however, That this act shall not in any way affect the confinement of any person heretofore sentenced and undergoing imprisonment in said Detroit house of correction.

HISTORY: Add. 1893, p. 114, Act 93, Eff. Aug. 28;—CL 1897, 2181;—CL 1915, 1868;—CL 1929, 17764;—CL 1948, 802.57.

This section with similar wording was added by amendatory Act 221 of 1885 to take the place of the repealed Sec. 7, and given effect July 1, 1886. The original Sec. 7, being CL 1871, 8171, was repealed by Act 67 of 1879.

802.58 Free labor prohibited; exception.

Sec. 8. It shall not be lawful for the authorities of the said house of correction to employ any free labor in or about such institution, except such as may be necessary for the control and management of such house of correction and the care and detention of the persons confined therein.

HISTORY: Add. 1893, p. 114, Act 93, Eff. Aug. 28;—CL 1897, 2182;—CL 1915, 1869;—CL 1929, 17765;—CL 1948, 802.58.

Act 145, 1869, p. 264; Eff. Jul. 5.

AN ACT to provide for the imprisonment and detention of convicted persons in the Detroit house of correction.

The People of the State of Michigan enact:

802.101 Grant of writ by Wayne circuit court commissioner to test commitment; validity, misdemeanor to obey.

Sec. 1. That no circuit court commissioner, in the county of Wayne, shall grant a writ of habeas corpus or certiorari, to enquire [inquire] into the cause of the detention or restraint of the liberty of any person who is imprisoned, detained or restrained of his liberty, upon criminal process, whether final or otherwise, and if under a petition which does not disclose that the person in whose behalf, the writ is applied for, is so imprisoned, detained and restrained said commissioner grants said writ, he shall remand said person into custody if return is made to said writ that said person is so imprisoned, detained or restrained, and shall discontinue all proceedings under said writ. Any order of said commissioner to discharge a prisoner or person charged with or convicted of a crime or misdemeanor, shall be void, and any officer or other person obeying the same shall be guilty of a misdemeanor. Said commissioner shall in no case in-

quire into the validity of the commitment or other process by which prisoners convicted or charged with offenses are imprisoned or detained, nor shall said commissioner let any person charged with an offense to bail.

HISTORY: CL 1871, 8172;—How. 9870;—CL 1897, 2183;—CL 1915, 1870;—CL 1929, 17766;—CL 1948, 802.101.
MISDEMEANOR: For punishment where no penalty is otherwise prescribed, see Compilers' § 750.504.

802.102 Writs of habeas corpus and certiorari; criminal cases; issuance.

Sec. 2. Any justice of the supreme court, the judge of the circuit court of Wayne county, any circuit judge of the state, and the recorder of the city of Detroit, may grant writs of habeas corpus and certiorari in criminal cases in the county of Wayne.

HISTORY: CL 1871, 8173;—How. 9871;—CL 1897, 2184;—CL 1915, 1871;—CL 1929, 17767;—CL 1948, 802.102.
HABEAS CORPUS: And certiorari, see Compilers' § 637.7 et seq. and Compilers' § 600.4301.
RECORDER: Power to grant writ of habeas corpus, see also Compilers' § 728.17.

802.103 Release from custody; defects in process, mittimus; Wayne county.

Sec. 3. No person shall be released from custody when the return to a writ of habeas corpus alleges that the person in whose behalf said writ was issued is convicted by a court or officer of competent jurisdiction, of a crime or misdemeanor, or is committed to imprisonment to find sureties of the peace by reason of any defect or informality in the process by which said person is committed by said court or officer; but the court or judge granting the writ shall only inquire into the truth of the return and determine whether the court or officer under whose judgment, order or finding said person is so imprisoned or committed, has acted within the jurisdiction of said court or officer. No person, committed to prison for trial, shall be discharged by reason of defects in the process committing him. Whenever the process by which a person convicted or committed, and is held in the jail, house of correction or other prison, is defective in any respect, but has been issued by a court or officer of competent jurisdiction, in the exercise of that jurisdiction, the court or judge granting the writ of habeas corpus, shall remand the person in whose behalf said writ was issued, by a mittimus under the seal of said court or the hand and seal of said judge, commanding the proper officer to keep the said person in custody in accordance with the judgment, order or commitment of the court or officer by whose judgment, order or commitment said person is imprisoned, and said mittimus shall be and stand in the place of the process so defective. The provisions of this act shall apply to the county of Wayne only.

HISTORY: CL 1871, 8174;—How. 9872;—CL 1897, 2185;—CL 1915, 1872;—CL 1929, 17768;—CL 1948, 802.103.

802.104 Prostitute; age, complaints, imprisonment, term, release.

Sec. 4. Every person more than 15 years of age, who is a common prostitute shall, upon conviction thereof, be punished by imprisonment in the Detroit house of correction a term of 3 years. Complaints under this section may, in cities having a police justice, be made to said police justice, who shall hear, try and determine the same. In the townships, villages, and cities which have no police justice, said complaints shall be made to a justice of the peace, who shall hear, try and determine the same; but said justice of the peace shall, within 30 days after he has determined the said complaint, if the said person is found guilty, file in the office of the county clerk of his county, copies of all the proceedings under the same, and of the testimony which copies shall, by the said clerk, be forthwith submitted to the circuit judge of said county, who shall in writing, approve or disapprove of the finding of said justice of the peace, which approval or disapproval shall be filed by said judge in the office of said clerk, and shall be final. If said judge disapproves of said finding, the clerk shall certify the same under the seal of the circuit court to the superintendent of said house of correction, and said

superintendent shall, upon the receipt of the certificate, release the person in whose case it is made. It is hereby made the duty of any sheriff, constable, or superintendent of police in this state to serve said certificate upon the requisition of the said clerk, on the superintendent of said house.

HISTORY: CL 1871, 8175;—How. 9873;—CL 1897, 2186;—CL 1915, 1873;—CL 1929, 17769;—CL 1948, 802.104.

802.105 Prostitute; parole, rules and regulations.

Sec. 5. The inspectors of the Detroit house of correction may establish rules and regulations under which women confined in the said house, by virtue of the preceding section, may upon reformation or marked good behavior, be absolutely discharged from imprisonment therein, or be released conditionally from residence in said house before their term of imprisonment has expired, which rules and regulations shall be approved by the circuit judge of the county of Wayne and the recorder of the city of Detroit: Provided, That the persons released conditionally may at any time before the expiration of their term of imprisonment be returned to a residence in said house under and by the written order of the said inspectors, which order shall be authority for any officer of said house, sheriff or policeman, to arrest and return said persons.

HISTORY: CL 1871, 8176;—How. 9874;—CL 1897, 2187;—CL 1915, 1874;—CL 1929, 17770;—CL 1948, 802.105.

802.106 Female offenders not more than fifteen years old; sentence.

Sec. 6. It shall be lawful for all courts of record having criminal jurisdiction in the State of Michigan, and all police justices and justices of the peace in said state, in the exercise of their criminal jurisdiction, to sentence female offenders, who are not more than 15 years of age, to the Detroit house of correction, there to remain and be kept until they are 21 years of age. The age of said offenders shall be ascertained to the satisfaction of the court or officers sentencing said persons, and certified to the superintendent of said house, who shall receive and keep them until they are 21 years of age.

HISTORY: CL 1871, 8177;—How. 9875;—CL 1897, 2188;—CL 1915, 1875;—CL 1929, 17771;—CL 1948, 802.106.

802.107 Female offenders under fifteen years old; house of shelter; eligibility, rules.

Sec. 7. WHEREAS, There is connected with said house of correction, as a department thereof, a house for shelter, for the education and reformation of females; therefore the inspectors of said house shall adopt rules and regulations by which girls under 15 years of age, sent to said house, under this or any other law, shall be kept in said house of shelter, and shall not, except they are refractory and incorrigible in their conduct be imprisoned in the other department of said house of correction, to be subject to the restraints which govern adult prisoners.

HISTORY: CL 1871, 8178;—How. 9876;—CL 1897, 2189;—CL 1915, 1876;—CL 1929, 17772;—CL 1948, 802.107.

802.108 Female offenders under fifteen years old; sentence by Wayne county courts.

Sec. 8. Courts of record, the police court of the city of Detroit and justices of the peace in the county of Wayne in the exercise of their criminal jurisdiction shall sentence all female offenders who are under 15 years of age, to the said house of correction there to remain and be kept until they attain the age of 21 years. The age of such offenders shall be ascertained and certified as provided in section 6, of this act.

HISTORY: CL 1871, 8179;—How. 9877;—CL 1897, 2190;—CL 1915, 1877;—CL 1929, 17773;—CL 1948, 802.108.

DETROIT POLICE COURT: Abolished, powers and duties transferred to Recorder's Court, see Compilers' § 725.10.

802.109 Female offenders under fifteen years old; discharge.

Sec. 9. Any girl under the age of 15 years, who is sentenced to the house of correction until she is 21 years of age, may be discharged therefrom at any time during her term of imprisonment under such rules and regulations as the inspectors of said house may adopt.

HISTORY: CL 1871, 8180;—How. 9879;—CL 1897, 2191;—CL 1915, 1878;—CL 1929, 17774;—CL 1948, 802.109.

802.110 Superintendent; annual report to governor, contents.

Sec. 10. The superintendent of said house shall, in December of each year, report to the governor:

First: The number and age of all persons confined therein:

Second: Their term of imprisonment:

Third: The cause of imprisonment:

Fourth: The number of persons discharged and the reasons why, and all other facts which he may deem necessary, to explain the condition and necessities of said house.

HISTORY: CL 1871, 8181;—How. 9880;—CL 1897, 2192;—CL 1915, 1879;—CL 1929, 17775;—CL 1948, 802.110.

802.111 Forms of commitment.

Sec. 11. The following forms of commitment of prisoners sentenced under this or any other law of this state, to the house of correction, by police justice or a justice of the peace, shall be sufficient

First: Commitment of a common prostitute:

..... county—ss. To the superintendent or any patrolman of the metropolitan police of the city of Detroit, and the superintendent of the Detroit house of correction, greeting:

Whereas, after trial, upon a complaint duly taken by me of in said county, was convicted of being a common prostitute, and was by me sentenced to be imprisoned in the Detroit house of correction 3 years, **from and including this day of, A.D. 18.... Now therefore you the said, superintendent, or any patrolman of said police, are hereby required to convey said to said house of correction, and deliver her into the custody of the superintendent thereof; and you the said superintendent of said house are commanded to receive said into your custody, and her there safely keep until the expiration of said 3 years, or until she is discharged in accordance with law. Given under my hand, at the city of Detroit, this day of A.D. 18....,

Second: Girls under 15 years of age, the same form as above, except that after the name of the person committed, and before the, *the words: "Who is hereby certified to be of the age of years and on this day," shall be inserted, and in lieu of the words "3 years" before the,** the words "until she shall attain the age of 21 years," shall be inserted and the words "from and including the day of A.D. 18....," shall be omitted

Third: The same form of commitment shall as near as may be, be used in the cases of disorderly persons

Fourth: In cases arising out the city of Detroit, the said commitment shall be addressed to "The sheriff", or in towns or cities having a police force, to the superintendent or other authorized officer of the force.

HISTORY: CL 1871, 8182;—How. 9881;—CL 1897, 2193;—CL 1915, 1880;—CL 1929, 17776;—CL 1948, 802.111.

Act 10, 1887, p. 9; Imd. Eff. Feb. 5.

AN ACT to provide for the confinement of certain prisoners in the Detroit house of correction.

The People of the State of Michigan enact:

802.151 Transfer of female prisoners from jails; contract, order.

Sec. 1. That all female prisoners, who heretofore have been or shall hereafter be sentenced to imprisonment in the common jail of any county for a longer period than 90 days, in those counties where, at the time of such sentence, no contract had been made for the confinement of prisoners from such counties in the Detroit house of correction, upon the order of the judge of the judicial circuit to which said county is attached, may be immediately conveyed to the Detroit house of correction to serve out the remainder of their sentences as soon as such a contract shall be made between said counties and said Detroit house of correction: Provided, That the unexpired portion of said sentence is not less than 60 days.

HISTORY: How. 9881a;—CL 1897, 2194;—CL 1915, 1881;—CL 1929, 17777;—CL 1948, 802.151.

802.152 Transfer of female prisoners from jails; duties of sheriff.

Sec. 2. Upon being informed of such contract the sheriff of such county may immediately, upon receipt of the certificate of the judge as above provided, convey such prisoners to the Detroit house of correction, and the commitment directed to the sheriff of such county shall be sufficient warrant for the reception and confinement of such prisoners in the Detroit house of correction.

HISTORY: How. 9881b;—CL 1897, 2195;—CL 1915, 1882;—CL 1929, 17778;—CL 1948, 802.152.

Act 64, 1927, p. 81; Eff. Sep. 5.

AN ACT relating to confinement of prisoners in the Detroit house of correction, and providing for compensation therefor.

The People of the State of Michigan enact:

802.181 Duty of Detroit house of correction; acceptance and employment of prisoners; charges.

Sec. 1. Whenever any court of competent jurisdiction in this state shall, under the existing laws of this state, sentence any male or female person convicted of any crime or offense punishable by imprisonment in the state prison, to the Detroit house of correction, it shall be the duty of the Detroit house of correction to receive such person so sentenced and to keep and employ such person therein in the manner prescribed by law, and such person shall be subject to the rules and discipline of said house of correction: Provided, however, That the Detroit house of correction shall be entitled to a reasonable charge for the maintenance and keeping of any prisoner or prisoners so sentenced thereto, the amount of such charge to be fixed and agreed upon from time to time by and between the board of commissioners of the Detroit house of correction and the state administrative board, which charge shall not in any event be more than the minimum charge made by the Detroit house of correction for the confinement of prisoners therein by virtue of contracts made with the board of supervisors of any county in the state of Michigan under section 1848 of the Compiled Laws of the state of Michigan for 1915: And provided further, That on the discharge of prisoners at the expiration of their terms of imprisonment in said house of correction, they shall be returned to their homes in this state, if known, at the expense of the state.

HISTORY: CL 1929, 17779;—CL 1948, 802.181.

NOTE: CL 1915, 1848, above referred to, is Compilers' § 802.8.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 17780;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 278, 1911, p. 479; Eff. Aug. 1.

AN ACT to authorize the establishment of houses of correction in cities and to authorize the sentencing of persons convicted of crime thereto, and the confinement and detention of persons charged with or convicted of crime therein, and to fix and prescribe the duties and powers of all city, state and county officers with regard thereto.

The People of the State of Michigan enact:

802.201 City house of correction; qualifications for establishment and maintenance.

Sec. 1. Any city of this state now or hereafter possessing a population exceeding 100,000, as determined by the last federal decennial census or by any federal decennial census hereafter taken, may in its charter provide for the establishment of, and under appropriate charter provisions may maintain, a house of correction for the detention and confinement of persons convicted or charged with the commission of crime.

HISTORY: CL 1915, 1883;—CL 1929, 17781;—Am. 1945, p. 15, Act 16, Eff. Sept. 6;—CL 1948, 802.201.

802.202 City house of correction; organization; management.

Sec. 2. The organization, management, control and supervision of such house of correction when established shall conform in all respects to the act for the establishment of the Detroit house of correction, being Act No. 164 of the Public Acts of 1861, as from time to time heretofore or hereafter supplemented and amended. Any city establishing such house of correction may by charter or by ordinance authorized by the charter enact regulations for the control, conduct, maintenance and management of such institution and the supervision of the inmates thereof: Provided, That the same shall not be in conflict with or different from any of the applicable provisions contained in the said act for the establishment of the Detroit house of correction, or any act now existing or hereafter passed amendatory or supplementary thereto.

HISTORY: CL 1915, 1884;—CL 1929, 17782;—CL 1948, 802.202.

NOTE: Act 164 of 1861, above referred to, is Compilers' § 802.1 et seq.

802.203 Authority of judges and courts.

Sec. 3. All judges and courts of the city and county in which such house of correction may be established by any city, as well as all judges and courts throughout the state of Michigan, shall possess the same authority and shall be subject to the same limitations in sentencing persons convicted of crime or persons charged therewith to the house of correction so created or established as are provided by the said act for the establishment of the Detroit house of correction, and acts supplementary and amendatory thereto or in any other law of this state.

HISTORY: CL 1915, 1885;—CL 1929, 17783;—CL 1948, 802.203.

802.204 Authority of city house of correction and common council; laws applicable.

Sec. 4. Any such house of correction, when established, and the board of inspectors and officers thereof shall have the same authority to receive, detain and control, and the common council of the city in which such institution is located shall have the same authority to contract for receiving and maintaining of persons convicted of or charged with crime as is vested in the like officers or bodies of the city of Detroit or is provided by law with reference to the Detroit house of correction. All courts, judges, officers and boards in or of the city establishing any such house of correction, or of the county in which located, or within the state of Michigan or any municipality thereof, shall possess the same authority with regard thereto and with regard to all things and subjects covered by or provided for in the said act for the creation of the Detroit house of

correction as supplemented and amended, as is vested in the same courts, judges, officers and boards under the said act for the creation of the Detroit house of correction and acts supplementary or amendatory thereto.

HISTORY: CL 1915, 1886;—CL 1929, 17784;—CL 1948, 802.204.

802.205 Purpose of act.

Sec. 5. The purpose of this act is to permit any city of the state having a population of over 100,000, to establish and maintain a house of correction similar to that now existing in the city of Detroit, with the same power, duty, rights and authority thereover or with regard thereto, as is now or may hereafter be vested in the city of Detroit, and to vest in all officers, municipalities and boards having duties, rights, power or authority thereover the same rights, powers, authority and duties as are vested in the several officers, municipalities and boards named in said acts.

HISTORY: CL 1915, 1887;—CL 1929, 17785;—CL 1948, 802.205.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 1888;—CL 1929, 17786;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

CHAPTER 803. CORRECTIONS—YOUTH TRAINING AND REHABILITATION

BOYS' VOCATIONAL SCHOOL

Act 78 of 1855

803.11-803.23 Repealed.

Act 114 of 1893

803.51-803.55 Repealed.

BOYS TRAINING SCHOOL

Act 185 of 1925

803.101 Boys' training school; authority of social welfare department; commitment.

803.102 Boys' training school; eligibility for admission.

Health, physical and mental examinations; exclusion or admittance; county expense; superintendent's affidavit of expense; return to committing county.

803.102a Boys' training school; maximum admission age.

803.103 Boys' training school; control by social welfare commission; rules, use, personal investigation; guardianship; period of confinement; temporary protection and correction, cost.

803.103a Boys' training school; liabilities of counties for care of boys; foster care grant.

803.104 Boys' training school; superintendent and employees.

803.105 Relationship of state to boy; absentees.

803.106 Rules and regulations; discipline; course of study.

803.107 Training; duty of officers.

803.108 Temporary leaves of absence.

803.109 Boys' training school; discharge, age limitation, conditions.

803.110 Medical, psychological and physical examinations; classification; discipline.

803.111 Records; reports to governor.

803.112 Clothing, transportation, money upon release.

803.113 Violations of act; misdemeanor.

SITE, BOYS' VOCATIONAL SCHOOL

Act 120 of 1946 (Ex. Ses.)

803.201-803.209 Repealed.

Act 181 of 1956

803.211 Boys' vocational school; site, options, preliminary plans, estimates.

803.212 Boys' vocational school; appropriation, disbursement.

803.213 Department of social welfare; authorization to call on state agency for assistance.

803.214 Appropriations release; unexpended balances; commitment.

803.215 Repeal.

YOUTH CONSERVATION REHABILITATION CAMPS

Act 229 of 1962

803.317 Conservation rehabilitation camp for male delinquent youth; establishment, operations; appropriations. Rehabilitation program. Trainees, custody.

Camp facilities; appropriation for construction and renovation.

Same; appropriation for operation.

Act 145 of 1963

803.321 Conservation rehabilitation camp for male delinquent youths; establishment.

803.322 Trainee selection.

803.323 Appropriation.

CAMP LAVICTOIRE

Act 145 of 1965

803.331 Camp LaVictoire; transfer to department of social welfare.

803.332 Camp LaVictoire; preparation of documents.

803.333 Camp LaVictoire; operation as a conservation-rehabilitation camp.

803.11-803.23 Repealed. 1949, p. 26, Act 31, Eff. Sep. 23.

Sections related to juvenile offenders and provided that house of correction should not be connected with state penitentiary at Jackson, determined term of commitment and location of school, authorized creation of office of reform school agent, set agent's term and described his duties.

803.51-803.55 Repealed. 1949, p. 26, Act 30, Eff. Sep. 23.

Sections provided for board of trustees for Michigan industrial school for boys.

Act 185, 1925, p. 263; Eff. Aug. 27.

AN ACT to provide a state agency for the correction, education, care and protection of boys in conflict with society; to establish a boys' training school under the control of the Michigan social welfare commission; to prescribe who may be admitted thereto, the powers and duties of the officers immediately in charge of said school, the character and extent of education, discipline and training to be enforced and provided therein; to provide for the temporary use of other state facilities in certain cases of boys committed to the state department of social welfare; to provide for the tempo-

rary use of the boys' training school by the counties and at the expense of the counties for the care of delinquent boys who are mentally or physically unable to profit from the education provided therein; and to provide penalties for violations of certain provisions of this act. Am. 1944, 1st Ex. Ses., p. 18, Act 10, Imd. Eff. Feb. 19;—Am. 1953, p. 121, Act 122, Eff. Oct. 2;—Am. 1961, p. 14, Act 13, Imd. Eff. May 9.

The People of the State of Michigan enact:

803.101 Boys' training school; authority of social welfare department; commitment.

Sec. 1. There is hereby authorized and established a facility to be known and designated as the boys' training school for purposes and to be governed as herein prescribed and provided. The state department of social welfare is hereby authorized to receive at boys' training school by commitment from the probate court, juvenile division, boys believed eligible by the court for admission to said school. All boys heretofore or hereafter committed to boys' training school shall be deemed committed to the state department of social welfare. Wherever commitment to boys' training school is mentioned in any law of this state, it shall be construed to mean commitment to the state department of social welfare.

HISTORY: CL 1929, 17815;—CL 1948, 803.101;—Am. 1953, p. 121, Act 122, Eff. Oct. 2;—Am. 1961, p. 14, Act 13, Imd. Eff. May 9.
CITED IN OTHER SECTIONS: Sections 803.101 to 803.113 are cited in § 400.14.

803.102 Boys' training school; eligibility for admission.

Sec. 2. A boy between the ages of 12 and 17 is eligible for admission to said boys' training school, upon commitment by the juvenile division of the probate court to the state department of social welfare, who:

- (1) Repeatedly associates with immoral persons, or is leading an immoral life, or is repeatedly found on premises occupied or used for illegal purposes; or
- (2) Wilfully and repeatedly absents himself from school while being required by law to attend, or repeatedly violates rules and regulations thereof; or
- (3) Has deserted his home without sufficient cause or is repeatedly disobedient to the reasonable and lawful commands of his parents, guardian or other custodian; or
- (4) Has habitually violated municipal ordinances, statutes of the United States defining petty offenses or statutes of the state defining misdemeanors cognizable by justices of the peace or who has violated any other penal statutes of the state or the United States; or
- (5) Habitually idles away his time.

Health, physical and mental examinations; exclusion or admittance; county expense; superintendent's affidavit of expense; return to committing county.

Boys committed shall be subjected to a careful health examination by a registered physician, and a written report on said examination, showing that the boy is free from any chronic or contagious disease or mental or physical defect that would be a menace to those already in the said boys' training school, shall accompany the commitment papers. When the superintendent of boys' training school has received a boy, the boy shall be held by the superintendent without formal admission to the school pending further examination. The superintendent, as soon as practical, shall obtain for each boy so held a physical and mental examination by a medical doctor, a psychiatrist and a clinical psychologist. The Michigan social welfare commission, on the basis of said findings, may exclude from admission any boy who, because of mental or physical defect, would be unable to profit from training, or, at the option of the judge who committed the boy and if the nature of the defect would not endanger other boys in said

school, order the boy admitted and care for him at the expense of the county of commitment. Such expense shall be determined by the commission on a per diem basis using all cost figures for the previous fiscal year exclusive of capital expenditures. The superintendent shall make and file with the auditor general an affidavit of such expense and the state shall collect the amount of such expense from the treasurer of the county of commitment. If the county agent or some other suitable person appointed by the judge does not come for a boy not admitted to said school within 3 days after the court has been notified that the boy cannot be admitted as either a state or county charge, or if the judge has failed to provide for admission as a county charge, the superintendent shall order the boy returned to the committing county by an employee of the boys' training school and the cost of the return shall be at the expense of the county.

HISTORY: CL 1929, 17816;—Am. 1944, 1st. Ex. Ses., p. 19, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.102;—Am. 1953, p. 121, Act 122, Eff. Oct. 2;—Am. 1961, p. 14, Act 13, Imd. Eff. May 9.

CITED IN OTHER SECTIONS: The above section is cited in § 803.103a.

803.102a Boys' training school; maximum admission age.

Sec. 2a. The boys' training school shall accept a boy who is 17 but not older than 17 years and 6 months if the act for which he is committed occurred before his seventeenth birthday.

HISTORY: Add. 1970, p. 536, Act 179, Imd. Eff. Aug. 3.

803.103 Boys' training school; control by social welfare commission; rules, use, personal investigation; guardianship; period of confinement; temporary protection and correction, cost.

Sec. 3. The said boys' training school shall be under the general control and management of the Michigan social welfare commission, hereinafter referred to as "the commission", to the same extent as provided in section 1 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.1 of the Compiled Laws of 1948. Under rules promulgated by the commission with the approval of the commissioner of corrections, the Michigan reformatory, probationary work camps and other facilities of the department of corrections, except prisons, may be used temporarily for the protection and correction of a boy 16 years of age or older heretofore or hereafter committed to the state department of social welfare under this act when such boy has been found to be so aggressively out of control as to be a menace to himself or others in said school. Such rules shall provide for a careful personal investigation by the director of the state department of social welfare of the records of said school concerning the boy and an interview by the director with the boy himself and with others acquainted with his behavior. When the facilities of the department of corrections are used by the state department of social welfare in this manner for any boy, he may be required to abide by the regulations of the department of corrections and shall be subject to the same supervision and discipline as prisoners. At any time the superintendent of the boys' training school with the approval of the director of the state department of social welfare may order the return of the boy to said boys' training school, and the guardianship for the state remains with the superintendent of the boys' training school as provided in section 5 of this act. No boy shall be confined after he has reached 19 years of age. The boys' training school shall furnish the transportation both to the facility designated by the commissioner of corrections for receiving a boy, and from the facility where he is cared for if being returned to the boys' training school for further care at the school or for release. The department of corrections is hereby authorized and directed to re-

ceive any boy sent to it for temporary protection and correction under this section, and no special provision for the segregation for such a boy from prisoners need be provided. The cost of care of such a boy while under the control of the department of corrections shall be a charge against the appropriation of the department of corrections.

HISTORY: CL 1929, 17817;—Am. 1944, 1st. Ex. Ses., p. 19, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.103;—Am. 1953, p. 122, Act 122, Eff. Oct. 2;—Am. 1961, p. 15, Act 13, Imd. Eff. May 9.

803.103a Boys' training school; liabilities of counties for care of boys; foster care grant.

Sec. 3a. The county from which the boy was committed shall be liable to the state for 50% of the cost of care, but this amount may be reduced by use of funds from the annual original foster care grant of the state to the county, or otherwise, for any period of time in respect to which the commission has made a finding that the county is unable to bear 50% of the cost of care: Provided, That the county of residence of the boy shall be liable to the state rather than the county from which the boy was committed if the juvenile division of the probate court of the county of residence withheld consent to a transfer of proceedings under section 2 of chapter 12A of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Compiled Laws of 1948, as determined by the commission. The finding that the county is unable to bear 50% of the expense shall be based on a study to be made by said commission of the financial resources and of the necessary expenditures of the county. Such cost of care shall be determined by the commission on a per diem basis using all cost figures for the previous fiscal year exclusive of capital expenditures. This section shall not be deemed to apply to the costs of care of boys excluded by the commission and then specially admitted as provided in section 2 of Act No. 185 of the Public Acts of 1925, as amended, being section 803.102 of the Compiled Laws of 1948.

HISTORY: Add. 1955, p. 179, Act 114, Eff. Oct. 14.

803.104 Boys' training school; superintendent and employees.

Sec. 4. The officers in immediate charge of said boys' training school shall consist of a superintendent, who shall be responsible for the conduct, discipline, education and business affairs of said school; an assistant superintendent, who shall act for and in the absence or disability of said superintendent and who shall perform such other duties as may be assigned him by said superintendent or the commission; and such teachers, attendants, instructors, medical officers and helpers as may be necessary as the said commission may determine from time to time subject to the provisions of section 3 of this act.

HISTORY: CL 1929, 17818;—Am. 1944, 1st. Ex. Ses., p. 19, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.104;—Am. 1953, p. 123, Act 122, Eff. Oct. 2;—Am. 1961, p. 15, Act 13, Imd. Eff. May 9.

803.105 Relationship of state to boy; absentees.

Sec. 5. The state shall at all times stand in the place and relationship of parent and legal guardian to each boy sent to said boys' training school during his residence therein or while under the control thereof; and the superintendent shall represent the state in such relationships. Each boy sent to such school shall be subject to the training, education and discipline herein prescribed by the commission, and shall remain therein until graduation or discharge therefrom as herein provided. No boy attending such school shall absent himself therefrom or from any school class, task or duty prescribed for him without leave or permission from said superintendent. Whenever any boy absents himself without leave beyond the limits of said school, he may be retaken thereto by any police or other public officer or agent without warrant, and it shall be

the duty of every person having knowledge of the whereabouts of such boy to immediately notify the superintendent of said school of such fact, and also the nearest public official and to hold said boy in detention until he can be delivered up for return to said school.

HISTORY: CL 1929, 17819;—Am. 1944, 1st. Ex. Ses., p. 19, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.105;—Am. 1953, p. 123, Act 122, Eff. Oct. 2;—Am. 1961, p. 15, Act 13, Imd. Eff. May 9.

803.106 Rules and regulations; discipline; course of study.

Sec. 6. The commission shall prescribe rules and regulations for the discipline of said school to carry out the purposes thereof. Said commission, in conjunction with the superintendent of public instruction, shall also prescribe a complete and graduated course of study for the boys within such school, equal and as near as may be similar to the grades up to the twelfth grade in the public schools of this state. Said commission shall also provide the means and equipment, and competent instructors for the teaching of useful trades and occupations, including any technical training that may be useful and suitable to the pupils therein.

HISTORY: CL 1929, 17820;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.106;—Am. 1953, p. 123, Act 122, Eff. Oct. 2.

803.107 Training; duty of officers.

Sec. 7. The boys attending said boys' training school may be formed into a cadet corps for such gymnastic, athletic and military training as may be prescribed for said school by the commission. It shall be the duty of the officers connected with said school to stimulate esprit de corps, and to encourage the boys thereof in all proper manly sports and attainments; and to all times inculcate the principles of good citizenship in the minds of said boys.

HISTORY: CL 1929, 17821;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.107;—Am. 1953, p. 123, Act 122, Eff. Oct. 2;—Am. 1961, p. 16, Act 13, Imd. Eff. May 9.

803.108 Temporary leaves of absence.

Sec. 8. Under rules and regulations to be prescribed by the commission, any boy in said school may be granted temporary leaves of absence for vacation periods or may be temporarily placed in the care of any resident of this state who is the head of a family and of good moral character, and who will undertake to receive any boy in his home, provide for him temporarily and return him to such school upon demand of the superintendent thereof.

HISTORY: CL 1929, 17822;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.108;—Am. 1953, p. 123, Act 122, Eff. Oct. 2.

803.109 Boys' training school; discharge, age limitation, conditions.

Sec. 9. Every such boy shall remain in said school until his release therefrom; but no such boy shall be held in said school beyond the age of 19 years. Upon his release or discharge he may be returned either to the county from which he came or to his natural parents, if living and able to take charge of him, or placed temporarily in the care of any resident of this state of good moral character who is willing to furnish him a home or employment as provided in section 8 hereof. A release may be upon conditions set by the state department of social welfare, which may include a requirement that the boy remain under the supervision of either an employee of the department designated for that purpose or the county agent of the probate court, and that the natural parents or other persons with whom the boy is placed shall cooperate closely with the employee or agent in carrying out supervisory recommendations.

HISTORY: CL 1929, 17823;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—Am. 1946, 1st Ex. Ses., p. 43, Act 21, Imd. Eff. Feb. 26;—CL 1948, 803.109;—Am. 1957, p. 82, Act 75, Eff. Sep. 27.

803.110 Medical, psychological and physical examinations; classification; discipline.

Sec. 10. The rules and regulations of said school shall provide for initial, periodical and final medical, psychological and physical examinations of each boy, for his treatment for any disease or physical ailment, for decent and appropriate burial in case of death; for his classification as to age, mental condition, adaptability as to occupation, conduct and deportment, and as to such other grounds as may be prescribed therein by the commission. The discipline prescribed shall be fairly and humanely carried on, and shall not ordinarily include any form of punishment not permitted to parents in their usual relationships.

HISTORY: CL 1929, 17824;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.110;—Am. 1953, p. 124, Act 122, Eff. Oct. 2.

803.111 Records; reports to governor.

Sec. 11. Records shall be kept pertaining to each individual boy during his residence or connection with said school, containing such information and notations as may be prescribed by the commission. Reports shall be furnished the governor upon such matters pertaining to said school as he may require. Upon release from said school, all records pertaining to any boy shall be filed as confidential and shall not be made public thereafter, excepting as said commission shall authorize, when deemed necessary for the best interests of the boy.

HISTORY: CL 1929, 17825;—Am. 1944, 1st. Ex. Ses., p. 20, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.111;—Am. 1953, p. 124, Act 122, Eff. Oct. 2.

803.112 Clothing, transportation, money upon release.

Sec. 12. Every boy upon release or honorable discharge from said school, may be given suitable civilian clothing, transportation to his destination, and such sum of money, not exceeding \$50.00, as may be deemed necessary for his sustenance for a period of 30 days thereafter, which clothing and money shall be provided out of any funds in the state treasury not otherwise appropriated, upon the requisition of the superintendent of said school and the warrant of the auditor general.

HISTORY: CL 1929, 17826;—Am. 1944, 1st Ex. Ses., p. 21, Act 10, Imd. Eff. Feb. 19;—CL 1948, 803.112.

803.113 Violations of act; misdemeanor.

Sec. 13. Any person, not being a pupil therein, who aids or induces any pupil in said school to disobey its rules or regulations, or who fails to notify the public authorities as required in section 5, or who otherwise violates any of the provisions of this act, shall, when such violation is not a felony, be deemed guilty of a misdemeanor.

HISTORY: CL 1929, 17827;—CL 1948, 803.113;—Am. 1953, p. 124, Act 122, Eff. Oct. 2.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1929, 17828;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 9, 1893; Act 78, 1855, insofar as inconsistent. For Act 78, 1855, see Compilers' § 803.11 et seq.

803.201-803.209 Repealed. 1956, p. 337, Act 181, Imd. Eff. Apr. 17.

Sections provided for acquisition of lands and facilities for boys' vocational school and disposition of present site and facilities, prescribed powers and duties of certain state officials and boards.

Act 181, 1956, p. 336; Imd. Eff. Apr. 17.

AN ACT to authorize the department of social welfare to acquire options on a site for and to purchase, subject to the approval of the state administrative board, a site for a boys' vocational school; to authorize planning for site utilization and the preparation of plans; to make appropriations therefor and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

803.211 Boys' vocational school; site, options, preliminary plans, estimates.

Sec. 1. The department of social welfare is authorized and directed to obtain options and to purchase a site or sites for the location of a boys' vocational school, to make studies and investigations as to size and type of construction for said school and to prepare preliminary plans and obtain the estimated cost thereof: Provided, That any purchase of a site or sites shall be subject to approval by the state administrative board as to price and accounting procedures.

HISTORY: New 1956, p. 336, Act 181, Imd. Eff. Apr. 17.

803.212 Boys' vocational school; appropriation, disbursement.

Sec. 2. For the purposes of section 1 there is hereby appropriated the sum of \$200,000.00 from the general fund of the state. The amounts hereby appropriated shall be paid out of the state treasury at such times and in such manner as is or may be provided by law.

HISTORY: New 1956, p. 337, Act 181, Imd. Eff. Apr. 17.

803.213 Department of social welfare; authorization to call on state agency for assistance.

Sec. 3. The department of social welfare is authorized to call upon any state agency for assistance in carrying out the purposes of this act.

HISTORY: New 1956, p. 337, Act 181, Imd. Eff. Apr. 17.

803.214 Appropriations release; unexpended balances; commitment.

Sec. 4. Expenditures under the provisions of this act shall be authorized when the release of the appropriations is approved by the state administrative board. No agency included within the provisions of this act shall make any commitments for any project until after the release of the appropriation. The board may approve the release of a part of any appropriation for the purpose of preparing such plans or for such studies or investigations as may be necessary.

It is hereby provided that any unexpended balance in any of the appropriations made under this act shall not revert to the fund from which appropriated at the close of the fiscal year, but shall continue until the purposes for which the same were appropriated have been completed.

Any appropriation under the provisions of this act for preliminary plans shall not be deemed a commitment on the part of the legislature for any future appropriations.

HISTORY: New 1956, p. 337, Act 181, Imd. Eff. Apr. 17.

803.215 Repeal.

Sec. 5. Act No. 20 of the Public Acts of the First Extra Session of 1946, as amended, being sections 803.201 to 803.209, inclusive, is hereby repealed.

HISTORY: New 1956, p. 337, Act 181, Imd. Eff. Apr. 17.

Act 229, 1962, p. 507; Imd. Eff. Jul. 12.

AN ACT to make appropriations for various state institutions, departments, commissions, boards, agencies and certain state purposes related to public welfare services for the fiscal year ending June 30, 1963, to provide for the expenditure of such appropriations, and to provide for the disposition of fees and other income received by the various state agencies.

The People of the State of Michigan enact:

803.317 Conservation rehabilitation camp for male delinquent youth; establishment, operations; appropriations.

Sec. 17. The state department of social welfare shall establish and operate on publicly-owned land a conservation rehabilitation camp for male delinquent youth committed to that department.

Rehabilitation program.

The state department of social welfare shall be responsible for the rehabilitation program which shall include academic education, vocational training and personal and vocational counseling by qualified personnel.

Trainees, custody.

The state department of social welfare may select as trainees male youth who have been committed to the department and whose rehabilitation will be furthered by this conservation education-training experience. Any person selected as a trainee shall remain in the custody of the department of social welfare.

Camp facilities; appropriation for construction and renovation.

In addition to any other amounts appropriated, there is hereby appropriated from the general fund for the fiscal year ending June 30, 1963 to the state department of social welfare the sum of \$80,000.00, or as much thereof as may be necessary, for the construction and renovation of camp facilities.

Same; appropriation for operation.

In addition to any other amounts appropriated, there is hereby appropriated from the general fund for the fiscal year ending June 30, 1963 to the state department of social welfare the sum of \$100,000.00, or as much thereof as may be necessary, for the operation of camp facilities herein provided. Any expenses incurred by any state department at the request of the state department of social welfare acting under the authority of this act shall be reimbursed from funds appropriated under this act.

HISTORY: New 1962, p. 512, Act 229, Imd. Eff. Jul. 12.

Act 145, 1963, p. 200; Imd. Eff. May 14.

AN ACT to authorize the establishment and maintenance of youth conservation rehabilitation camps; to define the powers and duties of the department of social welfare; and to make appropriations therefor.

The People of the State of Michigan enact:

803.321 Conservation rehabilitation camp for male delinquent youths; establishment.

Sec. 1. The department of social welfare shall establish and operate on publicly-owned land a conservation rehabilitation camp for male delinquent youth committed to that department.

HISTORY: New 1963, p. 200, Act 145, Imd. Eff. May 14.

803.322 Trainee selection.

Sec. 2. The department of social welfare may select as trainees male youth who have been committed to the department and whose rehabilitation will be furthered by this conservation education-training experience. Any person selected as a trainee shall remain in the custody of the department of social welfare.

HISTORY: New 1963, p. 200, Act 145, Imd. Eff. May 14.

803.323 Appropriation.

Sec. 3. There is hereby appropriated from the general fund for the fiscal year ending June 30, 1964 to the department of social welfare the sum of \$50,000.00, or as much thereof as may be necessary, for the completion of construction and renovation of camp facilities. Total cost of such facilities including equipment shall not exceed the \$50,000.00 appropriated herein and the \$80,000.00 appropriated in Act No. 229 of the Public Acts of 1962.

HISTORY: New 1963, p. 200, Act 145, Imd. Eff. May 14.

Act 145, 1965, p. 231; Imd. Eff. Jul. 12.

AN ACT to transfer camp LaVictoire from the state department of corrections to the state department of social welfare; and to authorize its operation as a conservation-rehabilitation camp.

The People of the State of Michigan enact:

803.331 Camp LaVictoire; transfer to department of social welfare.

Sec. 1. The buildings and physical assets comprising camp LaVictoire are hereby transferred from the state department of corrections to the state department of social welfare.

HISTORY: New 1965, p. 231, Act 145, Imd. Eff. Jul. 12.

803.332 Camp LaVictoire; preparation of documents.

Sec. 2. The attorney general shall prepare and have executed the necessary deeds and documents to carry out the provisions of this act.

HISTORY: New 1965, p. 231, Act 145, Imd. Eff. Jul. 12.

803.333 Camp LaVictoire; operation as a conservation-rehabilitation camp.

Sec. 3. The state department of social welfare is authorized to operate camp LaVictoire as a conservation-rehabilitation camp.

HISTORY: New 1965, p. 231, Act 145, Imd. Eff. Jul. 12.

CHAPTER 804. CORRECTIONS—GIRLS' TRAINING SCHOOLS

GIRLS' TRAINING SCHOOL	
Act 133 of 1879	
804.10-804.18	Repealed.
Act 117 of 1893	
804.51-804.54	Repealed.
Act 183 of 1925	
804.101	Girls' training school; state department of social welfare; commitment.
804.102	Girls' training school; eligibility for admission. Examination, report. Transfer from Michigan children's institute.
804.102a	Admission, maximum age.
804.103	Girls' training school; control by state department of social welfare.
804.103a	Girls' training school; liability of county for cost of care.
804.104	Girls' training school; superintendent and employees.
804.105	Relation of state to girl; education, discipline; escaped girls.
804.106	Rules and regulations; course of study.
804.107	Clothing and equipment furnished to girls.
804.108	Temporary leaves of absence; release to parents or foster family.
804.109	Discharge; age limitation, conditions.
804.110	Sociological, psychological, medical and physical examination and treatment; burial; discipline; incorrigibility.
804.111	Records and reports; release of girl; confidential filing.
804.112	Clothing, transportation, money furnished upon release.
804.113	Repeal; misdemeanor, penalty.
HOUSE OF GOOD SHEPHERD AT DETROIT	
Act 271 of 1887	
804.151	Repealed.

804.10-804.18 Repealed. 1949, p. 25, Act 29, Eff. Sep. 23.

Sections related to Michigan reform school for girls; commitment, age, examinations, obstacles, removal; sentence, approval; eligibility; reformed girls; transfer of incorrigibles; register.

804.51-804.54 Repealed. 1949, p. 25, Act 28, Eff. Sep. 23.

Sections provided for control and management of industrial home for girls.

Act 183, 1925, p. 259; Eff. Aug. 27.

AN ACT to establish at Adrian the girls' training school, continuing said school under the control of the Michigan social welfare commission; prescribing who may be admitted thereto, the powers and duties of the officers immediately in charge of said school, the character and extent of discipline and training to be enforced and provided therein, the compensation of the officers, teachers and other assistants appointed or hired in said institution, and penalties for violations of certain provisions of this act. Am. 1944, 1st Ex. Ses., p. 22, Act 12, Imd. Eff. Feb. 19;—Am. 1949, p. 184, Act 175, Eff. Sep. 23.

The People of the State of Michigan enact:

804.101 Girls' training school; state department of social welfare; commitment.

Sec. 1. There is hereby authorized and continued at Adrian township, Lenawee county, a facility known and designated as the girls' training school for purposes and to be governed as herein prescribed and provided. The state department of social welfare, hereinafter referred to as the department, is hereby authorized to receive at the girls' training school, by commitment to the department from the probate court, juvenile division, girls believed eligible for admission to the school under the provisions of section 2. All girls heretofore or hereafter committed to the girls' training school shall be deemed committed to the department. Wherever commitment to the girls' training school is mentioned in any law of this state, it shall be construed to mean commitment to the department.

HISTORY: CL 1929, 17845;—CL 1948, 804.101;—Am. 1959, p. 93, Act 86, Eff. Mar. 19, 1960.

CITED IN OTHER SECTIONS: Sections 804.101 to 804.113 are cited in § 400.14.

804.102 Girls' training school; eligibility for admission.

Sec. 2. All girls now attending the girls' training school or released but not discharged therefrom or belonging thereto, shall continue under the authority of the girls' training school according to the orders of the several courts which sent them there in the first instance. Any girl between the ages of 12 and 17 is eligible for admission to said girls' training school upon commitment to the department by the juvenile division of the probate court, providing she:

(1) Repeatedly associates with dissolute, vicious, or immoral persons, or is leading an immoral or vicious life; or

(2) Wilfully and repeatedly absents herself from school while being required by law to attend, or repeatedly violates rules and regulations thereof; or

(3) Has deserted her home without sufficient cause, or is repeatedly disobedient to the reasonable and lawful commands of her parents, guardian or other custodian; or

(4) Has habitually violated municipal ordinances, statutes of the United States defining petty offenses or statutes of the state defining misdemeanors cognizable by justices of the peace or has violated any other penal statutes of the state or the United States.

Examination, report.

Before admission to the girls' training school each girl shall be subjected to a careful examination by a registered and competent physician, and a written report on the examination, showing that the girl is not pregnant and is free from any chronic or contagious disease or physical defect that would be a menace to those already in the girls' training school, and showing that she is not physically or mentally handicapped to the extent that she cannot be enrolled in the academic or vocational training program of the school, shall accompany the commitment papers.

Transfer from Michigan children's institute.

Under regulations prescribed by the Michigan social welfare commission, hereafter referred to as the commission, any girl admitted to the Michigan children's institute may be transferred to the girls' training school with the approval of the commission upon the recommendation of the 2 superintendents that the transfer will be of substantial benefit to her by bringing greater control and more supervision. The original commitment shall be deemed to be in full force and effect for the purpose of retaining the girl in the custody of the state. The superintendent of the girls' training school at any time may return the girl to the care of the Michigan children's institute.

HISTORY: CL 1929, 17846;—Am. 1944, 1st Ex. Ses., p. 23, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.102;—Am. 1959, p. 93, Act 86, Eff. Mar. 19, 1960.

804.102a Admission, maximum age.

Sec. 2a. The girls' training school shall accept a girl who is 17 but not older than 17 years and 6 months if the act for which she is committed occurred before her seventeenth birthday.

HISTORY: Add. 1970, p. 555, Act 192, Imd. Eff. Aug. 6.

804.103 Girls' training school; control by state department of social welfare.

Sec. 3. The girls' training school shall be under the general control and management of the commission as provided in this act and in Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.90 of the Compiled Laws of 1948.

HISTORY: CL 1929, 17847;—Am. 1944, 1st Ex. Ses., p. 23, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.103;—Am. 1959, p. 93, Act 86, Eff. Mar. 19, 1960.

804.103a Girls' training school; liability of county for cost of care.

Sec. 3a. The county from which the girl was committed shall be liable to the state for 50% of the cost of care, but this amount may be reduced by use of funds from the annual original foster care grant of the state to the county, or otherwise for any period

of time in respect to which the commission has made a finding that the county is unable to bear 50% of the expense: Provided, That the county of residence of the girl shall be liable to the state rather than the county from which the girl was committed if the juvenile division of the probate court of the county of residence withheld consent to a transfer of proceedings under section 2 of chapter 12a of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Compiled Laws of 1948, as determined by the commission. The finding that the county is unable to bear 50% of the expense shall be based on a study to be made by said commission of the financial resources and of the necessary expenditures of the county. The cost of care shall be determined by the commission on a per diem basis using all cost figures for the previous fiscal year exclusive of capital expenditures.

HISTORY: Add. 1955, p. 165, Act 104, Eff. Oct. 14.

804.104 Girls' training school; superintendent and employees.

Sec. 4. The officers in immediate charge of the girls' training school shall consist of a superintendent, who shall be responsible for the conduct, discipline, educational and business affairs of said school; an assistant superintendent, who shall act for and in the absence or disability of the superintendent and who shall perform such other duties as may be assigned him by the superintendent or commission; and such teachers, attendants, instructors, medical officers and helpers as may be necessary as the commission may determine from time to time subject to the provisions of section 3 of this act.

HISTORY: CL 1929, 17848;—Am. 1944, 1st Ex. Ses., p. 23, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.104;—Am. 1959, p. 93, Act 86, Eff. Mar. 19, 1960.

804.105 Relation of state to girl; education, discipline; escaped girls.

Sec. 5. The state shall at all times stand in the place and relationship of parent and legal guardian to each girl sent to said girls' training school during her residence therein or while under the control thereof; and the superintendent shall represent the state in such relationships. Each girl sent to such school shall be subject to the training, education and discipline herein prescribed and to the rules and regulations of said school, and shall remain therein until graduation or discharge therefrom as herein provided. No girl attending such school shall absent herself therefrom or from any school class, task or duty prescribed for her without leave or permission from said superintendent. Whenever any girl absents herself without leave beyond the limits of said school she may be retaken thereto by any police or other public officer or agent without warrant, and it shall be the duty of every person having knowledge of the whereabouts of such girl to immediately notify the superintendent of said school of such fact, and also the nearest public official and to hold said girl in detention until she can be delivered up for return to said school.

HISTORY: CL 1929, 17849;—CL 1948, 804.105.

804.106 Rules and regulations; course of study.

Sec. 6. The commission shall prescribe rules and regulations for the discipline of said school to carry out the purposes thereof. The commission, in conjunction with the superintendent of public instruction, shall also prescribe a complete and graduated course of study for the girls within the school, equal and as near as may be similar to the grades up to the twelfth grade in the public schools of this state. The commission shall also provide the means and equipment, and competent instructors for the teaching of useful arts and occupations, including home making, to the pupils therein.

HISTORY: CL 1929, 17850;—Am. 1944, 1st Ex. Ses., p. 23, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.106;—Am. 1959, p. 94, Act 86, Eff. Mar. 19, 1960.

804.107 Clothing and equipment furnished to girls.

Sec. 7. The girls attending said girls' training school shall be furnished clothing and athletic equipment, and given instruction in gymnastics and athletics. It shall be the

duty of the officers connected with said school to stimulate esprit de corps in said school, and inculcate the principles of good citizenship in the minds of said girls.

HISTORY: CL 1929, 17851;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.107.

804.108 Temporary leaves of absence; release to parents or foster family.

Sec. 8. Under rules and regulations to be prescribed by the Michigan social welfare commission, any girl in said school may be granted temporary leaves of absence for vacation periods or released to her parent or parents, or to a suitable foster family of good character.

HISTORY: CL 1929, 17852;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.106;—Am. 1949, p. 184, Act 175, Eff. Sep. 23.

804.109 Discharge; age limitation, conditions.

Sec. 9. Every such girl shall remain in said school until her release therefrom or for the period expressed in the order of the juvenile division of the probate court which sent her there; but no such girl shall be held in said school beyond the age of 19 years. Upon her release or discharge she may be returned either to the county from which she came or to her natural parents, if living and able to take charge of her, or placed temporarily in the care of any resident of this state of good moral character who is willing to furnish her a home or employment as provided in section 8 hereof. A release may be upon conditions set by the state department of social welfare, which may include a requirement that the girl remain under the supervision of either an employee of the department designated for that purpose or the county agent of the probate court, and that the natural parents or other persons with whom the girl is placed shall cooperate closely with the employee or agent in carrying out supervisory recommendations.

HISTORY: CL 1929, 17853;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.109;—Am. 1957, p. 82, Act 76, Eff. Sep. 27.

804.110 Sociological, psychological, medical and physical examination and treatment; burial; discipline; incorrigibility.

Sec. 10. The rules and regulations of the school shall provide for initial, periodical and final sociological, psychological, medical and physical examinations of each girl; for her treatment for any disease or physical ailment; for decent and appropriate burial in case of death; for her classification as to age, mental condition, adaptability as to occupation, conduct and deportment, and as to such other grounds as may be prescribed therein. The discipline prescribed shall be fairly and humanely carried on; and shall not ordinarily include any form of punishment not permitted to parents in their usual relationships. Any girl 17 years of age or older who proves to be wholly incorrigible may be returned to the public authorities of the county from which she came, upon approval of the commission, and evidence of incorrigibility in the institution shall be admissible in a hearing before the juvenile division of the probate court.

HISTORY: CL 1929, 17854;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.110;—Am. 1959, p. 94, Act 86, Eff. Mar. 19, 1960.

804.111 Records and reports; release of girl; confidential filing.

Sec. 11. Records shall be kept pertaining to each individual girl during her residence or connection with the school, containing such information and notations as may be prescribed by the commission. Reports shall be furnished the governor upon such matters pertaining to the school as he may require. Upon release from said school, all records pertaining to any girl shall be filed as confidential and shall not be made public thereafter, except under regulations of the commission, when deemed necessary for the best interest of the girl.

HISTORY: CL 1929, 17855;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.111;—Am. 1959, p. 94, Act 86, Eff. Mar. 19, 1960.

804.112 Clothing, transportation, money furnished upon release.

Sec. 12. Every girl upon release or honorable discharge from said school, shall be given suitable civilian clothing, transportation to her destination, and such sum of money, not exceeding \$50.00, as may be deemed necessary for her sustenance for a period of 30 days thereafter, which clothing and money shall be provided out of any funds in the state treasury not otherwise appropriated, upon the requisition of the superintendent of said school and the warrant of the auditor general.

HISTORY: CL 1929, 17856;—Am. 1944, 1st Ex. Ses., p. 24, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.112.

804.113 Repeal; misdemeanor, penalty.

Sec. 13. All acts and parts of acts, inconsistent herewith, are hereby repealed. Any person, not being a girl therein who aids or induces any girl in said school to disobey its rules or regulations, or to escape therefrom, or who fails to notify the public authorities as required in section 5, or who otherwise violates any of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment in any of the state prisons for not more than 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 17857;—Am. 1944, 1st Ex. Ses., p. 25, Act 12, Imd. Eff. Feb. 19;—CL 1948, 804.113.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1929, 17858;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACTS REPEALED: Act 6, 1883; Act 133, 1879, insofar as inconsistent.

804.151 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section allowed commitment and detention of female children to House of Good Shepherd at Detroit.

CHAPTER 830. APPROPRIATIONS, BUILDING PROGRAM

UNIVERSITY OF MICHIGAN
MICHIGAN STATE COLLEGE
Act 1 of 1946 (1st Ex. Ses.)
830.1-830.5 Executed.

STATE HOSPITALS
Act 2 of 1946 (1st Ex. Ses.)
830.31-830.33 Executed.

STATE INSTITUTIONS
Act 10 of 1946 (1st Ex. Ses.)
830.51-830.54 Executed.

EDUCATIONAL INSTITUTIONS
Act 11 of 1946 (1st Ex. Ses.)
830.71-830.74 Executed.

STATE BUILDING AND CONSTRUCTION
Act 313 of 1947
830.101-830.105 Executed.
Act 46 of 1948 (1st Ex. Ses.)
830.111-830.116 Executed.

POST WAR VICTORY BUILDING BOARD ABOLISHED
Act 155 of 1949
830.121 Executed.

UNIVERSITY OF MICHIGAN
MICHIGAN STATE COLLEGE
Act 314 of 1947
830.151 Executed.

UNIVERSITY OF MICHIGAN
Act 35 of 1950 (Ex. Ses.)
830.171-830.173 Executed.

PERCY JONES HOSPITAL AT BATTLE CREEK
Act 34 of 1950 (Ex. Ses.)
830.201, 830.202 Executed.

BUILDING DIVISION OF DEPARTMENT OF
ADMINISTRATION
Act 37 of 1950 (Ex. Ses.)
830.251-830.253 Executed.

MENTAL HEALTH INSTITUTIONS
Act 45 of 1951
830.301-830.304 Executed.

NEW STATE OFFICE BUILDING
Act 4 of 1951 (1st Ex. Ses.)
830.401 New state office building; construction,
financing; department of administration
approval.
830.402 New state office building; leases, con-
tracts, agreements; validation.
830.403 New state office building; legislature's
approval not required.
830.404 New state office building; funds; cus-
tody, disbursement.

STATE BUILDING AUTHORITY
Act 183 of 1964
830.411 State building authority; definitions.
830.412 Board of trustees; grant of powers; ap-
pointment, term, vacancies; oath; offic-
ers; quorum.
830.413 Powers; records, auditing.
830.414 Property; acquisition; condemnation.
830.415 Property owned by state; conveyance to
building authority, procedure.
830.416 Lease of facilities to state; bonds; ap-
proval.
830.417 Lease of facilities from authority; ap-
proval.
830.418 Revenue bonds; terms, exemption from
taxation; approval; sale.
830.419 Bonds; creation of statutory first lien.
830.420 Compliance with state constitution.
830.421 Property exempt from taxation or assess-
ments; income.
830.422 Bonds; investments for banks, trust com-
panies, insurers, fiduciaries.
830.423 Construction of act; governmental func-
tion.
830.424 Additional method; additional powers.

830.1-830.5. Executed.

Sections (Secs. 1-5, Act 1, 1946, (1st Ex. Ses.), p. 9, Imd. Eff. Feb. 18) approved a postwar victory building program for University of Michigan and Michigan State College and made appropriations therefor.

CITED IN OTHER SECTIONS: The above section is cited in § 830.121.

830.31-830.33. Executed.

Sections (Secs. 1-3, Act 2, 1946 (1st Ex. Ses.), p. 11, Imd. Eff. Feb. 18) approved a postwar emergency hospital building program and made appropriations therefor.

CITED IN OTHER SECTIONS: The above section is cited in § 830.121.

830.51-830.54. Executed.

Sections (Secs. 1-4, Act 10, 1946 (1st Ex. Ses.), p. 31, Imd. Eff. Feb. 25) approved a postwar emergency building and construction program at certain state institutions and made appropriations therefor.

CITED IN OTHER SECTIONS: The above section is cited in § 830.121.

830.71-830.74. Executed.

Sections (Secs. 1-4, Act 11, 1946 (1st Ex. Ses.), p. 34, Imd. Eff. Feb. 25) approved a postwar victory building program for certain educational institutions and made appropriations therefor.

CITED IN OTHER SECTIONS: The above section is cited in § 830.121.

830.101-830.105. Executed.

Sections (Secs. 1-5, Act 313, 1947, p. 513, Imd. Eff. June 30) made appropriations for certain state building and construction purposes and the acquisition of certain land and property at state institutions.

CITED IN OTHER SECTIONS: Sections 830.101 to 830.105 are cited in § 830.121.

830.111-830.116. Executed.

Sections (Secs. 1-6, Act 46, 1948 (1st Ex. Ses.), p. 109, Imd. Eff. May 24) made additional appropriations for the completion of certain buildings under construction at state institutions and for the construction of certain other emergency projects at state institutions.

830.121. Executed.

Section (Sec. 1, Act 155, 1949, p. 165, Eff. Sept. 23) abolished the postwar victory building board.

830.151. Executed.

Section (Sec. 1, Act 314, 1947, p. 514, Imd. Eff. July 1) made additional appropriations for construction and equipment of buildings at the University of Michigan and Michigan State College.

830.171-830.173. Executed.

Sections (Secs. 1-3, Act 35, 1950 (Ex. Ses.), p. 119, Imd. Eff. June 30) made an appropriation for certain building construction purposes at the University of Michigan.

830.201, 830.202. Executed.

Sections (Secs. 1, 2, Act 34, 1950 (Ex. Ses.), p. 118, Imd. Eff. June 30) authorized the acquisition of the Percy Jones General Hospital at Battle Creek and made an appropriation therefor.

830.251-830.253. Executed.

Sections (Secs. 1-3, Act 37, 1950 (Ex. Ses.), p. 121, Imd. Eff. Sept. 8) made an appropriation, as an advancement, to the building division of the state department of administration to complete detailed engineering specifications.

830.301-830.304. Executed.

Sections (Secs. 1-4, Act 45, 1951, p. 45, Imd. Eff. May 11) made appropriations from the state hospital building fund for capital outlay purposes with respect to state mental health institutions.

Act 4, 1951 (1st Ex. Ses.), p. 614; Imd. Eff. Aug. 23.

AN ACT to authorize and ratify acts of the state administrative board, the state department of administration and the trustees of the state employees' retirement funds in connection with the financing and construction of a new state office building in the city of Lansing; and to prescribe the powers and duties of the state treasurer.

The People of the State of Michigan enact:

830.401 New state office building; construction, financing; department of administration approval.

Sec. 1. The state department of administration and the trustees of the state employees' retirement funds, jointly and severally, are hereby authorized and empowered to enter into and execute all leases, contracts and agreements, and take any and all necessary steps, required to finance and provide for the construction of a new state office building on block 108, original plat of the city of Lansing: Provided, That the state administrative board shall approve each of the foregoing acts: And provided further, That the state administrative board may direct any of the foregoing acts to be performed by the state department of administration.

HISTORY: New 1951, 1st Ex. Ses., p. 614, Act 4, Imd. Eff. Aug. 23.

830.402 New state office building; leases, contracts, agreements; validation.

Sec. 2. Any and all leases, contracts and agreements, and steps heretofore taken by the state administrative board, the state department of administration and the trustees of the state employees' retirement funds, jointly or severally, in connection with the financing and construction of a new state office building in the city of Lansing, are hereby ratified and declared valid.

HISTORY: New 1951, 1st Ex. Ses., p. 614, Act 4, Imd. Eff. Aug. 23.

830.403 New state office building; legislature's approval not required.

Sec. 3. Notwithstanding the provisions of Acts No. 315 and No. 316 of the Public Acts of 1947, no such contract or lease, whether heretofore or hereafter executed, shall require the approval of the legislature to become effective.

HISTORY: New 1951, 1st Ex. Ses., p. 614, Act 4, Imd. Eff. Aug. 23.

830.404 New state office building; funds; custody, disbursement.

Sec. 4. The state treasurer is hereby authorized and empowered to take custody of such funds as may be deposited with him for the execution of the contracts, leases and agreements entered into under the terms of section 1 of this act, and to disburse said funds in accordance with the accounting laws of the state.

HISTORY: New 1951, 1st Ex. Ses., p. 614, Act 4, Imd. Eff. Aug. 23.

Act 183, 1964, p. 247; Imd. Eff. May 19.

AN ACT creating the state building authority with power to acquire, furnish, equip, own, improve, enlarge, operate and maintain buildings, necessary parking structures and facilities, and sites therefor, for the use of the state or any of its agencies; to authorize the execution of leases pertaining to such properties and facilities by said building authority with the state of Michigan or any of its agencies; to provide for the issuance of revenue bonds by such building authority; to authorize the conveyance of lands by the state or any of its agencies for the purposes herein authorized; and to provide for other matters in relation thereto.

The People of the State of Michigan enact:

830.411 State building authority; definitions.

Sec. 1. As used in this act:

(a) "Building authority" means the state building authority created by the provisions of this act.

(b) "State" means the state of Michigan.

(c) "Existing facilities" means all existing buildings and other facilities located on any real property acquired by the building authority under the terms of this act.

(d) "Facilities to be acquired" means all new buildings and other facilities in any way acquired or constructed by the building authority pursuant to the provisions of this act.

(e) "Annual rental" means the annual rental required to be paid by the state to the building authority pursuant to any lease between the state and the building authority entered into pursuant to the provisions of this act.

(f) "Board" means the board of trustees of the building authority.

HISTORY: New 1964, p. 247, Act 183, Imd. Eff. May 19.

CITED IN OTHER SECTIONS: Sections 830.411 to 830.424 are cited in § 16.205.

830.412 Board of trustees; grant of powers; appointment, term, vacancies; oath; officers; quorum.

Sec. 2. There is created a public benefit corporation of the state to be known as the state building authority, which is hereby made a body corporate, separate and distinct from the state and which may by that name sue and be sued, plead and be impleaded, contract and be contracted with, have a corporate seal and enjoy and carry out all powers herein granted it in furtherance of the public function of the state to provide and maintain facilities and buildings for the necessary function and operation of the government of the state. The building authority shall be governed by a board of trustees consisting of 5 members appointed by the governor, with the advice and consent

of the senate, for terms of 4 years. In appointing the first members of the board, the governor shall designate 2 to serve for 4 years, 1 to serve for 3 years, 1 to serve for 2 years, and 1 to serve for 1 year. Each vacancy in office of a member of the board, whether caused by resignation, death, expiration of office, or otherwise, shall be filled by appointment by the governor with the advice and consent of the senate. The members of the board shall enter upon their duties after their appointment and shall qualify by taking and filing the constitutional oath of office. Each member of the board shall hold office until the appointment and qualification of his successor. No person holding an elective or appointive office with the state shall be appointed to the board. Upon the designation and qualification of the members of the board, they shall organize immediately by the election of 1 of the members of the board as chairman of the building authority and through the selection of a secretary and treasurer, which offices may be combined, and the persons holding these offices may, but need not be, members of the board. The chairman shall serve as chairman throughout the term of his office. All funds of the authority shall be handled in the same manner and shall be governed by the same provisions of law as apply to state funds. A quorum for the transaction of business shall consist of 3 of the members of the board, which quorum may bind the building authority.

HISTORY: New 1964, p. 247, Act 183, Imd. Eff. May 19.

830.413 Powers; records, auditing.

Sec. 3. The building authority may:

- (a) Adopt bylaws for the regulation of its affairs and the conduct of its business.
- (b) Adopt an official seal.
- (c) Maintain a principal office at such place within the state as it may designate.
- (d) Sue and be sued in its own name and plead and be impleaded.
- (e) Acquire, construct, furnish, equip, improve, enlarge, own, operate and maintain buildings, necessary parking structures and facilities, and sites therefor which are approved by concurrent resolution of the legislature for the use of the state or any of its agencies.
- (f) Acquire in the name of the building authority and hold and dispose of real and personal property, or any interest therein, in the exercise of its powers and the performance of its duties under this act.
- (g) Borrow money for any of its corporate purposes as expressed in this act and issue negotiable revenue bonds payable solely from the annual rental and provide for the payment of the same and the rights of the holders thereof.
- (h) Make and enter into contracts, leases and other instruments necessary or incident to the performance of its duties and the execution of its powers under this act. When the cost of any contract for construction, materials or services, other than compensation for personal or professional services, involves an expenditure of more than \$5,000.00, the building authority shall make a written contract with the lowest qualified bidder, after advertisement for not less than 2 consecutive weeks in a newspaper of general circulation in the state, and in such other publications as the building authority shall determine.
- (i) Employ consulting engineers, architects, superintendents, managers and such other construction, accounting, appraisal and financial experts, attorneys and other employees and agents as may be necessary in its judgment to carry out its duties and functions under this act and to fix their compensation.
- (j) Receive and accept from any federal agency grants for or in aid of the construction of facilities to be acquired and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

(k) Require from all employees handling moneys of the building authority fidelity bonds in sums and subject to such terms and conditions as are satisfactory to the board and the state controller.

(l) Do all acts and things necessary or, in the opinion of the building authority, convenient to carry out the powers expressly granted in this act.

(m) Require that all final actions of the board are entered in its journal, which journal shall be open to the inspection of the public at all reasonable times.

(n) Require that the books and records of account of the building authority shall be audited annually by the auditor general, or if he is unable to act, by an independent certified public accountant.

HISTORY: New 1964, p. 248, Act 183, Imd. Eff. May 19.

830.414 Property; acquisition; condemnation.

Sec. 4. For the purpose of accomplishing the objectives of the building authority, the building authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

HISTORY: New 1964, p. 248, Act 183, Imd. Eff. May 19.

830.415 Property owned by state; conveyance to building authority, procedure.

Sec. 5. Any property owned by the state may be conveyed to the building authority for any of the purposes expressed in this act, subject, however, to prior approval thereof by the state administrative board, the attorney general, and by concurrent resolution of the legislature. Any such conveyance, after approved as herein provided, shall be executed for and on behalf of the state by the governor and secretary of state, or in the event of the absence or disability of either of them, by the lieutenant governor or deputy secretary of state.

HISTORY: New 1964, p. 249, Act 183, Imd. Eff. May 19.

830.416 Lease of facilities to state; bonds; approval.

Sec. 6. The building authority may lease any existing facilities or facilities to be acquired, for the purposes specified in this act, to the state, or any of its agencies acting by and on behalf of the state. Any lease authorized by this act shall be for a period of not exceeding 40 years from the date of execution thereof, and shall contain provision for the payment of annual rental by the state to the building authority. Any lease entered into under this act shall not be effective until approved by the legislature by a concurrent resolution. If bonds are issued by the building authority in accordance with the authorization provided in section 8 for the purpose of financing all or part of the cost of facilities to be acquired, the minimum annual rental shall be fixed in the lease at an amount sufficient to pay the annual principal and interest requirements on the bonds when due. Any lease may contain such other provisions relative to the operation, use and improvement of the leased properties within the scope and purposes provided in this act as may be agreed upon.

HISTORY: New 1964, p. 249, Act 183, Imd. Eff. May 19.

830.417 Lease of facilities from authority; approval.

Sec. 7. The state may lease from the building authority for public purposes within the concepts provided in this act, any real property and existing facilities or facilities to be acquired, upon such terms and conditions as may be agreed upon and subject to the limitations and provisions provided in section 6. Prior to execution, any lease shall be approved by the state administrative board and the attorney general.

HISTORY: New 1964, p. 249, Act 183, Imd. Eff. May 19.

830.418 Revenue bonds; terms, exemption from taxation; approval; sale.

Sec. 8. The building authority, by resolution or resolutions of its board, may provide for the issuance of revenue bonds for the purpose of paying part or all of the cost of the facilities to be acquired, which cost may include an allowance for legal, engineering, architectural and consulting services, interest on the bonds becoming due before the collection of the first revenues available for the payment thereof, and other necessary incidental expenses. Principal of and interest and redemption premiums on the bonds issued hereunder shall be payable solely from the annual rental, except that capitalized interest may be paid from the proceeds of sale of the bonds. No bond issued hereunder or the interest thereon or the redemption premiums therefor shall ever be or become a general obligation of the state or a charge against the state; nor shall the same become a lien or secured by any property, real, personal or mixed, of the state, but all bonds and the interest thereon and the call premiums therefor shall be payable solely from the annual rental and each bond shall have such a statement printed on the face thereof and each interest coupon attached to any bond shall have a statement printed thereon that the coupon is not a general obligation of the state but is payable solely from certain revenues, as specified in the bond. The bonds may be either serial bonds or term bonds, or any combination thereof, as determined by the board. The bonds shall mature not more than 40 years from their date, and in any event not more than 1 year from the due date of the last annual rental pledged for the payment of the bonds, and shall be coupon bonds bearing interest at not more than 6% per annum, which interest shall be payable semi-annually, except as to the first coupon which may be for any number of months not exceeding 10. The board, in the resolution or resolutions authorizing the issuance of the bonds, shall determine the principal amount of the bonds to be issued, the registration provisions, the date of issuance, the bond numbers, the bond denominations, the bond designations, the bond maturities, the interest payment dates, the paying agent or paying agents or the method of selection thereof, the rights of prior redemption of the bonds, the maximum rate of interest, the method of execution of the bonds, and such other provisions respecting said bonds, the rights of the holders thereof, the security therefor and the procedures for disbursement of the bond proceeds. All bonds and the interest coupons attached thereto are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code of the state, subject only to the provisions for registration of the bonds which may appear thereon. The bonds shall be exempt from all taxation by the state or any of its political subdivisions. The issuance of the bonds and the approval of the form of notice of sale for the bonds shall be subject to approval of the municipal finance commission under the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.3 of the Compiled Laws of 1948, but the provisions of Act No. 202 of the Public Acts of 1943, as amended, shall not be applicable to the issuance of the bonds. The bonds shall be sold at public sale for not less than par after publication of notice of sale thereof at least 7 days before the date of sale in a publication approved by the municipal finance commission as a publication carrying as part of its regular services, notices of sale of municipal bonds and after 7 days' publication in a newspaper of general circulation published in the state. The bonds may be authorized and may be issued from time to time as needed, and the subsequent series or issues thereof shall enjoy equal status with respect to the pledge of the annual rental from which they are payable.

HISTORY: New 1964, p. 249, Act 183, Imd. Eff. May 19.

830.419 Bonds; creation of statutory first lien.

Sec. 9. The resolution or resolutions of the board authorizing the issuance of the bonds shall create a statutory first lien on the annual rental in favor of the holders of

any bonds issued hereunder or interest coupons appertaining thereto. Any holder of bonds issued under the provisions of this act, or any coupons appertaining thereto, either by suit, action, mandamus or other proceedings, may protect and enforce the statutory first lien and any and all rights of the bondholders under the laws of the state, or granted hereunder, or under the resolution or resolutions authorizing the issuance of the bonds, and may enforce and compel the performance of all duties required by this act or the resolution to be performed by the building authority, or any officers thereof. No action may be brought which would compel the sale of any property of the building authority.

HISTORY: New 1964, p. 250, Act 183, Imd. Eff. May 19.

830.420 Compliance with state constitution.

Sec. 10. Nothing in this act shall be so construed or interpreted as to authorize or permit the incurring of indebtedness of the state contrary to the provisions of the state constitution.

HISTORY: New 1964, p. 250, Act 183, Imd. Eff. May 19.

830.421 Property exempt from taxation or assessments; income.

Sec. 11. All property owned and acquired by the building authority in accordance with the authorization provided in this act shall be exempt from all taxes levied by the state or any of its political subdivisions and taxing districts, and the building authority shall not be required to pay any taxes or assessments upon its activities or upon any of its income or revenue.

HISTORY: New 1964, p. 250, Act 183, Imd. Eff. May 19.

830.422 Bonds; investments for banks, trust companies, insurers, fiduciaries.

Sec. 12. Bonds issued by the building authority under the provisions of this act are securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries may properly and legally invest any funds belonging to them or within their control.

HISTORY: New 1964, p. 250, Act 183, Imd. Eff. May 19.

830.423 Construction of act; governmental function.

Sec. 13. It is hereby found, determined and declared that the creation of the building authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state and constitute a public purpose and that the facilities to be acquired are necessary for the public welfare of the people of the state, and that the building authority will be performing an essential governmental function in the exercise of the power conferred upon it by this act. This act shall be liberally construed to effect the intents and purposes hereof.

HISTORY: New 1964, p. 251, Act 183, Imd. Eff. May 19.

830.424 Additional method; additional powers.

Sec. 14. This act shall be deemed to provide an additional or alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

HISTORY: New 1964, p. 251, Act 183, Imd. Eff. May 19.

THE UNIVERSITY OF MICHIGAN

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